
2014-2015 UBRAF thematic report

Eliminating HIV-related travel restrictions

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ACHIEVEMENTS

The work of the International Task Team on HIV-related Travel Restrictions has established evidence that travel restrictions do not protect public health and further stigmatize people living with HIV. Furthermore, the 2011 Political Declaration on HIV and AIDS made the elimination of restrictions on entry, stay and residence based on HIV status a target in global efforts to reach zero discrimination. Since 2011, 14 countries, territories or areas have removed or have officially clarified that they do not apply such restrictions, leaving 35 countries, territories and areas that still have HIV-related travel restrictions.

To further progress towards eliminating restrictions on entry, stay and residence based on HIV status, the UNAIDS Secretariat and cosponsors have carried out the following work in 2014-2015:

- In 2015, the UNAIDS Secretariat provided technical and advocacy support that was critical to the removal or clarification that there are no restrictions on entry, stay and residence on the basis of HIV status in Belarus, Chinese Taipei, and Lithuania. It is expected that a similar confirmation from Paraguay is forthcoming in 2016. Repeated advocacy with Russia yielded the first results – based on the Constitutional Court decision and relevant European Court of Human Rights (ECHR) precedents, immigration law has been amended to grant stays to foreign citizens with HIV that have family residing legally in Russia;
- In some Pacific Islands states - Marshall Islands, Samoa and Solomon Islands - legal reviews and policy notes on travel restrictions were developed. In the Solomon Islands, the process has advanced to the point of a review of the Medical Form for long-term entry, stay and employment being conducted resulting in the approval of a new form, where HIV has been excluded from mandatory testing, thus effectively contributing to lifting of travel restrictions.;
- UNAIDS also engaged in dialogue with the Government of the Republic of Korea and civil society regarding concerns that they retain policies and practices that constitute HIV-related restrictions on entry, stay and residence. The UNAIDS Secretariat provided technical opinion to the Convention on Elimination of all forms of Racial Discrimination (CERD) when it heard a case of a foreign language teacher subjected to mandatory HIV testing for residency purposes. The CERD decision in May 2015 found that such testing violated human rights;
- The Joint Initiative on Mobility and HIV/AIDS (JUNIMA) carried out a number of activities aimed to eliminate travel restriction in the MENA region for migrant workers. Members of the Initiative include IOM, which host the Secretariat, UNAIDS Secretariat, ILO, UNDP, civil society groups, regional associations (ASEAN and SAARC) and governments;
- The Joint Programme developed a roadmap, meeting paper and agenda for a

proposed interregional dialogue on travel restrictions and universal access to health and HIV services between Asia and MENA region countries. ILO developed a supporting strategy document for the meeting and circulated to labour sector partners in both regions. Consequently, joint HIV teams in both regions agreed to carry out an initial technical workgroup meeting in collaboration with the Arab league in 2016. IOM also stepped up measures to keep health within the major inter-regional forums including the Colombo process and the Abu Dhabi dialogue, and has put migration and health on the agenda of its Asia Pacific Regional Meeting, which will set the ILO development agenda of the region and nine Arab states over the next five years;

- ILO also completed research on health screening and labour rights issues for outgoing migrants to MENA countries in 2014. In 2015, the recommendations were used to shape current programs in place to improve recruitment processes and reduce labour violations for outgoing migrants from Southeast Asia to the Arab States;
- In Iraq, Yemen, Jordan and Syria refugees, migrants and asylum seekers are subject to mandatory testing upon arrival as well as upon renewal of identity cards, whilst in Lebanon only migrants are subject to mandatory testing. During 2014 and 2015 UNHCR and the Joint Programme continued to work with governments to advocate for the lifting of such mandatory testing. The UNAIDS Secretariat, in collaboration with UNHCR and the Regional/Arab AIDS Network against AIDS (RANAA) and the General Secretariat of the League of Arab States also organized a regional consultation in Cairo in October 2015 on “Strengthening National Capacities for a Resilient HIV Response in MENA Countries”. Additionally, as part of monitoring the protection space for humanitarian populations, in 2014/2015, UNHCR carried out a survey in MENA countries to map the key HIV-related protection concerns for Refugees, IDPs and Other Persons of Concern. UNHCR continued to monitor the protection space in the MENA region with regards to HIV and ensures the integration of humanitarian populations in the national HIV programs. Detentions and deportations of HIV positive refugees and asylum seekers rarely happen, but in Libya are common practice. Therefore, UNHCR continued to advocate in collaboration with other co-sponsors and partners for governments to respect universal human rights;
- The Joint Programme continued to invest efforts in support of the ratification of the Arab Convention for HIV Prevention and Protection of the Rights of People Living with HIV, which was adopted by the Arab Parliament in 2012. Article 13/4 of this convention calls for free movement of people living with HIV and more specifically, the right to maintain their residency and work in the host countries. Djibouti was the first country to ratify the convention in 2015, after a year-long of UNDP-led advocacy and engagement with various government ministries, civil society and the national parliament;

- ILO also provided technical assistance for the development and adoption of HIV and AIDS workplace policies in Botswana, Côte d'Ivoire, Guinea, Haiti, Namibia and Trinidad & Tobago that include specific protections from stigma and discrimination in employment on the basis of migrant status, as called for under ILO Recommendation No. 200.

MAJOR CHALLENGES AND HOW THESE WERE ADDRESSED

At the end of 2015, 35 countries, territories, and areas still imposed some form of restriction on entry, stay and residence based on HIV status. While this number is far lower than the original 59 countries, territories and areas identified in 2008, there is still a strong need for further action, including high level advocacy, to ensure the elimination of these laws, regulations and policies wherever they exist. Advocacy with parliamentarians and political leaders is key for the removal of HIV-related travel restrictions. Successful advocacy has been based on presenting strong evidence about the ineffectiveness of the restrictions, as well as how these restrictions can amount to violations of the right to freedom of movement, non-discrimination and the right to work. Working on the elimination of travel restrictions is also most successful when done in close partnership with civil society and key officials within a government's civil service. The lack of political will on the part of host governments in Gulf Cooperation Council (GCC) countries remains a challenge to efforts to remove travel restrictions in many migrant receiving countries. In addition, there are reports, including decisions issued by UN treaty bodies, finding that discriminatory practices still persist in countries that have ostensibly removed travel restrictions - for example, the Republic of Korea's continued imposition of HIV testing on foreign English teachers despite having officially repealed existing restrictions.

Government and civil society partners in the MENA region face considerable obstacles in moving the travel restrictions agenda forward as a stand-alone issue. The repositioning of the work within a broader health and labour framework is allowing for initial entry for inter-regional discussion on the issue. It is also important to link these efforts to the case for increased productivity and economic benefits of migration, rather than as a stand-alone rights based argument, which to date is not yet resonating amongst decision makers in MENA countries. Broader health issues need to be considered in advocacy efforts against travel-restrictions, as with the Ebola or Zika outbreaks and related travel advisories. A new validation exercise is needed for maintaining the database of countries, territories and areas with HIV-related travel restrictions up to date.

KEY FUTURE INTERVENTIONS

Key future interventions include:

- The UNAIDS Secretariat, UNDP and ILO, in partnership with other partners and stakeholders, will continue advocacy efforts to support legal reform for the repeal of HIV-related travel restrictions;

- Efforts to promote the ratification of the Arab Convention will be scaled up through provision of technical and advocacy support for countries that have expressed interest in ratifying the Convention;
- ILO will hold a special session in June 2016 on migration and health at an inter-regional forum which will include all Asia Pacific member states and 9 MENA governments;
- Linking to the work of the Joint Initiative on Mobility and HIV/AIDS (JUNIMA), in June 2016, ILO will launch a fair migration project in five Arab states addressing violations of labour rights in the recruitment processes for migrant workers, including violations related to discriminatory health screening in countries of origin, transit and destination. The project will promote equitable access to health services for migrant workers and their families, including through application of international labour standards that establish protections for the rights of both regular and irregular migrants;
- UNAIDS engaged the former President of Fiji as a goodwill ambassador for the Pacific, with one key area of focus being high level advocacy with the 4 Pacific countries that retain these restrictions. His work on this issue will commence in 2016;
- In efforts to improve data on countries, territories and areas maintaining any form of HIV-related travel restrictions, as well as ensure that such data is up to date, a validation exercise is planned for 2016.

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