



Statement from the Pacific High Level Consultation on HIV and the Law, Ethics and Human Rights

**Auckland, New Zealand
11th – 13th April 2007**

Background

The UNDP Pacific Centre, Pacific Regional Rights Resource Team (RRRT) and UNAIDS, jointly organised and supported a Regional High Level Consultation on HIV and the Law, Ethics, and Human Rights in Auckland, New Zealand from 11 to 13 April 2007.

UNDP, RRRT and UNAIDS commissioned the review of current legislation of 15 Pacific Island countries that were relevant to HIV issues, specifically in the areas of discrimination, ethics, access to treatment and privacy/confidentiality. The Pacific Island countries participating were: Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Palau, PNG, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu.

The meeting was attended by more than 30 Pacific Attorneys General, Ministers of Health, Ministers of Justice, Members of Parliament, and other senior government officials, with an additional 15 International and Regional HIV, legal, ethics, human rights and gender experts and resource people. Participants were provided the opportunity to discuss the Pacific situation as well as global experiences to assist in accelerating an effective response to HIV in our Pacific communities.

The Regional High Level Consultation on HIV, Law, Ethics and Human Rights was a unique opportunity for Ministries of Health, Attorney General Departments and Members of Parliament of 15 participating Pacific Island countries to gain increased knowledge on HIV, ethics, human rights and the law; discuss existing legislation related to HIV; and consider drafting instructions for legislative reforms in Pacific Island nations. There were also consultations to map the way forward to provide the best possible technical assistance to the Pacific in the area of HIV and the law.

The High level meeting concluded with the release of a statement documenting the support of participants and commitments made for taking further action in the response to HIV or AIDS.





The Auckland Consultation Statement on HIV and the Law, Ethics and Human Rights

PREAMBLE

*We, the participants representing 15 Pacific Island Countries (Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Palau, PNG, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu), meeting at the **Regional High Level Consultation on HIV and the Law, Ethics, and Human Rights** convened at the Heritage Hotel, Auckland, New Zealand, from 11 to 13 April 2007 hereby:*

Recognise that countries with low levels of HIV infection now have a window of opportunity to contain the spread of the HIV epidemic by scaling up national level efforts and evidence based interventions which comply with all international HIV and human rights norms and standards and which have a strong focus on prevention;

Note that in the Pacific Region the rates of HIV and STI infections, despite some successes in addressing the epidemic, continue to accelerate, especially among most at risk populations such as sex workers and clients, men having sex with men, migrants and mobile populations, the majority of whom are young;

Reaffirm the recognition that Pacific Island nations have previously given to: the Political Declaration adopted at the High Level Meeting on AIDS at the UN General Assembly in June 2006; the 2001 UNGASS Declaration of Commitment on HIV/AIDS; the Millennium Declaration; the Declaration of the first Asia-Pacific Ministerial Meeting on HIV/AIDS (Melbourne, October 2001); and, the Declaration of the second Asia-Pacific Ministerial Meeting on HIV/AIDS (Bangkok, July 2004);

Reaffirm country level commitment to Universal Access in setting prevention, treatment, care and support targets for 2008 and 2010, and to addressing critical obstacles to achieving universal access through development of achievement roadmaps at country level; and to reinforcing the global commitment to scaling up national AIDS responses and





achieving the Millennium Development Goal 6 of reversing the spread of HIV by 2015;

Reaffirm the Suva Declaration of October 2004 on HIV and AIDS by Pacific Parliamentarians which recognised the roles of political and traditional leaders in Pacific responses to HIV;

Recall the commitment and support to the Pacific Regional Strategy for HIV/AIDS and the Pacific Regional Strategy on HIV's Implementation Plan by Pacific leaders at the Pacific Islands Forum Meeting, held in Suva in September 2006 and as noted as a priority in the Pacific Plan;

Reaffirm the commitment by our leaders to implementing the International Conference on Population and Development (ICPD) Programme of Action;

Recall the Pacific Islands Country Coordinating Mechanism for the Global Fund meeting in October 2005 for the need to work on HIV and legislative reforms as an important response to combating the further spread of HIV in the Pacific region;

Recognise that access to rights-affirming and supportive HIV prevention, treatment, care and support is a basic right for all;

Note that treatment, care and support for people living with HIV and AIDS are important entry points for prevention of further HIV transmission;

Recognise that the achievement of gender equality must be one of the centerpieces of our work on HIV;

Note our concern that stigma and discrimination towards people infected or affected by HIV, including those most at risk, particularly in health care settings, impedes universal access to prevention, treatment, care and support and provision of services;

Recognise that the demographic, geographic, socio-economic, cultural and gender issues, ethnic, religious, national and sub-national service delivery systems and political diversity of countries in the Pacific are important factors when developing appropriate national strategies, legislative reform and other responses; and





Recognise that without realistically addressing HIV through behaviour change, legislative and policy frameworks, and rights-based approaches, all our social, political and economic development efforts could be significantly slowed or reversed.

We the participants of the Pacific Regional Consultation on HIV and the Law, Ethics, and Human Rights ***note the following:***

RIGHTS BASED RESPONSES AND PUBLIC HEALTH APPROACHES

Promotion of and affirmation of rights-based approaches to public health and public health responses to HIV; to review, formulate and implement rights-based, gender and culturally appropriate legislation related to HIV; decriminalisation in areas which impede effective HIV responses; initiatives designed to reduce stigma and discrimination of those living with or affected by HIV; and, development of legislative and policy environments which promote rights-based HIV prevention, treatment, care and support universally;

Development and promotion of HIV testing and counseling protocols which detail when HIV testing should be offered; procedures to be followed by health workers, including pre and post test counseling; informed consent; privacy and confidentiality safeguards.

ACCESS TO MEDICINES AND INTELLECTUAL PROPERTY RIGHTS

Acceleration of the principles of Universal Access to treatment including availability and accessibility to antiretroviral therapy (ART), appropriate medication to treat sexually transmitted infections and opportunistic infections, and the further facilitation of country initiatives to purchase affordable and high quality drugs;

Recognition of the fundamental principle that intellectual property laws must be interpreted and implemented in a manner supportive of countries' rights to protect public health and, in particular, to promote access to medicines for all. **We further note** that all Members of the World Trade Organization have recognised this fundamental principle in the Declaration on the TRIPS Agreement and Public Health adopted on 14 November 2001 **and urge** that this fundamental principle should govern the negotiation of all bilateral, regional and multilateral agreements that can impact health, in particular access to medicines;





Observing this fundamental principle in the adoption, revision or reform of our national intellectual property laws;

Ensuring patent law administration and health regulation in the context of promoting access to medicines for all must take place in an integrated manner, including much greater practical cooperation between patent and health officials;

We the participants note the importance of:

PRIVACY, CONFIDENTIALITY AND RIGHTS OF THOSE LIVING WITH THE VIRUS

Acknowledging the important role of people living with HIV (PLHIV) in the response to HIV and strongly support their active involvement in all aspects of a national response to HIV. We **further acknowledge** the importance of:

Ensuring that the dignity, rights and privacy of PLHIV are protected especially in the workplace, schools and community, and that their needs for compassion, care, treatment and support are mainstreamed into national structures and regional programmes;

Ensuring that national HIV programmes include measures to combat discrimination and violence against people living with HIV and those most at risk of HIV exposure;

Investing in education about human rights and increasing access to legal services for people living with the virus;

Reinforcing universal human rights legislation to protect and ensure the dignity of PLHIV;

Protecting the rights of PLHIV in the workplace and those at greatest risk of HIV, taking into account established international guidelines on HIV in the workplace; and

Protecting the rights of people in the communities and other settings.





LEGISLATION

Facilitating public consultations and reviews on existing legal frameworks on sex work and sodomy;

Exploring how existing criminal laws can be used only when required rather than enacting new HIV specific criminal legislation;

Exploring how public health offences can be used rather than criminal offences in relation to HIV;

Establishing mechanisms and processes for national legislative reforms on HIV related laws and their enforcement with the technical assistance of UNDP, UNAIDS, RRRT and other technical assistance or donor agencies and countries;

MARGINALISED AND VULNERABLE GROUPS

Establishing clear legal remedies for violence and discrimination against marginalized groups;

Making policy changes to reduce people's vulnerability to HIV;

Examining how to reduce or remove legal and other barriers which impede access to rights-based and ethical prevention and treatment for everyone especially marginalised and vulnerable groups;

Promoting economic independence, equal access to resources and opportunities, and a life free of stigma, violence and discrimination for the most vulnerable groups in our communities, particularly women and girls, the young, people living with disabilities, and the disadvantaged;

REGIONAL NETWORKING

Encouraging dialogue and **sustaining** regional networking mechanisms to achieve the desired outcome of current commitments and obligations and to sharing information as well as best practices initiatives;





Noting the progress made by UN agencies and regional organizations to network with each other for better coordination of their work on HIV control in the Pacific Islands;

Noting the lead role being taken by UNDP Pacific Centre, UNAIDS and the Regional Rights Resource Team (RRRT) in the area of HIV and the Law, Ethics and Human Rights in the Pacific Region.

Acknowledging the offer by the Papua New Guinea delegation to host a follow up consultation in 2008 that provides an opportunity for sharing the specific experiences of Papua New Guinea on the issues noted above.

Statement from Participants

*We, the meeting participants representing the 15 Pacific Island countries attending the Pacific Regional Consultation on HIV and the Law, Ethics and Human Rights from 11 to 13 April 2007 hereby, unanimously adopt, the **“Auckland Statement on the Pacific Regional High Level Consultation on HIV, Law, Ethics and Human Rights”**, this 13th day of April 2007.*

