

# PRESS STATEMENT

Ministry of Health and partners have made commendable efforts to reach key populations with much-needed HIV and TB services, but infections and transmission within these populations and between them and the general population remain unacceptably high. In this statement, we highlight findings from an assessment of the legal, policy and social environment and the reforms and actions that different actors need to take in order to improve access to HIV and TB prevention, care and support services by key populations. The assessment was conducted in five districts under the HIV, TB and Human Rights Training and Advocacy Country Program being implemented by the Aids and Rights Alliance for Southern Africa (ARASA) partners in Uganda.

## Key populations

Key populations are categories of people that are, for various reasons, most likely to be exposed to HIV and to rapidly transmit HIV. These populations include sex workers, long-distance truck drivers, gay men and other men who have sex with men (MSM), fisher-folk, uniformed services personnel, people who inject drugs (PWID), people in prisons and other closed settings, and transgender people.

## Vulnerability to HIV and TB

The prevalence of HIV among key populations is disproportionately high. While the overall prevalence among adults aged 15 to 64 years is estimated at 6.2% , among sex workers, it is as high as 35-37%; fisher-folk 22-29%; long-distance truck drivers 25%; uniformed forces (army, police, prison warders, security guards) 18.2%; and MSM 13.7%. HIV and TB is the most common coinfection, and groups that are highly affected by HIV have a high burden of TB as well. An estimated 22% of TB deaths are of persons living with HIV (PLHIV) . TB occurs as the first manifestation of AIDS in more than 50% of PLHIV , and in Uganda up to 60% of TB patients have HIV .

## Key population programming

HIV programming has been relatively progressive in facilitating access to tailored prevention, care and support services by key populations. The National HIV and AIDS Strategic Plan (NSP) 2015/16-2019/20 recognises that targeting services to key populations is critical to the success of the national response. The Multi-Sectoral HIV Response for MARPS in Uganda Programming Framework 2014-2016, defines a common planning framework and the most-at-risk population priority action plan through which Ministry of Health is scaling up for key populations using the peer-to-peer and the differentiated service delivery models.

Key populations are represented on the Uganda's Global Fund Country Coordinating Mechanism (CCM) and the technical working groups at the Ministry of Health. The Ministry has established a key population technical working group and has a dedicated key population focal person. Key populations have been actively involved in developing policy and implementation guidelines as well as in the actual implementation of HIV pre-exposure prophylaxis (PrEP). The Most At Risk Population Initiative (MARPI), based in Mulago Hospital, provides HIV prevention and care services to thousands of sex workers, MSM, transgender and other key populations.

## Criminalized populations

Unlike the policy framework, the legal framework is far less progressive. Some of the vulnerabilities are common across the different key populations, while others are unique to individual population groups. For instance, four of them (MSM, PWID, sex workers and transgender people) are unique in the sense that they are criminalized in many countries (including Uganda).

- **Sex workers:** The Penal Code Act (s.131-139) prohibits prostitution and provides that any person who practices or engages in prostitution, or procures or attempts to procure a woman or girl to become, either in Uganda or elsewhere, a “common prostitute” commits an offence and is liable to imprisonment for seven years.
- **MSM:** Homosexuality and bestiality are illegal under the Penal Code Act (s.145), which provides that any person who has carnal knowledge of any person against the order of nature, including carnal knowledge of an animal, or permits a male person to have carnal knowledge of him or her against the order of nature, commits an offence and is liable to imprisonment for life.
- **Transgender persons:** Uganda's laws are conspicuously silent about transgender persons, which makes transgender persons to lack recognition in law as a specific category of persons that is entitled to rights and protection.
- **People who use drugs:** The National Drug Policy and Authority Act (s.47) prohibits the possession of any narcotic drug or psychotropic substance under international control “without lawful excuse, the proof of which shall lie on him or her”. It (sec.48) the smoking of opium and Indian hemp. The Narcotic Drugs and Psychotropic Substance (Control) Act, 2019 prohibits the possession, manufacture, production, tracking, sale, distribution, consumption and promotion of narcotic drugs and psychotropic substances, as well as the cultivation of plants from which narcotic drugs and psychotropic substances. The penalties are stiff, ranging between 5-25 years and fines equivalent to three times the value of the narcotic drugs or psychotropic substances found in possession of the culprit. Trafficking in narcotic drugs and psychotropic substances is punishable by life imprisonment.

## Human rights violations against key populations and people with HIV and TB

Vulnerability of any key population results into many human rights violations. As already shown, the lifestyles and sexual practices of MSM, PWID, sex workers and transgender are illegal under Uganda's laws and society generally regards them as morally inappropriate. This leads to their harassment by law enforcers, stigmatization by society and health care providers, powerlessness and withdrawal – leading to poor uptake of HIV prevention and care services.

Sex workers are vulnerable because sex work is illegal, but also because they face sexual violence from their clients and law enforcers, and tend to use drugs. Sex workers are up to 13 times more at risk of HIV infection compared to the general

population , because they tend to be economically vulnerable, have intercourse with an indefinite number of partners, yet they are unable (or even uninterested) to negotiate and insist on condom use.

The “war on drugs” approach, which criminalizes and uses aggressive policing, crackdowns and stiff penalties against drug users, has the effect of sending them underground and away from healthcare and harm reduction services. In these circumstances, access to sterile syringes – and even information – is lacking, leading to rampant sharing of needles by PWID, for which reason their risk of HIV infection is 22 times higher than the general population.

Transgender people are one of the groups most affected by the HIV epidemic and are 49 times more likely to get HIV than the general population. A high proportion of transgender people engage in sex work, and their clients tend to pay more for unprotected sex; their ability to insist on condom use is undermined by low self-esteem; and transgender women are vulnerable to unprotected anal sex. Transgender people also tend to share needles in administering injectable hormones.

The focus on infection control has led to TB management approaches that violate the rights of TB patients. These include confinement, coerced treatment, and directly-observed treatment (DOT). DOT involves a patient being allocated an individual in the community to witness the patient swallow medicines on a daily basis to ensure adherence to the treatment. This compromises the confidentiality of the patient.

## Recommendations and key asks

- 1) Uganda Law Reform Commission (ULRC) should undertake a review of the criminal laws with a view of recommending legislative reforms in line with international best practice, to reflect reality and achieve consistency with established human rights standards.
- 2) Police, local council leaders and judicial officers should desist from abusing the law, and using archaic legislation to harass, intimidate and violate the rights of sex workers, sexual minorities (MSM and transgender women), and people who use drugs.
- 3) Ministry of Health and implementing partners should expedite the roll-out of tailored/differentiated HIV and TB services for key populations, including drop-in centers, training of health workers, as well as increasing access points for PrEP.
- 4) Ministry of Health and implementing partners should ensure that all HIV and TB interventions conform to the human rights based approach, and should expedite the HIV and TB key populations harm reduction policy guidelines.
- 5) Uganda Human Rights Commission, the Equal Opportunities Commission and human rights defenders should advocate for, sensitize actors and enforce the human rights of vulnerable populations, including key populations.