



Regional Dialogue: Asia and the Pacific

16-17 February 2011, Bangkok

FACT SHEET

Global snapshot¹

- In 2010, 106 countries reported having laws, regulations or policies that obstruct access to HIV services for populations at higher risk of HIV exposure.²
- 79 countries worldwide criminalize same-sex relations between consenting adults and six apply the death penalty.
- More than 100 countries criminalize some aspect of sex work.
- 48 countries, territories or entities impose some form of travel restriction on people living with HIV based on their HIV status.³

Asia and the Pacific⁴

- 90% of countries in the region still have laws which obstruct the rights of people living with HIV and populations at higher risk of HIV exposure.
- 19 countries in the Asia-Pacific region criminalize same-sex relations
- 29 countries in Asia-Pacific criminalize some aspect of sex work.
- 16 countries in Asia Pacific impose travel restrictions on people living with HIV.
- Many countries in the region enforce compulsory detention for people who use drugs and in some cases (11 countries in Asia) issue the death penalty for drug offences.
- Stigma and discrimination remain very widespread. Country example: In China, more than 30% of people living with HIV said they had been subject to verbal abuse, 9% had been physically harassed, 14% refused employment and 12% denied health care⁵.

Enabling the legal and policy environment

In recent years, a number of countries have taken steps to provide enabling environments for people living with HIV and key affected populations.

- In 2010, three countries (China, Namibia, and the United States) lifted HIV-related travel restrictions, joining the 125 countries which see no need for such restrictions.
- In 2010, 71% of countries had laws prohibiting discrimination against people living with HIV, including 18 countries in the Asia-Pacific region.
- Reports of programmes to address stigma and discrimination have doubled in four years: 92% in 2010 against 46% in 2006, indicating increased acknowledgement of the importance of working to eliminate stigma and discrimination.⁶
- Some recent signs of progress in the Asia-Pacific region include:
 - In January 2011, the Fiji Cabinet just approved a new HIV decree securing rights and security for people living with HIV.
 - At the end of 2010, the Cabinet in Papua New Guinea endorsed a review on laws governing “prostitution” and “unnatural sex offences”
 - In July 2009, the New Delhi High Court repealed Section 377 of the Indian Penal code decriminalizing consensual sex between men.

¹ Figures in this section were drawn from the *UNAIDS report on the global AIDS epidemic 2010*.

² Vulnerable subpopulations include sex workers, men who have sex with men, injecting drug users, transgender people, women and children.

³ Note: Since the publication of the *UNAIDS report on the global AIDS epidemic 2010*, Ukraine lifted its HIV-related travel restrictions and two countries, India and Ecuador, clarified to UNAIDS that they have no such restrictions. The global total has been updated accordingly from 51 to 48.

⁴ Figures from this section were drawn from the *UNAIDS report on the global AIDS epidemic 2010* and *MAKING THE LAW WORK FOR THE HIV RESPONSE- A snapshot of selected laws that support or block universal access to HIV prevention, treatment, care and support*, based on data collected by: IPPF, GNP+, ILGA, IHRA, HRW, UNAIDS and United States Department of State, July 2010.

⁵ Figures drawn from the *UNAIDS report on the global AIDS epidemic 2010*

⁶ Figures drawn from the *UNAIDS report on the global AIDS epidemic 2010*.

Examples of laws and practices that hamper progress on HIV

- Laws and practices that directly or indirectly criminalize and discriminate against people living with HIV and key affected populations at high risk of HIV exposure:
 - Criminalization of same-sex behaviour and aspects of sex work
 - Enforced compulsory detention of drug users, sometimes for years, and in some cases the death penalty
 - Travel restrictions imposed on people living with HIV
 - Criminalization of HIV transmission
 - Legal barriers that prohibit the possession of needles and syringes and prevent the setting up of harm reduction programmes
 - Employment laws that prohibit people living with HIV from working in certain sectors
 - Manipulation and misinterpretation of anti-trafficking laws that result in the violation of human rights and/or arrest of key affected populations and people living with HIV.
- Laws and practices that can lead to violence and discrimination to be experienced by women:
 - Non-implementation of or weak laws to protect women from violence
 - Laws that deny women inheritance rights
 - Lack of legislation to address and outlaw bigamy, polygamy and marital rape
- Laws and practices that impede HIV-related treatment access:
 - Free trade agreements that impede future production of and access to low-cost generic antiretroviral medicines.
 - Disease control acts that mandate people living with HIV be put in isolation and/or imprisoned
- Laws and practices that compromise the rights of children:
 - Impunity to harmful acts towards children
 - Legal barriers that prevent children and young people from accessing prevention and treatment services without parental/guardian consent.

Global Commission on HIV and the Law

- In June 2010, UNDP and UNAIDS launched the Global Commission on HIV and the Law to analyze the most critical legal and human rights challenges of the HIV epidemic and recommend remedial policies.
- The Commission is made up of global leaders on HIV-related legal and human rights issues, including some of the best-known jurists, political leaders and policy makers from across the world.
- The Commission is mobilizing public dialogue in a range of countries across the globe to ensure that laws support, rather than block, effective AIDS responses. Findings and recommendations of the Commission will be announced in December 2011.
- Regional Dialogues are held to inform the deliberations of the Commission and ensure that it benefits from the views expressed by civil society, including the experiences of key affected populations.
- The first Regional Dialogue is taking place in Asia and the Pacific on 17 February 2011, bringing together governments, civil society, communities and development partners from Asia and the Pacific.

For more information relating to Punitive Laws, Human Rights and HIV responses in the Asia Pacific Region please see the following:

UNDP (2010) Legal environments, human rights and HIV responses among men who have sex with men and transgender people in Asia and the Pacific: An agenda for action - <http://asia-pacific.undp.org/practices/hiv/aids/MSMLegalStudy.html>

UNDP (2010) HIV/AIDS and Mobility in South Asia - <http://asia-pacific.undp.org/practices/hiv/aids/HIVAIDSAndMobilityInSA.html>

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