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CARAM Asia Calls on Governments to End Migrant Worker's Criminalization based on HIV Positive Status

On the occasion of World AIDS Day 2022 CARAM Asia calls on governments in migrant worker's receiving countries to end criminalization against migrant workers (MWs) based on HIV positive status. HIV is a major public health issue that affects millions of people worldwide. Division, disparity and disregard for human rights are among the failures that allowed HIV to become and remain a global health crisis (World Health Organization – WHO)ⁱ.

Health has central place in Sustainable Development Goals (SDGs) which 191 UN member states have agreed to try to achieve by the year 2030. SDG 3, “Good Health and Well-Being,” calls on countries to ensure healthy lives and promote well-being for all at all ages. Leave no one behind is the central, transformative promise of the 2030 Agenda for Sustainable Development and its SDGs. It represents the explicit commitment of all UN Member States to end discrimination and exclusion, and reduce the inequalities and vulnerabilities that leave people behind and undermine the potential of individuals and of humanity as a wholeⁱⁱ.

However, despite the commitments MWs are being largely criminalized in many countries based on their HIV positive status. Mandatory health testing including test for HIV is a requirement for MWs. For example, in Jordan **Residence and Foreign Affairs Law of 1973**, has been used to deport many migrants who were living with HIV as part of Jordanian strict policy to deport any non-national who is living with HIV. Government's strict policy states that all migrants must undergo a series of medical examinations upon arrival in the Kingdom before their application for residence and work permits are approved. MWs get arrested, detained and deported if test results are positive for HIV and other health conditions. Similar laws and practices are being implemented in many other MW's receiving countries like Bahrain, United Arab Emirates (UAE), Hong Kong, Malaysia and Singapore which need to be reformed in order to provide access to health services to HIV positive MWs. Likewise, the United Arab Emirates has imposed HIV/AIDS

travel restrictions on persons applying for a work or residence visa. An HIV/AIDS test is required for work or residence permits. MWs infected with HIV are denied all health care benefits. They are quarantined, and subsequently deportedⁱⁱⁱ. The structural inequalities, discriminatory laws, health policies and practices not only intensify MWs vulnerability and limit their access to health services but violate their right to work which also leads to poverty.

CARAM Asia highly appreciate Lebanon governments' step forward in introducing new labour law in 2019. Under this law Migrant Workers are no longer obliged to have negative HIV/AIDS test results in order to obtain work and residency permits which is considered a breakthrough in protection of MW's health rights. However, MWs are still at risk of being sent back to their sending country once they are tested positive for HIV due to employers' lack of awareness about the nature of this infection and its treatment and new law. Therefore, government needs to take further steps for strict implementation of the law and awareness among employers.

In 2018 a report by Global Commission on HIV and the Law has revealed that discrimination against vulnerable and marginalized communities is seriously hampering the global effort to tackle the HIV epidemic.^{iv} CARAM Asia's various regional research studies reveal that MWs are one of these vulnerable and marginalized communities who frequently experience social exclusion and diminished access to healthcare services and criminalization in case of contracting HIV infection. The world has seen how badly COVID-19 Pandemic impacted migrant workers, it revealed how they were discriminated against during health emergency and denied their rights to accessing health care.

The SDG target 3.8 is to achieve universal health coverage (UHC) for all.^v UHC means **all** people have access to health services they need, **when and where** they need them, without financial hardship.^{vi} Nevertheless, MWs are not only largely denied of their rights to access health services but they are criminalized due to getting infected with HIV and other infections.

Thus, on the occasion of World AIDS Day 2022 under the theme "**Equalize**" which means ***to give everyone the same rights without leaving anyone behind.*** CARAM Asia and its 42 member organizations in 18 countries across Asia and Middle East call on:

- all the governments in MW's receiving countries to reform the discriminatory health policies and practices, remove mandatory HIV testing and stop criminalizing MWs due to HIV positive status in order to achieve 2030 SDGs.

- all the governments in MW's receiving countries to ensure MWs and refugees are substantively considered in their preparedness and response plans that respects human rights and dignity and includes them in financial and health planning of the ongoing COVID-19 pandemic response and any other emergency in future.
- all the leaders in the field of HIV such as UNAIDS and WHO to recognize MWs' vulnerability to HIV, MW's criminalization based on HIV positive status and overall violation of their health rights.
- all governments in MWs' sending and receiving countries make efforts to reduce stigma and discrimination against HIV positive MWs and actively promote their health and human rights.
- all governments in sending and countries allocate health budgets for MWs' and provide them access to quality health services including prevention, treatment, counselling and care for HIV positive MWs.
- both sending and receiving countries which are engaged in labour migration should invest sufficient funds into HIV education for migrant workers' communities to provide awareness of HIV all along the migration continuum - from contemplating migration, to pre-departure, on-site and reintegration.
- increase migrants' access to public health services by increasing accessibility to health insurance, eliminating discrimination in the form of high costs compared to nationals, and by reforming policies which restrict access to health services in the form of limitations on mobility and arrest of undocumented migrants.
- Global Fund must recognize Migrants as a Vulnerable Group and advocate for governments to allocate a special budget line for Migrants living with HIV/AIDs in the national health budgets.

CARAM Asia (Coordination of Action Research on AIDS and Mobility) is a regional network of 42 organizations in 22 countries across Asia and has Special Consultative Status with the Economic and Social Council of the United Nations.

Statement issued by: CARAM Asia Task Force on Migration Health and HIV (MHH)

ⁱ <https://www.who.int/campaigns/world-aids-day/2022>

ⁱⁱ <https://unsdg.un.org/2030-agenda/universal-values/leave-no-one-behind>

ⁱⁱⁱ https://en.wikipedia.org/wiki/HIV/AIDS_in_the_United_Arab_Emirates#cite_note-3

^{iv} [Bad laws and discrimination undermining AIDS response | United Nations Development Programme \(undp.org\)](https://www.undp.org/bad-laws-and-discrimination-undermining-aids-response)

^v [https://www.who.int/data/gho/data/themes/topics/indicator-groups/indicator-group-details/GHO/sdg-target-3.8-achieve-universal-health-coverage-\(uhc\)-including-financial-risk-protection](https://www.who.int/data/gho/data/themes/topics/indicator-groups/indicator-group-details/GHO/sdg-target-3.8-achieve-universal-health-coverage-(uhc)-including-financial-risk-protection)

^{vi} https://www.who.int/health-topics/universal-health-coverage#tab=tab_1