



HIV & HUMAN RIGHTS MITIGATION REPORT 2014

SELECTED CASE STUDIES

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Disclaimer

Unless otherwise stated, the appearance of individuals in this publication gives no indication of HIV status, sexual orientation or gender identity.

FOREWORD

Thirty years into the HIV epidemic, it is disheartening to note that stigma and discrimination remain a fact of everyday life for people living with HIV. The case studies highlighted in this report are testament to the many forms of attitudes, practices and systems across a wide range of sectors that continue to 'punish' HIV to this day.

In the past year, HIV related discrimination in educational institutions and work place settings was particularly disturbing. In spite of assurance of good health by medical experts, employees and students living with HIV were dismissed and denied educational opportunities respectively on grounds of 'ill-health'. This underscores the urgent need to review policies that were ill-informed or outdated to reflect the most recent advancement in HIV medicine.

No access to medicines in police lockups and custodial settings, affecting mostly drug users living with HIV, was also a matter of grave concern. It gives rise to increased risk of HIV treatment resistance and ultimately death whilst in custody. We have been working very closely with the Royal Malaysia Police on introducing best practices of medicine and health service provision in police custody from the region – such as the placement of healthcare professionals in integrated lockup centres run by Australia's Victoria Police – and are hopeful that such responsible evidence-based measures would be implemented in the immediate future.

Going through these cases, I personally could not help but be deeply affected by the employee who was dismissed for being HIV positive: "Discrimination killed my dream. All that I've worked hard for came crashing onto the ground. But I am not giving up on my dream. And above all, I am not going to live in fear anymore."

Silence breeds stigma, and the first step toward challenging stigma is having the courage to speak out. The 14 complaints lodged to the Malaysian AIDS Council last year are certainly just the tip of the iceberg, while many more continue to suffer in silence and live in fear.

As we continually enhance our effort to break the silence, we hope this report will serve as a conduit for our community to have their voices heard and amplified and take us one step further toward positive health outcomes for people living with HIV.

We also wish to take this opportunity to acknowledge YB P. Kamalanathan, Deputy Minister of Education whose leadership and support were critical to the mitigation of the cases involving educational institutions.



A handwritten signature in black ink, appearing to read 'Raj Karim', with a long horizontal line extending to the right.

Datuk Dr. Raj Karim
President
Malaysian AIDS Council



EXECUTIVE SUMMARY

MAC continues to receive complaints pertaining to abusive practices by law enforcement, educational and workplace discrimination, and harassment of outreach workers.

People living with HIV continue to face discrimination in the workplace despite the infection having no correlation with losses in productivity, and despite MAC having a comprehensive HIV Workplace Policy that corporations and private companies can sign on to.

People living with HIV and people at risk of HIV continue to have a lack of access to essential medicines in police custody, including methadone and antiretrovirals.

METHODOLOGY

As part of its European Union-funded Asia Action project, the Malaysian AIDS Council (MAC) has compiled a total of 14 discriminatory cases that were reported by key HIV-affected populations in 2014. These cases were reported to the MAC Policy Department who interacted with them directly to ensure accuracy of the accounts. Details were noted in a standardised form (see annexure). When transmitted between MAC and government agencies, names and identification details were blacked out, unless where the complainant had given consent to disclose. Actions toward mitigation of each case were taken within two weeks of receipt.

KEY FINDINGS

Demographics

Table 1: Background Characteristics of Complainants			
		n=17	n=14
		2013 (%)	2014 (%)
Gender	Male	88.23	64.28
	Female	11.76	28.57
	Transgender	0	7.14
Age	Younger than 30	5.88	7.14
	30-40	64.71	64.28
	40-50	29.41	14.28
	Older than 50	0	0.00
	Unknown	0	14.28
Key Affected Population	Men who have sex with men (MSM)	11.76	21.42
	People living with HIV	17.64	28.57
	People who use drugs (PWUD)	17.64	28.57
	Transgender (TG)	0	7.14
	Sex Workers	0	0.00
	Women	5.88	0.00
	Outreach Worker	0	14.28
	Unknown	52.92	0.00
Type of Complaint	1. No access to medicines in custody	5.88	21.42
	2. Intrusive/insensitive/inappropriate healthcare provider	0	21.42
	3. Educational discrimination	11.76	7.14
	4. Workplace discrimination	11.76	14.28
	5. Abusive/repressive law enforcement practices	35.29	21.43
	6. Domestic Violence	0	7.14
	7. Extortion/Corruption	5.88	0.00
	8. Harrassment of Outreach Workers	5.88	7.14
	9. Freedom of movement (Religious Authorities)	23.53	0.00
Status of Complaints	1. Resolved	32.67	28.57
	2. In communication with authorities	0	14.28
	3. Denied by perpetrator	5.88	0.00
	4. Ignored by perpetrator	50.56	57.14
	5. Unknown	10.89	0.00

In total Malaysian
AIDS Council
received

14

incident reports
in 2014

In both 2013 and 2014, the majority of complainants were between the ages of 30-40 years old. In 2014, 21.4% of complainants were deprived of access to medicines in police custody, an increase from 5.9% in 2013. A majority of complaints were ignored by the perpetrators, indicating the need for MAC and other relevant civil society members to increase engagement and sensitisation of various stakeholders.

CASE STUDIES

WORKPLACE DISCRIMINATION

One complaint received in 2014 involved a foreign language lecturer who had received a job offer letter from a public university in Sabah. His credentials as a foreign language teacher were excellent, and he was stable on HIV anti-retroviral (ARV) medication. He was asked to submit a medical report, and upon disclosure of his HIV status, the job offer letter was revoked on the grounds of 'ill-health'. Since he was stable on ARVs, he did not (and continues not to) exhibit any signs of ill-health, and lodged a complaint with MAC on 7 July 2014.

We immediately engaged the offices of the Deputy Minister of Education, YB P Kamalanathan, who has been a long-time ally of MAC. On 22 July 2014, YB P Kamalanathan wrote to the Vice Chancellor of the university, expressing his concern at this apparent discrimination, explaining that HIV was not transmissible via everyday contact, and asked the VC to reconsider the revocation of the letter. Over the next 3 months, MAC followed up with reminder letters and calls to the university in question, but these were ignored.

"I don't understand why my letter was revoked. My virus is undetectable, doctor said I was well, and it was still revoked. Discrimination killed my dream. All that I've worked hard for came crushing onto the ground. But I am not giving up on my dream. And above all, I am not going to live in fear anymore."

"Saya tak faham kenapa suratnya dibatalkan. Virus saya tidak boleh dikesan, doktor kata saya sihat, tapi ia dibatalkan juga. Diskriminasi membunuh segala harapan saya. Segala yang telah saya usahakan hancur berkecai. Tetapi saya tidak akan berputus asa. Dan dengan semua yang telah terjadi, saya tidak akan hidup dalam ketakutan."

~JB, male, 24 years old

DISCRIMINATION IN HEALTHCARE SETTINGS

It is imperative that PLHIV feel accepted in healthcare settings. Stigma can constitute significant barriers to the quality of life of PLHIV and discourage engagement of PLHIV in prevention, diagnosis, and treatment services.¹ HIV-related discrimination in healthcare settings may include irrelevant questions, rude treatment, blame, care refusal, unnecessary referrals, delayed treatment, poor support, and confidentiality breaches.²

In 2014, a member of a key affected population reported was subjected to inappropriate personal questions irrelevant to her health condition when she requested for a diagnostic test at a community health clinic. In addition to this, the complainant was not given HIV pre- and post-test counselling, as required by the Ministry of Health.

On 14 May 2015, MAC wrote officially to the Ministry of Health emphasising the impact of stigmatising conduct by healthcare professionals on access to health services, naming the doctor involved and offering technical support and recommendations for policy improvement. On 16 December 2015, the complainant received an email from the Ministry of Health stating that remedial actions had been taken to prevent the incident repeating. MAC continues to monitor situations of HIV-related discrimination in healthcare settings.

“Saya mengharapkan ada perubahan dalam sistem kesihatan Malaysia yang mana mereka sewajarnya fokus kepada kesihatan dan bukan lain-lain hal yang tak berkenaan.”

~IO, 30, transgender woman, Selangor

NO ACCESS TO MEDICINES IN POLICE CUSTODY

The complaint pertained to a PWUD detained for drug use in police lockup. She had informed the police officer in charge that she was living with HIV and needed to take her HIV anti-retroviral (ARV) medication. Instead of facilitating access to this medication, the police officer insulted her and suggested that a bribe would be the best way to obtain her medication. She remained off her medication for 12 days. ARVs must be taken every day at the same time, or the individual can develop resistance to the medication. When an individual becomes resistant, the risk of transmission increases.

Ensuring access to medicines in police custody is a key priority for MAC under the European Union-funded Asia Action project. On 24 October 2014, MAC together with the Royal Malaysia Police and Victoria Police, Australia, held a consultation on access to medicines in police custody with over 140 Officers in Charge of Police Districts and Police Stations from the Klang Valley.

This consultation was held at the Cheras Police College, and police officers were sensitised as to the system at the integrated police custodial centre in Melbourne, whereby health staff employed by Victoria Police monitor situations of ill health and ensure continuity of essential medications. Deaths in custody in Victoria are almost nil, public opinion of police is among the highest in Australia, and police can focus resources on crime prevention instead of accompanying sick detainees to hospitals and

¹ Earnshaw VA, Kalichman SC. Stigma, Discrimination and Living with HIV/AIDS' in Liamputtong P (ed.), Stigma, Discrimination and Living with HIV/AIDS: a Cross Cultural Perspective (2013) Springer Science and Business Media

² Stutterheim SE, Sicking L, Brands R, Baas I, Roberts H, van Brakel WH, Lechner L, Kok G, and Bos AER. Patient and Provider Perspectives on HIV and HIV-Related Stigma in Dutch Health Care Settings (2014) *AIDS Patient Care and STDs*. 28(12): 652-665. doi:10.1089/apc.2014.0226.

clinics. A similar consultation was held with police officers in the state of Johor in 4 November 2014. 171 police officers in Kuala Lumpur and Johor were surveyed, and 97% of respondents supported the introduction of health services being provided in police lockups. This data was sent through to the Inspector-General of Police. Malaysian AIDS Council continues to engage closely with police, parliamentarians, and government agencies to advocate for health staff in police lockups.

ABUSIVE/REPRESSIVE LAW ENFORCEMENT PRACTICES

Criminalisation of PWUD creates environments of ill-health. In addition, there is no evidence that incarceration and other punitive approaches reduce drug use.

Complaints we received in regard to these practices pertained to the physical assault of a PWUD seeking treatment and harassment of an outreach worker providing needle-and-syringe exchange services.

The former concerned a PWUD seeking drug treatment services who was slapped in the face by an official of a state drug treatment agency. Incidents like this constitute major barriers to drug treatment as they greatly reduce trust of PWUD towards drug treatment providers. They also constitute a breach of his right to freedom from inhumane and degrading treatment.

HARASSMENT OF OUTREACH WORKERS

The complaint pertained to the harassment and undressing of one of MACs outreach workers while he was on an outreach mission. Despite possessing an official letter from MAC indicating that he was a needle-and-syringe exchange outreach worker, he was asked to undress with the excuse that the officer was searching for drugs. Incidents like this disrupt the work of outreach workers, and demoralise them, and therefore constitute barriers to HIV prevention. MAC continues to work closely with the Royal Malaysian Police to sensitise officers as to the benefits of HIV prevention.

EDUCATIONAL DISCRIMINATION

The complaint involved the revocation of a scholarship to a PLHIV by a government-linked educational sponsorship fund. The individual in question had received a scholarship offer from this sponsorship fund to study for the Association of Chartered Certified Accountants qualification in the United Kingdom. He was required to undergo a medical checkup, and when it became known to the scholarship fund that he was HIV positive, the scholarship offer was revoked on grounds of ill health. This revocation was made in spite of the medical examiner stating on the medical report that he was in good health and would not face inability overseas.

MAC immediately engaged the offices of YB P Kamalanathan, the Deputy Minister of Education, who engaged upper level management of the scholarship fund, asking them to reconsider their decision. The scholarship fund defended their decision to revoke the scholarship offer on the basis that they would be unwilling to make such a large financial commitment towards an individual who could fall into ill health at any time. MAC proceeded to send a letter to the Minister of Education Dato' Seri Idris Jusoh requesting for policy change or a memorandum on discrimination based on HIV status in educational institutions. At time of publication, this matter has yet to see any resolution.



RECOMMENDATIONS

Decriminalisation of drug use of small amounts and diversion to health and social welfare services.

A government circular/ memorandum/policy on HIV discrimination within the education system should be created to dispel erroneous views on HIV, eliminate stigma, and prevent discriminatory acts based on HIV status.

Policymakers and funders should fund work towards improving rights barriers to HIV diagnostics, treatment, and prevention.

Private corporations to sign on to the MAC HIV Workplace Policy to eliminate discrimination on the basis of HIV in the workplace.



Majlis AIDS Malaysia Laporan Insiden

事故投诉表格

No. Laporan 个案编号		Tarikh 日期	
Nama Penuh 姓名			
No. KP 身份证号码		Waktu 事故发生日期及时间	
Jantina 性别		No. HP 手机号码	
Pekerjaan 职业		Bangsa 种族	
Orientasi Seksual 性取向		Suntikan Dadah 注射吸毒	Pernah/Tidak Pernah 曾经使用/不曾使用

Laporan (Sila masukkan butiran seperti waktu insiden, dan butiran pihak yang terbabit)

报告 (请注明事故详情, 例如发生时间、涉案人员及相关细节)

Tarikh Jangkitan HIV 艾滋病毒感染日期		Tarikh Kejadian 事故发生日期及时间	

Note: This information is to be kept confidential. Particulars only to be disclosed upon written consent of the complainant. (Maklumat ini adalah rahsia. Butiran hanya boleh dilampirkan dengan persetujuan bertulis pelapor/pemberi laporan)

注：此信息将被保密。未经投诉人书面同意绝不向第三方泄露相关资讯。

Hantar kepada 邮寄至 <policy@mac.org.my>

Butir-butir Pemberi Laporan (Klien) 投诉 (当事人) 资料	Butir-butir Penerima Laporan (Atau PO yang Melaporkan) 接获投诉负责人 (或合伙组织) 资料
Tandatangan 签名: Nama 姓名: Tarikh 日期:	Tandatangan 签名: Nama 姓名: Tarikh 日期:

FOR INTERNAL USE ONLY

仅供内部使用

Actions Taken 采取行动	Date of Action Taken 采取行动日期	Complainant Informed of Action (YES/NO) 投诉人接获后续行动通知 (已经/未曾)


Annexed to this document is the MAC human rights incident form, which can be faxed through to 03-40474210. MAC maintains strict confidentiality of all details given on this form.

Note: This information is to be kept confidential. Particulars only to be disclosed upon written consent of the complainant. (Maklumat ini adalah rahsia. Butiran hanya boleh dilampirkan dengan persetujuan bertulis pelapor/pemberi laporan)

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