

HIV/AIDS THEMATIC GROUP

Introduction

This report has been submitted by 20 organisations that run HIV/Aids programmes in Kenya for Key Populations (KPs) and Adolescents Girls and Young Women (AGYW). They include PITCH Alliance; African Gender and Media Initiative Trust; Trans Alliance; KELIN; JINSIANGU; SRHR ALLIANCE; KESWA; BHESP; Gays and Lesbians Coalition of Kenya (GALCK); NYARWEK; KP Consortium; LVCT; HOYMAS; National Gays and Lesbians Human Rights Commission (NGLHRC); Women Fighting AIDS in Kenya (WOFAK); KANCO; ISHTAR MSM; Kenya Network of People Who Use Drugs (KENPUD); MAAIGO; and Medicins du Monde Kenya.

ISSUE 1: HIGH HIV/AIDS INFECTIONS RATE ESPECIALLY AMONGST ADOLESCENTS GIRLS AND YOUNG WOMEN; AND KEY POPULATIONS IN KENYA

1. According to HIV estimates report 2018, the number of new infections in Kenya has been reducing over the years from 77,200 in 2010 to 52,800 in 2017. Unfortunately, Adolescent Girls and Young Women (AGYW) aged 15 – 25 years continue to be disproportionately affected as the new infections among them is double that of their male counterparts within the same age group at 12,500 Vs 5,200. The new infections among AGYW represented approximately 24 percent of all new infections in the country. This high number of infections may be attributed to several factors key among them being that AGYW are not accessing Sexual Reproductive Health (SRH) Services due to the fact that any child below 18 years must get consent before receiving SRH Services; health care workers do not have the capacity to provide AGYW responsive services; negative socio-cultural; and religious beliefs that hinder sex discussions with young people.
2. The Government of Kenya through the National AIDS and STI Control Programme (NASCOP) developed guidelines that would enable AGYW to access SRH Services. However, this has proven difficult because the HIV and Aids Prevention and Control Act¹ requires that any person below 18 years must secure express permission of their parents or guardian before undergoing HIV testing. The Sexual Offences Act, 2006 also criminalizes provision of condoms to persons under the age of 18.

3. With regard to the Key Populations (KPs), even though new HIV infections in Kenya have reduced to 52,800 infections per year, the trend among these groups have not been captured in progress reports which means that there is no current data that would indicate whether there has been an increase or reduction in new infections among KPs thus making it difficult to effectively develop intervention programmes for them.
4. The last Modes of Transmission that was conducted in 2008 found that new infections among the KPs were as follows, 12,408 (14.1 percent) among Female Sex Workers (FSW); 13,376 (15.2 percent) among Men Who Have Sex with Men (MSM), including Male Sex Workers (MSW) and male prisoners; while 3,344 (3.8 percent) was among people who use drugs. These figures are too high to be ignored.
5. The high number of new infections among KPs can be attributed to among other things, (i) the stigma and discrimination associated with the HIV/Aids affecting key populations; and (ii) the punitive lawsⁱⁱ that criminalize the actions of key populations which lead to them not accessing services freely.
6. The difficulties in accessing SRH Services by AGYW and KPs highlighted above; and the challenges faced by organizations that offer harm reduction services seeking to stem new infections among these target groups fly against the provisions of the National Adolescents Sexual and Reproductive Health Policy that establishes a framework for offering comprehensive SRH Services to these two target groups.

RECOMMENDATIONS

7. **The Government of Kenya should fully implement the National Adolescents Sexual and Reproductive Health Policy including developing a comprehensive age appropriate sex education, and SRH Services especially targeting adolescents girls and young women**
8. **The Government of Kenya should review all legal, policy and structural barriers that impede the provision of SRH Services among Key Populations.**
9. **The Government should promote evidence based and gender appropriate Harm Reduction Services and ensure availability and accessibility of quality Drug Dependence Treatment Services**
10. **The Government of Kenya should amend drug control legislation so as to make them health focused as opposed to being treated as a criminal justice issue. Further,**

**National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA)
from the Ministry of Interior and Coordination of Government to the Ministry of
Health**

- 11. The Government of Kenya should review the Sexual Offences Act, 2006 to ensure that adolescent girls and young women who are engaging in sex are free to access SRH Services including accessing condoms and family planning services**
- 12. The Government of Kenya should develop a Comprehensive Education Curriculum on Sexuality for Schools**
- 13. The Government of Kenya should have a continuous Capacity building plan for providers of adolescent and young people responsive services and implementation of youth friendly services guidelines of 2016**

ISSUE 2: STIGMA AND DISCRIMINATION AGAINST, AND DENIAL OF SEXUAL AND REPRODUCTIVE HEALTH (SRH) SERVICES FOR KEY POPULATIONS AND PEOPLE LIVING WITH HIV AND AIDS (PLWHA)

14. Stigma and discrimination against People Living with HIV (PLWHIV) and Key Populations in Kenya remains a major challenge. According to the KNCHR reportⁱⁱⁱ sexual minorities (gay, lesbian, bisexual, transgender, intersex persons and sex workers) and marginalized and vulnerable groups (people with disabilities, people living with HIV, Adolescents and youth, internally displaced persons and refugees) are the most vulnerable to stigma and discrimination in access SRH Services. The violations take the form of harassment; denial of access to justice; denial of health services and in particular, SRH Services.
15. According to The Kenya People Living with HIV and Aids Stigma Index, 37.4 percent of the respondents indicated that they had experienced some form of human rights abuse. Of this, 39.1 percent were women while 33.7 percent were men. The Stigma Index further found that of those reporting rights violations, 34.9 percent indicated that the matter had been dealt with, while 35.7 percent reported that the same was not resolved with 29.5 percent saying that nothing had happened or the matter was not dealt with. This high rates of stigma and discrimination has the effect of deterring PLWHA and Key Populations from seeking vital HIV services^{iv} thereby forcing HIV positive individuals into hiding and increasing the number of new HIV infections. During the last UPR, Sweden asked the

Government of Kenya to enact a comprehensive anti-discrimination law affording protection to all individuals, irrespective of their sexual orientation and gender identity.

RECOMMENDATIONS

- 16. The Government of Kenya should put in place comprehensive anti-discriminatory laws affording protection to all citizens irrespective of their sexual orientations, gender identity and criminalized behaviors**
- 17. The Government of Kenya should develop a framework for reporting cases of discrimination against Key Populations and PLHIV**
- 18. The Government of Kenya should partner with NGOs that provide harm reduction services to develop comprehensive programmes and activities to reduce stigma and discrimination**
- 19. The Government of Kenya should scale up awareness creation among the public by coming up with HIV/Aids messages that aim to reduce stigma and discrimination against Key Populations and PLWHA**
- 20. The Government of Kenya should scale up training among health workers and security personnel on stigma and discrimination**
- 21. Government of Kenya should conduct a new stigma index so as to have up to date and accurate data on stigma and discrimination**

ISSUE 3: REDUCED FUNDING FOR HIV/AIDS PROGRAMMES

22. Funds to combat the spread of HIV/Aids have traditionally been from international donors. In 2015, approximately 75 percent of Kenya's national HIV response was externally funded.^v However, the last few years has seen a reduction in global funding landscape towards the fight against HIV/Aids thereby posing a challenge to the sustainability of Kenya's HIV response.^{vi} Despite this, the Government of Kenya has failed to uphold its financial commitment towards providing sufficient budgetary allocation to combat the disease. This must also be looked at within the wider context with regard to budgetary allocation to health. Indeed, Kenya is a signatory to the Abuja Declaration that provides that 15 percent of all government expenditure should go towards health but according to 2018-2019 budget, it only received an allocation of 6 percent, which is way below the said target.

23. There is also the issue of an ever increasing funding gap. In the 2015/2016 financial year, the funding gap for Kenya's HIV response was reported to be at USD 315.27 Million.^{vii} The situation is bound to get worse as the cost of Kenya's HIV response is expected to increase by 114 percent between 2010 and 2020, representing a funding gap of USD 1.75 Billion. In order to plug this, Kenya has established a High Level Steering Committee for Sustainable Financing, which has proposed the establishment of an HIV and Non-Communicable Diseases Trust Fund to pool additional and private resources.^{viii}

RECOMMENDATIONS

- 24. The Government of Kenya should increase efforts to secure additional funding for HIV/Aids programmes**
- 25. The Government of Kenya should integrate HIV/Aids under the Universal Health Coverage**
- 26. The Government of Kenya should increase its funding to fight HIV/Aids and so as to meet the funding gap left by the reduction of funding following the reduction of funding from international donors**
- 27. The Government of Kenya should increase its budget towards health from 6.5 percent to 15 percent as contained in the Abuja Declaration**

ⁱ HIV and AIDS Prevention and Control Act, 2017 Section 14(a) provides that '(1) Subject to subsection (2), no person shall undertake an HIV test in respect of another person except...if that person is a child, with the written consent of a parent or legal guardian of the child'. There is a proviso that says, ... 'Provided that any child who is pregnant, married, a parent or is engaged in behaviour which puts him or her at risk'

ⁱⁱ The said laws include the Sections 162(a) and (c) and Section 165 of the Penal Code which criminalise same sex relations; Section 153-156 of the Penal Code which criminalise sex work; Section 5 of the Narcotics Act and Psychotropic Substance (Control) Act which makes it illegal to use drugs

⁴ NACC. (2018). Kenya HIV Estimates Report.

ⁱⁱⁱ Realising Sexual and Reproductive Health Rights in Kenya: A myth or reality?

http://www.knchr.org/Portals/0/Reports/Reproductive_health_report.pdf

^{iv} https://www.avert.org/professionals/hiv-around-world/sub-saharan-africa/kenya#footnote93_0gp1bt3

^v Kenyan Ministry of Health/National AIDS Control Council (2016) "Kenya AIDS Response Progress Report 2016"

^{vi} National AIDS Control Council of Kenya (2014) 'Kenya AIDS Response Progress Report 2014: Progress towards Zero' (pdf)

^{vii} National AIDS Control Council of Kenya (2014) 'Kenya AIDS Response Progress Report 2014: Progress towards Zero' (pdf)

^{viii} UNAIDS (2013) 'Efficient and Sustainable HIV Responses: Case studies on country progress' (pdf)