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Re Australia's domestic response to the World Health Organisation's (WHO) Commission on Social Determinants of Health report "Closing the Gap within a generation"

The Australian Federation of AIDS Organisations (AFAO) welcomes the opportunity to provide comments regarding Australia's domestic response to the World Health Organisation's (WHO) Commission on Social Determinants of Health report "Closing the Gap within a generation".

The National HIV Strategy 2010-2013 (the National HIV Strategy) lays out the necessary steps to be taken to respond to HIV in Australia. The National HIV Strategy, a product of partnership between affected communities, government, clinicians and researchers, is positioned within a human rights-based framework. The National Strategy asserts the need to:

> ' … (pay) attention to the social determinants of health that affect HIV prevention efforts, including social marginalisation, access to health promotion and health services, and law and policy frameworks".[1]

Australia's preventative health strategies

Recognition of the importance of social determinants of health is fundamental to each of Australia's national preventative health strategies. However, missing from the various national preventative health strategies is any reference to national strategies which are not exclusively about preventative health, such as the National HIV Strategy.

The psycho-social experience of living with HIV is a social determinant of health that can have a profound effect on many aspects of the life of an HIV-positive person. Smoking is a prime example of the interplay of psycho-social factors affecting the general health of people with HIV. Data from the HIV Futures 6 study of Australians living with HIV showed that about half of respondents smoked (42.3%),

[1] Sixth National HIV Strategy 2010-2013, 6.1, Priority areas for action - HIV prevention targeting priority communities and populations p. 20, accessed on 2 October 2012: www.health.gov.au/internet/main/publishing.nsf/Content/ohp-national-strategies-2010-hiv/$File/hiv.pdf

representing more than twice the rate of the general Australian population[2]. This figure is concerning as many of the conditions associated with smoking are much more likely to occur in people who are HIV-positive people, and smoking further weakens overall immune response. A recent US study found smoking cessation in symptomatic HIV-positive people can significantly improve the HIV-related symptom burden within three months of cessation. Notably, HIV Futures 6 revealed that 28% of respondents had reduced or ceased smoking as a means to improve their health.

HIV and an enabling legal environment

A number of areas for policy reform identified in the National HIV Strategy are predicated on the need to sustain an enabling legal environment for HIV prevention and the care and support of people with HIV. The National HIV Strategy specifically refers to key areas where the law and policy framework may undermine the public health response to HIV, such as the application of criminal sanctions regarding sexual transmission of HIV[3], migration policy[4] and policies affecting people ageing with HIV.

The 2011 United Nations Political Declaration on HIV/AIDS (the UN Political Declaration), agreed to by all UN members, echoes that the HIV National Strategy's focus on advancing HIV health outcomes informed by social determinants. It makes commitments to addressing issues regarding human rights, stigma, discrimination and violence – key social determinants in any HIV response. Its targets of reducing sexual transmission of HIV by 50%, and increasing treatments access to 15 million people by 2015, reflect the Closing the Gap Report's statement that "…calls for closing the health gap in a generation".[5]

The failure to adequately address a range of complex HIV-related health issues is partly attributable to the lack of recognition of intersecting social determinants across priority national health strategies. In the absence of such a framework, any reforms to these areas will likely be incremental and disjointed. As the Closing the Gap in a Generation report states, "Policy coherence is crucial – this means that different government departments' policies complement rather than contradict each other in relation to the production of health and equity."[6]

Health impacts of HIV Criminalisation

The criminalisation of people living with HIV, sex workers and people who inject drugs undermines a human rights-based approach to prevention and management of HIV and fails to take account of the complexities of social determinants of health. There is a need for reform of the application of criminal laws where those laws are applied in a way that impedes or undermines Australia's response to HIV.

Criminalisation of HIV sexual transmission or exposure can undermine HIV prevention strategies, some people fearing testing for HIV and /or accessing clinical care in the belief that they may be exposed to criminal sanctions. Criminalisation also promotes the stigmatisation of people living with HIV by

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[2] J Grierson, J Power, M Pitts, S Croy, T Clement, R Thorpe and K McDonald (2009) *HIV Futures 6: Making Positive Lives Count*, monograph series number 74, The Australian Research Centre in Sex, Health and Society, Latrobe University, Melbourne, Australia **,** page 46, accessed on 2 October 2012: http://www.latrobe.edu.au/hiv-futures/HIV%20FUTURES%206%20REPORT.pdf

[3] DoHA Sixth National HIV Strategy 2010-2013, p. 39, accessed on 2 October 2012: www.health.gov.au/internet/main/publishing.nsf/Content/ohp-national-strategies-2010-hiv/$File/hiv.pdf

[4] Ibid.

[5] CSDH (2008) Closing the gap in a generation: health equity through action on the social determinants of health, Final Report of the Commission on Social Determinants of Health, World Health Organisation, p. 1.

[6] Ibid, p.110.

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reinforcing the stereotype that people with HIV are criminal, immoral and dangerous and that people without HIV are their potential victims.

Priority should be given to ensuring that police and prosecutorial guidelines regarding sexual transmission of or exposure to HIV support HIV prevention and health promotion strategies. The National Guidelines for the Management of People with HIV who Place Others at Risk are intended to avoid inappropriate use of criminal sanctions. There is a need to promote the National Guidelines in supporting a response that focuses on behaviour, including behaviour related to mental health and psychiatric issues that is proportional to actual risk and conducive to providing treatment, care and support for those involved. This is an area that requires active monitoring at the national level, stronger engagement by public health officials and research to assess social determinants of behaviours that potentially place others at risk of HIV.

Unintended consequences of migration policy

Australia's migration legislation and associated regulations impose strict rules for people applying for permanent residence, including rules regarding health. These rules are referred to as the 'Health Requirement'. Under these complex rules a test for HIV is mandatory for all prospective migrants to Australia over 15 years of age, including for off-shore applicants for refugee and humanitarian visas. Generally, HIV-positive applicants for permanent visas do not pass the Health Requirement. Although a person refused a visa under the health requirement may seek that the requirement be waived in their case, off-shore humanitarian and refugee applicants face significant barriers in applying for and securing waiver.

Australian migration policy has the perverse effect of stigmatising HIV-positive migrants. A 2008 International Organisation for Migration study found that exclusion of migrants and refugees from countries with high HIV prevalence served to compound the stigma and discrimination experienced by people living with HIV. This stigma adversely affects quality of life of people living with HIV and is damaging to broader health promotion efforts among communities most-at-risk of HIV. Stigma and fear of community backlash undermines the effectiveness of settlement programs targeted to migrants and refugees among these communities; many in the community believing that HIV-positive migrants, refugees and their families are not welcome in Australia and that people known to be living with HIV will be shunned by their ethnic community.

Long-stay temporary visa applicants

Fundamental HIV prevention, care and support issues for people on long-stay temporary visas (such as work visas, bridging visas and student visas) flow from their ineligibility for Medicare, the Pharmaceutical Benefits Scheme and Social Security income support while in Australia.

Ineligibility for access to Medicare and the PBS compromises the effectiveness of cross-portfolio policies targeting HIV in culturally and linguistically diverse (CALD) communities. Medicare-funded access to health services is essential to providing comprehensive treatment, care and support for individuals and communities affected by HIV. Likewise, PBS-subsidised access to appropriate pharmaceuticals is essential to ensuring the health of HIV-positive people, as well as to reducing the risk of onward HIV transmission. As stated in the Closing the Gap in a Generation report, “maldistribution of health care – not delivering to those who most need it – is one of the social

determinants of health"[7]. Australia must reform relevant policy settings in relation to permanent visa applicants so that all people staying long-term in Australia have access to Medicare and the PBS.

Migrant and refugee settlement programs

Researchers have identified a number of common stressors for people with HIV from culturally and linguistically diverse (CALD) communities[8]. Such crucial social determinants may include:

- the need to simultaneously deal with an HIV diagnosis and the rejection of the claim for permanent residence, and then await a waiver decision;
- limited access to treatment, Medicare, Social Security income support, and care services, depending on the visa sub-class;
- delayed diagnosis of HIV, which can result in poor health prospects due to reduced benefits from treatment[9];
- additional barriers to accessing health care services for HIV-positive women from some CALD communities, due to power relationships within the family, e.g., a controlling husband refusing to allow engagement with services;
- HIV-positive people with limited English experiencing difficulty negotiating various health and support services; and
- due to the stigma associated with HIV in their country of origin, people with HIV from some CALD communities fearing that their community will discriminate against them.

All of these issues are relevant to people with HIV who were born in high HIV prevalence countries.[10]. The importance of developing appropriate, well-targeted settlement and ongoing community services for new migrants and refugees with HIV is recognised in the National HIV Strategy. Community health services need to be better resourced so as to provide effective ethno-specific HIV counselling, treatment and education targeted to CALD community needs, having regard to the complex treatment, interpersonal and disclosure issues for a person recently diagnosed with HIV settling in a new country.

Settlement programs also need to provide sexual health, education and support programs for HIV negative migrants and refugees from high prevalence countries, e.g., for people from Thailand, Cambodia and sub-Saharan Africa. Given the absence or inadequacy of effective community health education programs in such high prevalence countries, specific programs for women and men (whether they are single or partnered, and whatever the person's stated sexual orientation), need to be in place as part of the early stage of settlement programs. These programs also need to focus on de-stigmatisation of HIV. This is especially so for DIAC-funded programs for refugees who have survived torture or other traumatising events, only to be then diagnosed with HIV.

Health impacts of aged care policy

Anti-discrimination laws currently allow religious organisations to discriminate against individuals on the grounds of sexual orientation and gender identity in relation to, inter alia, employment and the provision

[7] CSDH (2008) op. cit., p. 1.
[8] H. Korner, M. Petrohilos, D. Madeddu, 'Monograph 4: Living with HIV and Cultural Diversity in Sydney' (2005) National Centre in HIV Social Research (NCHSR); Annual Surveillance Report 2008National Centre for HIV Epidemiology and Clinical Research (NHECR) figure 45, p.30.
[9] Annual Surveillance Report 2008 National Centre for HIV Epidemiology and Clinical Research (NHECR) figure 45, p.30.
[10] Annual Surveillance Report 2009, NCHECR, Table 1.1.5, p.37

of services. AFAO opposes this religious exemption; any law that perpetuates discrimination against LGBTI Australians can have serious consequences for the physical, mental and sexual health of people among these communities[11]. The exemption also offends the principle of universal non-discrimination. The presumption should be against the inclusion of any exemption, with the onus on organisations that seek to discriminate to adequately justify their argument as to why. Overturning this current legally-sanctioned discrimination would be a concrete step, demonstrating the importance of properly addressing social determinants, in order to produce equitable health outcomes.

Conclusion

Australia's generally successful HIV response has been dependent on the creation of an 'enabling environment', informed by research into the major social determinants of health. A social-determinants perspective is essential to maintaining Australia's enabling legal environment and maximising the health of people with HIV and people among affected communities.

We strongly encourage the Australian government to continue to develop comprehensive health reforms that acknowledge and respond to social determinants of health, such as those outlined above.

Thank you for the opportunity to take part in this consultation.

Yours sincerely,

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Australian Federation of AIDS Organisations

[11] Jackson NC, Johnson MJ, Roberts R (2008) The potential impact of discrimination fears of older gays, lesbians, bisexuals and transgender individuals living in small- to moderate-sized cities on long-term health care J Homosexuality 54(3):325-39.

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