Regional Expert Group Meeting on Reviewing Implementation of Commitments from the Asia Pacific Intergovernmental Meeting on HIV and AIDS beyond 2015
November 27, 2018
Bangkok, Thailand

EXECUTIVE SUMMARY OF COMMUNITY AND CIVIL SOCIETY INPUTS
BACKGROUND

The purpose of the Expert Group Meeting (EGM) is to review progress in meeting the commitments of the Asia Pacific Regional Framework for Action on HIV and AIDS Beyond 2015. The Asia Pacific Intergovernmental Meeting on HIV and AIDS adopted the Regional Framework at its meeting in 2015.

The 2018 Expert Group Meeting provides representatives of key population communities and civil society organizations with an opportunity to report progress against the three pillars of the Regional Framework:

**Pillar 1:** National reviews and multisectoral consultations on legal and policy barriers

**Pillar 2:** National consultations to promote access to affordable medicines, diagnostics and vaccines

**Pillar 3:** Evidence-based national HIV investment cases and sustainability plans

This report summarizes responses to a survey distributed to community and civil society organizations in October 2018, and submissions provided by regional networks to the Coalition of Asia-Pacific Regional Networks on HIV/AIDS (7 Sisters) in November 2018.

Substantive civil society and community inputs were received from the following:

Regional organizations:  Asia-Pacific Network of People Living with HIV/AIDS (APN+); International Drug Policy Consortium (IDPC); APCASO; Asia Pacific Transgender Network (APTN); APCOM Foundation, Youth LEAD; Youth Voices Count; CARAM Asia; Coalition of Asia Pacific Regional Networks on HIV/AIDS (7 Sisters)

Australia:  Australian Federation of AIDS Organisations (AFAO); Family Planning NSW (FPNSW)

Bangladesh:  IDPC

Bhutan:  Lhak-Sam (BNP+)

Cambodia:  HIV/AIDS Coordinating Committee of Cambodian NGOs (HACC);

Fiji:  UNAIDS Youth Alliance for Sexual and Reproductive Health Rights

India:  Swasti; Indian Drug Users Forum

Indonesia:  ACASO; Youth LEAD; APTN

Malaysia:  Malaysian AIDS Council; APTN

Marshall Islands:  Gay community member
Roadmap to 2030

The Economic and Social Commission for Asia and the Pacific (ESCAP) should define a new Roadmap for the next decade with a greater focus on action, not just consultations and reviews.

The new Roadmap to 2030 should focus on specific priorities essential to ending AIDS by 2030 (e.g., scaling up ‘treatment as prevention’ and PrEP approaches), commit to human rights protection for key populations as a cross-cutting theme for all Pillars, ensure that the 95-95-95 targets are met, allocate sufficient and sustainable domestic resources, and include a Pillar on community and civil society participation and engagement.

A forward-looking and action-oriented Roadmap for the future of the region’s HIV/AIDS response is essential for achievement of the interlinked Sustainable Development Goals in Asia and the Pacific. The Roadmap should align and coordinate with broader efforts in support of the 2030 Agenda for Sustainable Development to ensure that HIV/AIDS remains a key priority for the region.
IMMEDIATE PRIORITIES

Pillar 1: Legal and policy barriers faced by key populations

- An end to brutal police crackdowns and extrajudicial killings of key populations.
- Accelerated efforts to decriminalize key populations and enact and enforce laws that protect key populations from violence and discrimination.

Pillar 2: Access to medicines, diagnostics and vaccines

- Universal implementation of the ‘test and treat’ approach which provides treatment to people with HIV upon diagnosis, regardless of CD4 count.
- Provision of PrEP at scale for key populations.
- Ensure governments support access to generic medicines through the use of TRIPS flexibilities and that trade agreements do not include TRIPS-plus provisions.

Pillar 3: Financing and sustainability

- Transition planning must recognize the imperative to ensure sustainable funding of community organizations to deliver HIV services to key populations. Failure to place key populations at the centre of transition and sustainability planning will result in failed HIV responses.
KEY FINDINGS

Pillar 1: Legal and policy barriers faced by key populations

There has been patchy progress in improving the legal and human rights situation of key populations:

- Most respondents confirmed only slight improvements in addressing legal and policy barriers.
- There is political resistance to removal of harsh criminal penalties for drug use and sex work.
- Enforcement of drug laws is highly punitive. Extrajudicial killings are reported from Bangladesh and the Philippines. This ‘war on drugs’ approach is ineffective in preventing drug use, compounds HIV vulnerability of marginalized communities and is associated with gross human rights violations.
- In most countries, transgender people cannot obtain identification documents that reflect their gender identity. Transgender people's dignity, equality, privacy and security are compromised because their gender identity and expression are not recognized through legal and administrative processes.
- Many countries criminalize transgender people’s gender expression, either through criminalizing ‘cross-dressing’ or by enforcement of other penal provisions relating to immorality, public indecency, vagrancy and loitering. Other forms of criminalization that marginalize transgender people include the criminalization of sex work, same-sex sexual activity, and begging.
- There has been a lack of progress in removing HIV-related travel restrictions, in part due to the negative narrative migration has taken.
- Many countries have laws that prevent adolescents from independently accessing HIV testing, condoms, harm reduction services, and other health services.
However, there were also some important examples of legal and policy progress since 2015:

- The new Philippine AIDS Act was passed in 2018 to overhaul the legal framework on HIV, expanding human rights protection for people living with HIV, providing key populations access to redress mechanisms, and removing legal barriers to HIV services for young people.
- India also passed a comprehensive law prohibiting HIV-related discrimination. This law came into force in 2018, and a redress mechanism has also been established to assist enforcement.
- Homosexuality was decriminalized in India as a result of a Supreme Court ruling in 2018.
- Laws protecting the rights of transgender persons were passed in India (2016) and Pakistan (2018), and Nepal's 2015 Constitution recognizes the rights of gender and sexual minorities. In parts of this region, there has been some significant progress in guaranteeing the right to legal gender recognition, including through Supreme Court decisions in India and Nepal. Supreme Court judgments or cabinet decisions in Bangladesh, India, Nepal and Pakistan recognize third gender status. A new Civil Code gave transgender people the right to register their change of gender in Viet Nam in 2017.
- There is progress in removing legal barriers to harm reduction services in India and Myanmar. Myanmar’s drug law was updated in 2017 to end mandatory registration of people who use drugs and introduce diversion to treatment services. Myanmar also drafted an AIDS Bill prohibiting discrimination.
Recommendations

(i) Criminal penalties relating to homosexual conduct, sex work and drug use should be abolished. Law enforcement should focus on protecting key populations against violence, exploitation and discrimination. Governments should recognize and address the severe negative health and human rights impacts of criminalizing sex work, same-sex sexual activity, drug use, irregular migration and begging.

(ii) Governments should ensure laws are enacted to protect and promote the personal security and rights of people living with HIV, key populations and vulnerable groups, including those not recognized as citizens and with sensitive social status such as migrants, refugees and stateless people, especially their access to basic services, social welfare, and employment, and to prohibit any form of discrimination. Legal redress mechanisms should be put in place and made accessible in cases of violations of personal security and any kind of discrimination.

(iii) Police and other law enforcement agencies should partner with health authorities to support provision of health services to key populations, including through peer-based outreach. Enforcement of criminal laws relating to sexuality, drug use and sex work should not drive key populations away from health services.

(iv) Governments should abandon the ‘war on drugs’ approach and instead apply human rights, public health and harm reduction principles to drug control efforts.

(v) Governments should close compulsory drug detention centres and implement voluntary, evidence-informed and rights-based health and social services for people who use drugs in the community.

(vi) Governments should promote alternatives to conviction and punishment for drug use and drug possession offences, including diversion to treatment in the community.

(vii) Governments should ensure that transgender people are protected under human rights and anti-discrimination provisions of the constitution and relevant laws. Gender, gender identity and gender expression should be prohibited grounds for discrimination. Definitions in laws and policies of terms such as ‘gender’, ‘gender identity’, ‘gender expression’, ‘transgender’ should be inclusive of diverse genders, gender identities and expressions, and based on self-determination.

(viii) Governments should guarantee legal recognition of gender identity based on self-determination.
(ix) Governments should harmonize non-discriminatory national HIV policies with immigration policies to ensure that non-citizens have the right to remain and have full access to HIV services and treatment.

(x) Laws and policies should recognize the evolving capacity of children and adolescents to understand and independently consent to harm reduction, HIV and sexual health services. Governments should ensure that sexual and reproductive health services especially HIV testing, counselling, treatment and care are youth-friendly, accessible and affordable for young key populations.

(xi) Governments should reform immigration policies that discriminate based on HIV status among migrants, refugees and non-citizens to enable access to treatment and services.

Pillar 2: Access to medicines, diagnostics and vaccines

Although governments have committed on paper to the 90-90-90 targets, most respondents reported that access to medicines and diagnostics had either only slightly improved or not improved at all. Examples of progress since 2015 in expanding access included:

- Several countries reported that access to HIV medicines is being considered in the context of their government’s commitment to Universal Health Coverage (UHC). Bhutan, Thailand and India have taken important steps towards inclusion of HIV in UHC, while others are in the planning stage (e.g. Myanmar).

- Least Developed Countries are now able to take advantage of the extended World Trade Organization transition period for introducing pharmaceutical patents (January 2033). This will allow ongoing access to affordable generic HIV medicines in these countries during the transition period.

- Government funding of antiretroviral therapy (ART) has supported expanded access to medicines in Myanmar.
• From 2018, India is providing free HIV viral load testing and expanded government-funded health insurance for all poor families.
• There is also expanded access to hepatitis medicines in some countries (e.g. India and Myanmar).
• PrEP is a new and highly cost-effective HIV prevention tool that was not available in 2015. Evidence confirms that PrEP has the potential to revolutionize HIV prevention among key populations. When PrEP is implemented at scale, it contributes to substantial reductions in HIV transmission at a population level. PrEP is already available in Thailand, but elsewhere most governments have not yet included it in their national HIV plans and programmes. In Australia, PrEP has been subsidized by government and is universally accessible.
• Recognising the importance of ensuring treatment for co-infections, in 2017 the government of Malaysia issued the world’s first compulsory license on a treatment for hepatitis C, sofosbuvir.

**Recommendations**

(i) A commitment to implement scaled-up PrEP programmes targeted at key populations should be given a high priority in national HIV/AIDS strategies as an essential addition to the HIV prevention package. Antiretroviral drugs (Truvada or generic equivalents) should be approved for use as PrEP within national health insurance schemes.
(ii) Governments should support community-based HIV testing and treatment delivery models to ensure greater coverage of key populations and hard to reach vulnerable groups so that countries can meet their 90-90-90 and 95-95-95 targets.
(iii) National HIV/AIDS strategies should implement WHO recommendations on PrEP and linking people diagnosed with HIV to treatment regardless of CD4 count. HIV testing and treatment should be included in Universal Health Coverage programmes that mobilize new health funding from domestic sources.
(iv) Governments should amend their patent laws to ensure inclusion of the full range of TRIPS flexibilities including rigorous patentability criteria, preventing evergreening, and patent oppositions by public interest groups including people living with HIV, easy to use compulsory license provisions and parallel and personal import of medicines. In particular, LDCs in the region should urgently adopt (through law or government order) the pharmaceutical transition period of 2033.
(v) Governments must commit to using these TRIPS flexibilities to ensure access to generic versions of current and new treatment for HIV, Hepatitis C and Tuberculosis for adult and paediatric treatment, including ARVs, Directly Acting Antivirals (DAAs) and MDR-TB medicines recognizing that generic competition often enables drastic price reductions, improves availability for current and new diagnostics, treatment and vaccines and contributes to financial sustainability of treatment programmes i.e. Pillar 3.
(vi) Governments must reject all TRIPS-plus demands in ongoing free trade agreement (FTA) negotiations including in the ongoing Regional Comprehensive Economic Partnership (RCEP) Agreement negotiations as well as those with developing countries like the European Union. These TRIPS-plus demands hamper the ability of countries to use TRIPS flexibilities and should be rejected to ensure government commitments under SDG Goal 3b, the 90-90-90 targets and regional and international commitments on HIV and AIDS.

(vii) Ensure that laws and policies focus on eliminating discrimination and violence against key populations in health care settings.

(viii) Develop national clinical guidelines for gender-affirming health services building on international guidance from the World Professional Association for Transgender Health and the World Health Organization, and the Asia Pacific Trans Health Blueprint.

Pillar 3: Financing and sustainability

- Transitioning to domestic financing of national HIV responses poses a threat to programmes for key populations, which continue to rely heavily on external support from international donors such as the Global Fund to Fight AIDS, Tuberculosis and Malaria.
- Most respondents reported some improvements in financial sustainability since 2015. However, there is very slow progress in the transition to domestic financing.
- In some countries the government is contributing more from domestic budgets to cover treatment costs. However, governments are less willing to use domestic budgets for work with key populations or to fund community organizations or civil society organizations perceived as controversial.
Recommendations

(i) Governments must increase public spending for their HIV, tuberculosis and hepatitis responses. This includes ensuring sufficient investment in services for key populations and human rights programmes for law reform and access to justice. Governments should also use all legal and policy tools at their disposal (including TRIPS flexibilities mentioned in Pillar 2) to decrease costs of medicines and diagnostics.

(ii) Governments should provide civil society organizations and key population networks access to domestic funding for outreach activities, community mobilization, advocacy, stigma and discrimination reduction and prevention activities and core operational costs.

(iii) Government should commit to fund innovative HIV prevention approaches under national HIV/AIDS strategies including pre-exposure prophylaxis (PrEP), HIV self-testing and voluntary partner notification. A high priority should be given to scaling up PrEP among key populations at high or medium risk of HIV given the significant savings to health budgets of this intervention.

(iv) Governments should involve representatives of key populations in planning for transition from external to domestic funding of HIV. Governments need to plan for domestically financed programmes that reach key populations to ensure these populations have ongoing access to health services and protection of their human rights when donor support ends. Government should also ensure that there are existing legal mechanisms to allow for the transfer of public funds to CSOs that implement interventions for various health responses, including HIV.

(v) Governments should ensure that the integration of HIV services into their universal health coverage frameworks is inclusive of key populations and should not lead to the defunding of community-led interventions.

(vi) Planning of HIV services should be based on reliable data. Few countries collect reliable data on young key populations and transgender people. This
results in lack of dedicated funding for HIV services targeting these populations and failure to include them in policy and planning discussions at the national level. Governments and development partners should disaggregate data based on sex, gender and age and make it available for national policy and planning processes. Both countries of origin and destination should recognize migrants or those who have returned from migration and are living with HIV and include them in HIV services planning at the national and local levels.

Community engagement and gender

Over 2/3 of respondents reported some improvements to community engagement, gender responsiveness and gender inclusivity since 2015. However, most respondents reported only slight improvements.

Recommendations
(i) Key populations should be meaningfully engaged in health governance. Governments should observe the following elements for meaningful community engagement:
   a. Representation of key populations and vulnerable groups in the bodies responsible for planning, implementing and evaluating HIV/AIDS responses;
   b. Transparency in decision making processes and implementation of national HIV/AIDS strategies including creating accountability mechanisms that enable representatives of key populations to provide feedback on national programme areas that impact on effective programme implementation.
c. Young people from key populations should be provided with enabling platforms so that they can engage meaningfully in national HIV responses.

d. Returned migrants and their communities affected by HIV also need representation in National planning in countries of origin especially when they comprise a significant percentage of the population living with HIV.

(ii) Governments should support organizations of sex workers, people who use drugs, gay men, MSM, transgender people and migrants to mobilize their communities to implement peer-led HIV prevention, treatment, legal protection and community empowerment measures.

(iii) Governments should promote and protect the freedom of association of sex workers, people who use drugs, gay men, MSM, transgender people and migrants, and ensure laws and policies do not infringe the rights of community-based organizations representing these populations to register and operate under national laws.

(iv) Governments should ensure gender responsive planning and budgeting approaches are applied in HIV programming.

(v) National strategies on HIV and national strategies on violence and discrimination against women should be linked, so that the vulnerabilities of marginalized women (including sex workers, women who use drugs, transgender women, migrant women and key populations and their intimate partners) to gender-based violence and HIV are understood and addressed.