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21 February 2022

Her Excellency Michelle Bachelet OMCh

High Commissioner for Human Rights

United Nations OHCHR

Palais des Nations

CH-1211 GENEVA 10 SWITZERLAND

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Dear Excellency

**Re: Input into the High Commissioner’s report on human rights in the context of HIV and AIDS**

The Australian Federation of AIDS Organisations (AFAO) welcomes the opportunity to provide input into the High Commissioner’s report on Human rights in the context of HIV and AIDS.

AFAO is Australia’s national federation for the community-controlled HIV response. Our member organisations include the AIDS Councils from each Australian jurisdiction and the peak organisations representing HIV priority populations. We are recognised both globally and nationally for the leadership, policy expertise, health promotion and support we provide.

The input provided covers both Australia and the Asia-Pacific and is based upon extensive feedback from community-led HIV organisations. To that extent, we have identified the following priority areas to inform the High Commissioner’s report on actions being taken and recommending action to be intensified or initiated to meet the innovative targets on societal enablers.

1. **Equitability of access to prevention, testing and treatment**
2. **Removal of legal, policy and social barriers to address stigma and discrimination**
3. **Sustainable financing of community-led responses and organisations**

Each year, AFAO provides a snapshot of what HIV looks like in Australia. This resource, [*HIV in Australia*](https://www.afao.org.au/wp-content/uploads/2021/11/AFAO-HIV-in-Australia-2022.pdf)*,* provides the most up to date epidemiological data in the form of a straightforward infographic.

1. **Equitability of access to prevention, testing and treatment**
	1. Australia is recognised as a global leader in the HIV response, with a solid and enduring partnership between government, civil society, research, clinicians and other key stakeholders. The bipartisan approach to the epidemic has been a critical factor in its success in Australia. Pre-Exposure Prophylaxis (PrEP) is transforming Australia’s HIV prevention response. Current PrEP use among people at risk of HIV in Australia is among the highest globally but use needs to be increased further to end HIV transmission. Multiple indicators suggest young, recently arrived overseas-born people are an emerging HIV key population in Australia.[[1]](#endnote-2) Lack of access to the same healthcare benefits as permanent residents, difficulties navigating the Australian healthcare system, stigma and discrimination, low HIV-related health literacy and anxiety associated with an HIV diagnosis act as barriers to healthcare engagement. Governments must prioritise and invest more in subgroups of key populations where there is less evidence of success.
	2. Disruptions associated with the COVID-19 pandemic on HIV programs throughout the Asia-Pacific has led to significant reductions in HIV referrals and HIV testing. Some countries have no capacity to test for viral load or treatment resistance and cannot offer people with HIV (PWHIV) second-line treatments if first-line treatments are unavailable. Experiences in the AFAO International Program showed that multiple demonstration projects were delayed due to COVID-19 restrictions involving the diversion of health workforces and policy attention. Additionally, the pandemic highlights pre-existing gender inequalities experienced across the region, exacerbated by lockdowns and other related restrictions.

**Good practice example**

* 1. In Australia, many of the gains associated with the decline in HIV notifications are associated with the uptake of PrEP among gay and bisexual men connected to the gay inner-city centres of larger cities.[[2]](#endnote-3) Sustained investment in these groups while increasing efforts in those not experiencing the same rate of reductions in notifications, particularly among those in remote areas and culturally and linguistically diverse (CALD) communities, is crucial. In each group, prevention targets must be met, particularly as COVID-19 disruptions, including less HIV testing, have contributed to the significant drop in HIV notifications in Australia.[[3]](#endnote-4)
	2. In response to concerns that the newly arrived overseas-born population are at heightened risk of HIV transmission, AFAO has successfully advocated for government commitment to provide HIV treatment for those without the same healthcare benefits as Australian citizens and permanent residents. This demonstrates the importance of advocacy to advise governments on evidence-based trends. Community-led organisations, researchers and policy analysts need to be supported and given the tools to gather evidence for use.
1. **Removal of legal, policy and social barriers to address stigma and discrimination**
	1. HIV stigma and discrimination negatively impact health outcomes and lead to social isolation, reduced quality of life and poorer mental health.[[4]](#endnote-5) This has been correlated with poor access to healthcare, including its role in influencing health-related behaviours, such as willingness to access services, engage with recommended therapies and adherence to treatment.[[5]](#endnote-6)
	2. UN Member States have declared in the *Political Declaration on HIV and AIDS* (Political Declaration) that the full realisation of human rights is an essential element in responding to the HIV epidemic, including the right to access health services free from stigma and discrimination.[[6]](#endnote-7) However, punitive laws remain a significant barrier within the Asia-Pacific region. The Asia-Pacific region is falling behind the HIV response, with key populations and their partners accounting for 98 per cent of new HIV transmission, making the HIV epidemic in the Asia-Pacific the world’s most concentrated.[[7]](#endnote-8)
	3. Our Asia-Pacific stakeholders identify the critical need to remove discriminatory laws that target key populations, including men who have sex with men, sex workers, and people who inject drugs (PWID). Criminalisation gives license to discrimination, harassment and violence, isolating key populations and hindering access to services, including denial of services, leading to healthcare avoidance. As such, key populations targeted by discriminatory laws are up to seven times more likely to be HIV-positive than those in a legally supportive environment.[[8]](#endnote-9) A failure to address HIV-related stigma and discrimination jeopardises efforts to reach testing, treatment and viral suppression targets, which will result in almost half a million AIDS-related deaths by 2030.[[9]](#endnote-10)
	4. A report developed as a part of the AFAO International Program found socially constructed gender inequalities have a significant influence on key populations and their access to education, employment and healthcare information or services, particularly among women and the trans and gender diverse population.[[10]](#endnote-11)
	5. The Asia-Pacific region has seen positive developments in recent years, with India and the Philippines introducing comprehensive HIV legislation and indications that other countries may also enact similar reforms. Despite this, the legal environment for key populations remains hostile, and the criminalisation of same-sex conduct, sex work and drug use in countries across the region impedes HIV responses by deterring access to testing and treatment.
	6. The decriminalisation of sex work would significantly impact HIV responses for sex workers and clients, averting between 33 and 44 per cent of new transmissions over the next decade.[[11]](#endnote-12) Sex work in some Asia Pacific countries is quasi-legal and subject to oversight through licensing, registration and other police regulations that create barriers to HIV services. Other countries have seen a regression to punitive laws and enforcement practices, forcing sex workers to go underground and increasing the risk of HIV transmission.
	7. In Australia, a significant challenge is combatting the emergence of discriminatory mandatory testing laws that compel people to undergo testing for HIV.[[12]](#endnote-13) The laws place an unacceptable amount of control into the hands of untrained and non-expert professionals (such as police officers) in the context of HIV.

**Good practice example**

* 1. The Australian HIV response is guided by the *Eighth National HIV Strategy 2018-2022* and includes human rights as a guiding principle.[[13]](#endnote-14) It notes that PWHIV have a right to fully participate in society without experiencing stigma or discrimination and have the same rights to comprehensive and appropriate information and healthcare as other community members.
	2. Some Australian jurisdictions have decriminalised sex work. For example, the Northern Territory Government has enacted the *Sex Industry Act 2019.*[[14]](#endnote-15) The passing of legislation provides access to the same health and safety rights under employment law. Additionally, decriminalisation under this framework promotes the welfare and occupational health and safety of sex workers, protects them from exploitation, and prohibits the employment of anyone under the age of 18.[[15]](#endnote-16)
1. **Sustainable financing of community-led responses and organisations**
	1. The Political Declaration has committed to 60 per cent of programs on societal enablers to be community-led by 2025.[[16]](#endnote-17) Even in a country like Australia, which has displayed a world-leading community-led response to HIV, funding stability is an ongoing challenge. There needs to be a commitment to sustainable financing to reach the 60 per cent target. Likewise, governments must be held to account for this commitment, and programming to support governments to transition from donor funding to domestic financing for HIV services must be sustainably embedded.
	2. Regional stakeholders have also emphasised the importance of community-led responses to deliver services to meet the populations’ needs and expectations, particularly as many countries in the Asia-Pacific are reliant on donor funds for HIV prevention due to a lack of domestic investment. Moreover, innovations that involve community-based service delivery that advance human rights and gender priorities do not always attract sufficient support from international aid, other donor proposals or domestic funding allocations due to cultural or political sensitivities and resource constraints.
	3. With sufficient resourcing and sustainable funding, community-controlled organisations can continue to deliver community-based monitoring and lead demand generation activities such as the scale-up and promotion of PrEP and HIV self-testing. These organisations are best placed to carry forward efforts in capacity building, the undetectable equals untransmissible (U = U) campaign, communication on harm reduction, and continued research to monitor patterns in prevention and testing among key populations. If made widely available, advancements in treatment have significant potential to address stigma and discrimination.

**Good practice example**

* 1. The importance of community-based organisations is demonstrated by Love Yourself Philippines, an organisation of 2,000 volunteers whose aim is to connect with people at heightened risk of HIV and empower them to take charge of their health. In 2017, their model identified more than half of newly-diagnosed PWHIV in Metropolitan Manila and 20 per cent of newly-diagnosed PWHIV in the country.[[17]](#endnote-18)
	2. Other community-based organisations in the AFAO International Program have maintained pre-existing services while progressing important objectives, despite the impact of the COVID-19 pandemic on HIV prevention and treatment. Bhutan recently undertook an evaluation of its HIV response through community-based monitoring. The program was adapted in response to the pandemic and successfully identified stigma-related barriers, such as accessibility issues and privacy concerns for key populations accessing treatment and prevention services. The Ministry of Health is using findings from the evaluation to develop a new HIV strategy that better engages with HIV key populations and LGBTQ communities to meet global targets by 2030.

Should you require any further information, please do not hesitate to contact Heath Paynter, Deputy Chief Executive Officer, on +61 437 952 399 or at Heath.Paynter@afao.org.au.

Yours sincerely



Heath Paynter

**Deputy Chief Executive Officer**

1. See: <https://www.afao.org.au/wp-content/uploads/2021/06/Agenda-25-Technical-Paper.pdf>, p. 3. [↑](#endnote-ref-2)
2. Ibid. [↑](#endnote-ref-3)
3. See: <https://www.afao.org.au/wp-content/uploads/2021/11/AFAO-HIV-in-Australia-2022.pdf>. [↑](#endnote-ref-4)
4. See: <https://www.latrobe.edu.au/__data/assets/pdf_file/0007/1058614/HIV-Futures-9.pdf>, p. 34. [↑](#endnote-ref-5)
5. Ibid, p. 16. [↑](#endnote-ref-6)
6. See: <https://www.unaids.org/sites/default/files/media_asset/2021_political-declaration-on-hiv-and-aids_en.pdf>, para. 8. [↑](#endnote-ref-7)
7. See: <https://www.unaids.org/en/resources/presscentre/featurestories/2021/april/20210421_civil-society-asia-pacific-hlm#:~:text=Asia%20and%20the%20Pacific%20has,aged%2015%20to%2024%20years>). [↑](#endnote-ref-8)
8. See: <https://www.unaids.org/sites/default/files/media_asset/20210609_EXD_SP_stigma-discrimination_en.pdf>, p. 4. [↑](#endnote-ref-9)
9. See: <https://www.unaids.org/en/resources/presscentre/featurestories/2021/january/20210111_societal-legal-barrier-targets-could-stop-aids-related-deaths>. [↑](#endnote-ref-10)
10. Mahmud, M. (2021). Regional Summary Gender Review of HIV and Key Populations in Bhutan, Mongolia, Philippines, Sri Lanka and Timor-Lester, p. 17. [↑](#endnote-ref-11)
11. See: [Human rights violations against sex workers: burden and effect on HIV - The Lancet](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2814%2960800-X/fulltext) [↑](#endnote-ref-12)
12. See: <https://napwha.org.au/wp-content/uploads/2019/09/2019_NAPWHA_TheSystemIsBroken.pdf>. [↑](#endnote-ref-13)
13. See: [https://www1.health.gov.au/internet/main/publishing.nsf/Content/ohp-bbvs-1/$File/HIV-Eight-Nat-Strategy-2018-22.pdf](https://www1.health.gov.au/internet/main/publishing.nsf/Content/ohp-bbvs-1/%24File/HIV-Eight-Nat-Strategy-2018-22.pdf), p. 8. [↑](#endnote-ref-14)
14. <https://legislation.nt.gov.au/en/Legislation/SEX-INDUSTRY-ACT-2019>. [↑](#endnote-ref-15)
15. See: <https://www.unaids.org/en/resources/documents/2021/legal-and-policy-trends-asia-pacific>, p. 27. [↑](#endnote-ref-16)
16. See: <https://www.unaids.org/en/resources/documents/2021/2021_political-declaration-on-hiv-and-aids>, para. 64(e). [↑](#endnote-ref-17)
17. McCallum, L., and Falkenberry, H. (2018). Assessment of HIV Service Packages for Key Populations in the Philippines. [↑](#endnote-ref-18)