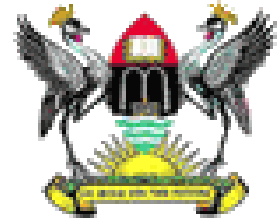




Refugee Law Project



Refugee Law Project Press Release on World AIDS Day 2009

Giving With One Hand and Taking with the Other: How Forced Migrants living with HIV/AIDS are affected by Legislation

As we pursue our mission *to empower asylum seekers, refugees, deportees, IDPs and host communities in Uganda to enjoy their human rights and lead dignified lives*, and as we explore what doing this means for our clients who are either infected or affected by HIV/AIDS, we at the RLP are repeatedly struck by the need for legal and policy frameworks to be considerably broadened and improved in the pursuit of these objectives, particularly through the explicit inclusion of refugees and other forced migrants.

World AIDS Day offers us an opportunity to reflect on the ravages of a disease which for the wealthy has become a manageable though troubling life-long condition, but which for the poor and the disenfranchised remains a death sentence. Many among our clients at the RLP are poor and all are disenfranchised. Many have fled from high levels of conflict-related sexual violence, particularly against women, but also against men, in their places of origin. Notwithstanding the protection offered by Uganda's refugee regime many women and men go on to suffer high levels of sexual violence in this, their first country of asylum. As such HIV/AIDS is of central concern to us, and on this day we wish to reflect on our vision at Refugee Law Project of a Uganda in which *all people enjoy their human rights, irrespective of their legal status*, and to remember that *this vision is informed by relevant international laws as well as the Constitution of Uganda*.

While Uganda is widely celebrated as a country with model refugee legislation, and was once also regarded as a model for combating the HIV/AIDS pandemic, we note with deepening concern that when it comes to forced migrants and HIV/AIDS, there are some serious obstacles to effective support which would enable our clients to enjoy their human rights and lead dignified lives. What we are left with is a context in which forced migrants are given protection with one hand... only to find that what it has been taken away with the other!

A number of factors are likely to accelerate HIV/AIDS rates amongst forced migrant populations and are directly related to legislative and policy frameworks which undermine rather than reinforce the protection regime:

1. Government preference for rural refugee settlements in which health services are at best mediocre results in poor treatment of HIV and opportunistic infections in those settings. Furthermore, urban refugees are left with virtually no access to free

- medical treatment as they are told that if they want free medications they should go to the refugee camps. This insistence of pegging assistance to being in a refugee settlement results in high levels of self-medication, with all the dangers this has of mis-diagnosis as well as increasing drug resistance.
2. Even where HIV+ refugees are able to access free Anti-Retroviral treatment, the failure to combine this with nutritional support makes adherence difficult and at times impossible for them, as many struggle to find even Ush 1,000/= per day to eat with. Free ARVs without nutritional support are worse than useless for highly vulnerable individuals, as they hold out a false promise of relief to those without hope.
 3. Refugees who have experienced violence, including sexual violence, are required to pay a fee to police surgeons to get a written report confirming that they were assaulted. This serves as a major obstacle to full reporting of such incidents. While we note with approval the recent establishment of a clinic at Mulago hospital specialising in Sexual and Gender Based Violence, we also note that Post-exposure prophylaxis is not currently available in most police stations.
 4. The current wave of anti-homosexual legislation being promoted in Burundi, Uganda and Rwanda has implications for asylum and protection of refugee rights for LGBTI refugees from anywhere within the Great Lakes.
 5. Outdated and retrograde laws on sex and sexual violence, which are currently being reinforced through the tabling of new legislation, most notably Hon. Bahati's Anti-Homosexuality Bill, are damaging the prospects of pro-active interventions in support of HIV/AIDS prevention and treatment. The most significant and damaging weakness of existing and proposed legislation is the failure to distinguish consensual sex between adults from abusive, coercive and non-consensual sex, which generally amounts to rape and frequently includes gang-rape. As a result, survivors of sexual violence, in particular those who are already marginalised and disenfranchised, are themselves likely to be charged rather than being able to lay charges against their abusers.
 6. We note with profound concern that those promoting the Bill seem indifferent to the international outrage this is provoking, and the impact it will have on all HIV+ people in Uganda who require support if they are to enjoy dignified lives. HIV/AIDS knows no borders, and dealing with it requires concerted trans-national efforts. People Living with HIV/AIDS should not be further victimised by a clash between populist political rhetoric and scientifically based public health policies.
 7. Equally, those countries that appear to offer further solace to refugees in need of resettlement should walk the talk. We decry the policy of some resettlement countries, notably Australia, of refusing to resettle anyone who has tested positive for HIV. What sense does this make in an era when, well treated, HIV can be managed and the infected person can lead a full and productive life for many decades?
 8. And finally, it is common knowledge that many poor and vulnerable people (both men and women), including forced migrants, find themselves coerced into sex work. Without protective legislative frameworks they are generally unable to

complain when the client abuses them physically or refuses to pay for services provided.

In light of the above, Refugee Law Project sees World AIDS Day as an opportunity for Uganda, as well as all national and international organisations and governments working with forced migrants, to reflect on existing and proposed legislation and policies related to forced migrants and HIV/AIDS, and the ways in which these can be improved to the benefit of all those living in Uganda, whether citizens or refugees.

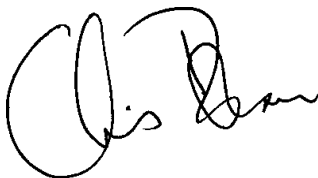
With regard to the particular vulnerabilities of refugees, we call for a waiver on the fees required for examination by a police surgeon following a complaint of any form of violence against the person. This waiver will help in the identification of perpetrators and early response to risks of HIV infection. Indeed, we call for procedures to be put in place which enable anyone who is found by the police surgeon to have suffered sexual violence, whether female or male, to be offered immediate and free access to post-exposure prophylaxis.

We further call for ARVs to refugees to be given together with nutritional support wherever necessary to ensure maximal adherence to the treatment regime.

We also call for those resettlement countries that currently exclude HIV positive refugees to revise their policy and remove this exclusionary criterion.

We further call on UNHCR and IOM, as the international bodies most closely concerned with the movements of forced migrants, to speed up the process of recognising the specific vulnerabilities of sexual minorities, those forced into sex work, and those who are victims and survivors of sexual violence, and to introduce procedures which accommodate these vulnerabilities instead of reinforcing them.

To all those engaged in the response to HIV/AIDS in Uganda, whether Government, Civil Society, Churches or Donors, we urge you to honour the legacy of Uganda's leadership in the early days of the epidemic, by now turning far greater attention to addressing the centrality of human rights in the current epidemic which continues to confront the country. Bold leadership is required if the linkages between human rights abuse, disenfranchisement, and the spread of HIV are to be broken once and for all.

A handwritten signature in black ink, appearing to read 'Chris Dolan', written in a cursive style.

Dr Chris Dolan, Director