

**Committee on the Convention on the Rights of Persons with Disabilities**

**Input into General comment on article 4.3 and 33.3 of the convention on the participation with persons with disabilities in the implementation and monitoring of the Convention**

Submission by the International HIV/AIDS Alliance – see: http://www.aidsalliance.org/

1. ***The defining elements of ‘representative organizations’ of persons with disabilities and the distinction between organizations of persons with disabilities and other civil society organizations;***

***Recommended text for inclusion:***

***States should include HIV in national disability laws, thus ensuring people living with HIV and ‘Organisations of persons living with HIV’ are included in the definition of what constitutes an ‘organisation of persons with disabilities’.***

***NB: These are organisations ‘of’ ALL people living with HIV (not just persons with disabilities living with HIV).***

* The rights of people living with HIV are enshrined in the Convention on the Rights of Persons with Disabilities under article 1; irrespective of whether individuals self-identify or not, as a person with a disability.
* People living with HIV and those most at risk of acquiring HIV[[1]](#endnote-1) have the right to non-discrimination and equality, including being consulted with and actively involved in decision-making processes that affect their lives. UNAIDS state that ‘the inclusion of HIV in national disability laws has been one of the most effective means by which to address discrimination based on HIV status or AIDS’[[2]](#endnote-2)

1. ***The scope and criteria to fulfil the obligation to ‘consult closely’ and ‘actively involve’ persons with disabilities, through their representative organizations in decision-making processes;***

***Recommended text for inclusion:***

***States should routinely include organisations of people living with HIV in decision-making processes affecting their lives. This should extend to representative organizations whose members may be criminalised under national law. This would require States to adopt comprehensive anti-discrimination law ensuring the rights and fundamental freedoms of people, irrespective of their sexual orientation, gender identity or gender expression.***

* Organizations of people living with HIV are not included in consultation processes by governments in relation to disability because the State’s definition of disability rarely[[3]](#endnote-3) extends to protection against discrimination on the basis of actual or perceived HIV status.
* A broader understanding of "disability" within or under existing legislation offers a key means of addressing discrimination against people living with HIV or those perceived to be living with HIV, as there is there is no binding international law instrument dealing explicitly and directly with HIV and human rights. There is no guarantee that protection against discrimination on the ground of "health status", as articulated in international treaties, will be interpreted broadly, so as to include HIV/AIDS, in national legislation and by national courts or tribunals.
* Many organizations of people living with HIV or representing people at most risk of acquiring HIV are not included in national consultations because they represent groups who are criminalized under national legislation. For example, sex workers, men who have sex with men, gay, bi-sexual men, transgender women and people who use drugs.

**Disability and HIV – additional links**

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| * Between 30-75% of people living with HIV, in low and middle income countries report having one or more common mental health conditions, such as depression or anxiety**[[4]](#endnote-4)**. * Global evidence also suggests that people living with and most affected by HIV, such as: sex workers, people who use drugs and LGBTI people are disproportionately impacted by mental health conditions, when compared to the general population**[[5]](#endnote-5)**. * Some groups of people living with HIV are reported to have an elevated risk of non HIV-specific chronic diseases, such as kidney and cardiovascular disease[[6]](#endnote-6). * A study of people living with HIV in England and Wales found that two-thirds of respondents had at least one long-term condition other than HIV, with the proportion higher (three-quarters) among those aged over 50 years[[7]](#endnote-7). |

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1. **References:**

   For example, sex workers, people who inject drugs, trans\* people, prisoners, gay men, other men who have sex with men, and adolescent girls and young women in sub-Saharan Africa. [↑](#endnote-ref-1)
2. United Nations Commission on Human Rights. Sub-Commission on Prevention of Discrimination and Protection of Minorities, "HIV/AIDS and Disability" Statement by the UNAIDS. 48th Session, August 1996. [↑](#endnote-ref-2)
3. People living with HIV have legal protection in some national anti-discrimination law, for example, the United Kingdom under the Equality Act and in South Africa. [↑](#endnote-ref-3)
4. Brandt, R. (2009). The mental health of people living with HIV/AIDS in Africa: a systematic review. African Journal of AIDS Research, 8(2), 123-133; See also Chibanda, D., Cowan, F. M., Healy, J. L., Abas, M., & Lund, C. (2015). Psychological interventions for Common Mental Disorders for People Living with HIV in Low‐and Middle‐Income Countries: systematic review. Tropical Medicine & International Health, 20(7), PP.830-839. Kodali, P. B. (2018). Mental Health Needs of People Living with HIV/AIDS: A Thematic Overview. MOJ Public Health 7 (1). [↑](#endnote-ref-4)
5. Pan American Health Organisation, (2011). Improving Access of Key Populations to Comprehensive HIV Health Services: Towards a Caribbean Consensus. <http://www.paho.org/hq/index.php?option=com_content&view=article&id=13964&Itemid=72171&lang=en> (accessed 4 April 2018) [↑](#endnote-ref-5)
6. *Beyond Viral Suppression of HIV – the New Quality of Life Frontier*, Jeffrey V. Lazarus, Kelly Safreed-Harmon, Simon E. Barton, Dominique Costagliola, Nikos Dedes, Julia del Amo Valero, Jose M. Gatell, Ricardo Baptista-Leite, Luís Mendão, Kholoud Porter, Stefano Vella and Jürgen Kurt Rockstroh, BMC Medicine, 22 June 2016. [↑](#endnote-ref-6)
7. *A Declaration on ‘Whole Person Care’ in HIV Care and Support*, NAT, THT, Positively UK, BASHH, NAZ, BHIVA and MSD, October 2017. [↑](#endnote-ref-7)