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Joint stakeholder report**

Joint submission by:



The Argentinian Network of Young People and Adolescents Living With HIV (RAJAP) is an organization of 14 to 30-year-old people living with HIV throughout Argentina. Since its founding in 2009, we have forged a nationwide platform that connects more than a thousand members. Its first aim is to generate a space for exchange and participation for all adolescents and young people diagnosed with HIV+ and a place where they can find support from other peers. Also, we promote the empowerment for the HIV+ youth to defend their rights in order to improve their quality of life.

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The International Community of Women Living With HIV - Argentina Chapter (ICW Argentina) is a network of leading women living with HIV who actively participate in Argentina in order to exchange information and experience, to promote the formulation of public policies, to influence decision makers to guarantee the application of our human rights and access to health, education, job opportunities, with gender equity, in situations that affect our lives.

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The PACT

A Vibrant Coalition of 152+ youth Organizations working collaboratively and strategically in the global HIV response. Since 2013, we have been building solidarity across youth organizations to ensure the health, well-being and human rights of all young people.

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Key Words.

HIV; comprehensive sexuality education; stigma; discrimination; access to information; HIV Law.

Executive Summary

1. In this report we discuss the implementation of Comprehensive Sexuality Education in Argentina, the low investment of the State in the production of strategic information, and in prevention and communication campaigns about HIV. We also discuss stigma, and how discrimination continues to be an obstacle in universal access to health, in job searches and in trying to achieve a better quality of life for young people and women living with HIV.
2. ICW and RAJAP carried out a survey and conducted interviews to complete a questionnaire.
3. Argentina is committed to human rights and to implementing actions aimed at achieving all the commitments that are assumed to achieve universal coverage of the rights of people with HIV, which is demonstrated through laws and policies. However, it is necessary to carry out a correct analysis of the situation to evaluate the spaces in which these efforts have not yet materialized, such as: Argentina has passed the new HIV Law, but still has a criminalisation transmission Law from 1936; the country will rule this new Law but has a Nursery Law that prohibits nurses living with HIV to work. Thus, it is necessary to reinforce the political commitment of the actors involved in the process of enhancing the quality of lives of people living with HIV.

Introduction

4. This report is a product of the alliance between RAJAP and ICW which was created for promotion and protection of the rights of people with HIV, in order to expand the scope in which both organizations influence. This alliance allows joint work in addressing the problems of access to justice for people living with HIV and in the fulfillment of the exercise of their rights, and in turn manages to address a broad scope of people because RAJAP is a network composed of young people between the ages of 14 to 30 and the ICW Argentina is made up of cisgender adolescents and adult women with gender incidence.
5. Both RAJAP and ICW are organizations that are made up of people living with HIV who deal with the issues among peers that are discussed in this report. They are two organizations that can establish a clear diagnosis of the situation of people with HIV from the empirical and territorialized experience of the day-to-day, but also the statistical and qualitative points of view. Both organizations have managed to gather significant evidence from the achievement of the People Living With HIV Stigma Index 2.0 in Argentina by RAJAP and the Study of Violence and Women with HIV of Argentina by ICW Argentina. In addition, we have the information provided by our areas of legal advice and adherence to antiretroviral treatment.
6. Specifically, RAJAP has young members who bring the perspective of the new generations and can communicate their specific problems and needs. Women from ICW can communicate their specific problems and needs as well. These are specific populations that face stigma and discrimination every day and can account for it from their own experiences.

7. Finally, this type of intervention by networks of people with HIV favors and strengthens a correct appropriation and implementation of the principle of greater involvement of affected populations (GIPA).
8. The latest estimates from the UNAIDS 2021 Global AIDS Update report show that 140 000 people are living with HIV in Argentina and 65% of whom are on antiretroviral treatment. Every year 5600 people are newly infected with HIV, and 1400 people die from AIDS-related illnesses.

Legal and policy context

9. The Argentine legal system provides a pyramidal hierarchical structure where the National Constitution and international human rights declarations have legal supremacy over national laws. This means that national legislation and the other norms are not supposed to contradict the rights and guarantees that they establish. However, this is not the case in practice. What we say instead, is a discrepancy brought about by the implementation or delegation of certain political powers to the provinces of Argentina. Thus, the federal system of norms often causes certain rights to collide, and some to fall by the wayside.
10. Due to budgetary and structural reasons, such as access to technology or internet, access to the diagnoses updating system, economic growth and the lack of human resources, some provinces usually have different rhythms in the implementation of the rights acquired in national regulations. This is also influenced by the regime of co-participation of profits between the federal State and the provinces. The budgetary allocation varies with respect to the population size in each province and the demographic make up. Finally, there is also a large rate of federally enacted laws that have not been implemented yet.
11. There are many Laws, pacts, and conventions which implicate the rights of people living with HIV. These include National AIDS Law¹, Contagious or transmittable diseases Law², Law of Integral sex education³, Patient Rights Law⁴, Resolution No. 270/2015 from National Ministry of Labour, Employment and Social Security, and Articles No. 14bis, 33, 41, and 75 from the National Constitution of Argentina. ⁵
12. Currently, there is an attempt to overhaul the legal framework for the HIV response, through a bill that has passed the lower house of parliament and that proposes a number of welcome changes such as free, voluntary, confidential and universal HIV testing, training, research, and awareness campaigns on HIV, and the creation of a special retirement system for those suffering from HIV as well as a non-contributory lifelong pension in a situation of social vulnerability. The current bill however, does not address the issue of HIV criminalisation.

¹ No. 23.798 also Decreto Reglamentario No. 1.244/91 from the law No. 23.798.

² Law No. 12.317

³ No. 26.150

⁴ Law No. 26.529

⁵ Article No. 14bis refers to the regulation of the employer-employee relationships and the social security of employees. Article No. 33 mentions that declarations, rights and guarantees established in the National Constitution do not deny other non-numbered rights and guarantees. Article No. 41 refers that all inhabitants should enjoy a safe environment for the human development and for the economic activities to reach their needs. Article No. 75 establishes the recognition of different ethnic cultures that have existed throughout all the country in the history.

13. Although Argentina did not receive any recommendations pertaining to HIV, HIV criminalisation persists within the legal system, through regulations that sanction the transmission of HIV whether willfully or otherwise. One such example is the Criminal Code article No. 202 that establishes that "one who spreads a dangerous and contagious disease will be punished with imprisonment of three to fifteen years". In addition, Law No. 12.331 provides that "those who, knowing that they are affected by a transmissible venereal disease, infect another person, will be punished with the penalty established in article No. 202⁶ of the Criminal Code." Both laws still stand in Argentina's legal system, and contradict the rights enshrined in National AIDS Law No. 23798, which guarantees confidentiality in diagnosis.
14. Additionally, mandatory testing for HIV is permissible in the country through the Decreto No. 906/1995 which includes a rule that ensures non-voluntary HIV testing of Security and Armed Forces. Law No. 24.004: "Nursing professionals Law" article No. 11 also mentions that it is forbidden for nurses that have an "infecto-contagious disease" to work. This ban affects not only nurses but also nursing students. Often, this Law is misunderstood- because HIV is not a disease, yet people that live with HIV face stigma.

Implementation of comprehensive sexuality education

15. In the last cycle of review of comprehensive sexuality education, this problem has already been addressed and recommendations have been made to enhance the implementation of the national programme of comprehensive sex education. Amnesty International stated in its 2017 stakeholder⁷ report that the implementation of the law at the national level must be ensured, and its implementation must be monitored in all provinces. During the last review, Argentina received and accepted two recommendations on comprehensive sexuality education:
 - Enact pending legislation that would provide women legal access to fulsome reproductive health services, including comprehensive sexuality education, family planning, prevention and response to sexual and gender-based violence, safe and legal abortion, as well as post-abortion care. (Canada)
 - Ensure the effective implementation in all provinces of the Protocol for the comprehensive care of persons entitled to legal termination of pregnancy and of the national plan on comprehensive sexual education. (France).Argentina has passed a bill into a Law about abortion. The Legal and Voluntary Termination of Pregnancy Law was passed on December 29th, 2020 (Law No. 27610). Also, it was ruled on August 15th, 2021.
16. The National program of integral Sex Education of Argentina was created by Law. No. 26150 in order to guarantee the right to access to sexuality education at all educational levels. The survey carried out by ICW and RAJAP for this report revealed that although this law was passed in 2006, more than 16 years ago, its approach is still deficient at the national level. There is no universal and homogeneous implementation in the different provinces of Argentina. In a national survey conducted by Fundación Huésped⁸, only 20% of the students who participated in the study considered that comprehensive sex education is applied properly in their school.

⁶ https://leyes-ar.com/codigo_penal/202.htm

⁷ https://www.upr-info.org/sites/default/files/documents/2017-10/ai_upr28_arg_e_main.pdf

⁸ https://www.huesped.org.ar/wp-content/uploads/dlm_uploads/2021/10/informe-encuesta-esi-2021-e.pdf

17. In accordance with these difficulties, sexually transmitted infections, especially HIV, are not comprehensively taught in schools nor colleges as they are not part of the national education programme.
18. Interviews showed that Argentina's sex education curriculum design lacks up to date information about HIV. However, this information should not be based on a biomedical model that only prioritizes the disease or pathology without a historical perspective and without social nor territorial references. Content on HIV is scarce, and a comprehensive approach to the subject, taking into account a social perspective and key concepts such as U=U⁹, is not carried out.
19. Sex education in Argentina is based on STI prevention from a fearful perspective, and it does not talk about women and young people living with HIV. This assumes that students do not live with HIV. The curriculum does not provide information about what happens if someone tests positive for HIV, either. It also fails to speak to the positive aspects of sexuality.
20. The implementation of sex education has a paternalistic approach due to the traditional teaching dynamics used in most schools, and the power dynamics established in schools with students, such as jerarquical differences between teachers and students, and to let the students know that, as long as they do not have the knowledge, they have no power yet. This makes the information provided to young people defective, as it does not take into consideration their fears, desires and decisions. Another aspect that is not acknowledged is the autonomy and agency of these individuals. This means that young people do not have full access to information, nor to their sexual and reproductive rights, thus impairing of their rights.
21. Since the Study on Violence and Women with HIV in Argentina, carried out by the International Community of Women with HIV, Argentina Chapter, surveyed some of the needs of women with HIV who have experienced violence by identifying a series of needs and barriers, they have created a better approach to violence and HIV. These needs are grouped at different levels, from factors related to the lack of information and education, to focusing on mental health services and comprehensive and integrated care. One of the main needs is the lack of information and education, especially comprehensive sexuality education".¹⁰
22. In addition, there are obstacles and barriers to the implementation of comprehensive sexuality education. This situation is aggravated in the provinces where institutions such as catholic schools have greater prominence and influence in their communities. Often, educators are afraid to address integral sex education since the rejection of parents in schools can generate problems in their workspaces. Sometimes, teachers are not trained to fully implement the Act. Tertiary or university studies provide few tools to do so, and many of the extracurricular trainings are paid, making it difficult to access them.

Access to information and low state investment in the production of strategic information, prevention campaigns and communication on HIV

⁹ U=U means Undetectable is equal to untransmittable. A person who is undetectable is a person, who lives with HIV, and has no detectable viral load. This means that when they have undetectable viral load in blood for more than six months, they can not t&ransmit the virus via sexual relationships. <https://www.who.int/news/item/20-07-2018-viral-suppression-for-hiv-treatment-success-and-prevention-of-sexual-transmission-of-hiv>

¹⁰ <https://icwlatina.org/estudio-sobre-violencia-y-mujeres-con-vih-en-argentina-resumen-ejecutivo/>

23. Through the survey, we were able to observe that the Argentine state has not been developing communication campaigns associated with HIV for several years. The importance of communication is linked to the importance of the right to information - it is one of the main rights that every individual or community must have due to its universal and inherent importance to human beings. That is why the Argentine state cannot wash its hands of its responsibility in the construction of social communications associated with HIV, aimed at generating a positive change in society. For many years there have been no programmes aimed at providing information associated with HIV and other STIs from the state, due to lack of political decisions such as low budgets and lack of human resources to implement this comprehensive sex education. Instead, CSOs respond to this need and contribute to providing solutions.
24. Other examples in which this lack of political commitment to resolve difficulties with communication campaigns of the Argentine state are manifested by the fact that despite recommendations received in previous Universal Periodic Reviews for Argentina to improve its administrative and legal mechanisms to guarantee inclusion and non-discrimination¹¹, there are still shortcomings in the production of statistical data on indigenous peoples and people of African descent. This makes it difficult to project better public policies aimed at improving the quality of life of people with HIV. The same is replicated with the production of statistics on U=U. Despite the fact that Argentina subscribes to the international campaign that "undetectable equals untransmittable" and adheres to UNAIDS global target 95-95-95 to end the HIV/AIDS pandemic, there is no statistical information on this. This makes it difficult to measure the results of the efforts made by CSOs, as well as measure the impact of the country's public policies in order to design better strategies aimed at meeting these objectives.
25. There is little information on the causes of low adherence in adolescents and whether the available models of care respond to the needs of adolescents living with HIV. Available funding for HIV is shrinking, with negative consequences for these populations that put the progress made in the region so far, and the sustainability of the response in the future at risk. We cannot talk about HIV prevention without including young people, who are committed and concerned. Young men who have sex with men and other young people in situations of social vulnerability need information about HIV prevention in a way that makes sense to them.
26. In addition, dialogue on HIV should not be established without HIV+ people's voices. It is necessary to inform and raise awareness about post-exposure prophylaxis (PrEP), antiretroviral treatments, the rights of people with HIV and the protocols that should be followed in the event of a positive result.
27. Worryingly, in Argentina perinatal transmission of HIV still persists. However, in the latest epidemiological report of the Dirección Nacional de Respuesta al VIH, ITS, Hepatitis Virales y Tuberculosis of the National Ministry of Health, they declare that "the absence of laboratory data, close to 40% in all the years analyzed, does not allow an adequate estimation of the rate of vertical transmission of HIV"¹². Another relevant result of this report is "the persistence of late diagnoses (during the third trimester, labor and puerperium) shows that efforts should be increased to access

¹¹ https://www.upr-info.org/sites/default/files/documents/2017-10/a_hrc_wg.6_arg_3_e.pdf

¹² <https://bancos.salud.gob.ar/sites/default/files/2021-12/Boletin-38-Respuesta-al-VIH-ITS-Argentina.pdf>

diagnosis in the early stages of gestation for the immediate start of antiretroviral treatment." This fact is directly linked to information intended for pregnant people.

28. There is very little material circulating that specifically talks about HIV in cis women and trans people. Annual testing is not done on a regular and systematic basis. Finding information about HIV and contraceptives, menstruation or hormone treatments is very difficult. In most cases, the health personnel themselves are not trained in these areas. There are, even today, populations completely invisible to communications about HIV. As if this were not enough, when talking about prevention, we only point to condoms for penises. Information about female condoms does not circulate, and the condoms themselves much less. In addition, such condoms only serve for penetration. There are no effective prevention methods for women who have sex with women today, which shows a lack of investment and willingness to scientifically investigate these issues.
29. The UPR Annual Report of 2017¹³: The National Ombudsman's Office (DPN) considered alarming the data on the excessive prison population in some provinces and indicated that Argentina had not complied with recommendations 99.35, 99.36, 99.37, 99.38, 99.39, 99.40, 99.41, 99.42, 99.43, 99.44 and 99.45 that refer to review the implementation of pre-trial detention and accelerating the implementation of alternative measures to imprisonment. Argentina's prison population has increased dramatically in recent years, and young people aged 18 to 23 occupy the largest portion of prisons. Yet, there is no official data on the detection of HIV cases in prisons.

Stigma and discrimination: obstacles to universal access to health, employment and better quality of life for young people and women with HIV

30. HIV and AIDS can expose the best and worst in people. They bring out the best in people when they come together in solidarity to combat marginalization and to offer support, containment and care to those affected by the epidemic. However, they make the worst visible when those affected by the virus are stigmatized and suffer acts of discrimination such as social ostracism, when they are mistreated by the people they love, by their families and by their communities; they suffer work-related discrimination and property loss, denial of education and medical services, and violence. (Aggleton, Parker y Maluwa, 2002).
Discrimination associated with HIV makes up one of the most challenging social expressions of modernity: it attacks dignity, respect for diversity and human rights (Arellano, 2008).
31. Fear of stigma and discrimination conditions and limits people from knowing and adopting prevention and care behaviors, from voluntarily undergoing HIV testing, from disclosing their HIV status to others and also limits access to care and health services. Legal frameworks that do not guarantee protection from stigma and discrimination, or that do not ensure access to State HIV/AIDS programmes, are an obstacle to universal access to health and a better quality of life for people with HIV. They constitute a barrier to the achievement of targets 95-95-95, zero discrimination and other international agreements.
32. RAJAP and ICW Argentina worked together on The People Living With HIV Stigma and Discrimination Index 2.0 in Argentina.⁷ Results showed that in the

¹³ https://www.upr-info.org/sites/default/files/documents/2017-10/a_hrc_wg.6_arg_3_e.pdf

workplace 16% of the sample said that they were forced to take the HIV test to get a job. 6% of statements shared the need to do the test or disseminate their serology to get medical attention.

33. Even though there is a resolution of Labour Ministry (Resolution MTEySS No. 270/2015) that states that it is forbidden to get candidates for an employment tested for HIV¹⁴, various organizations such as RAJAP, ICW Argentina and Fundación Huesped have reported high rates of complaints and questions on pre-labour testing to young people, despite the existence of a resolution that states that "the requirement of laboratory tests to detect Acquired Immune Deficiency Syndrome or HIV in applicants for employment as part of the pre-employment exams may be grounds for a complaint for violation of Laws 23.592, 23.798 and 25.326". Nevertheless, employers perform HIV tests without consent and in secret, creating an obstacle to accessing registered and quality employment. As a result, many people with HIV are in poverty and are socially vulnerable.
34. In addition, many professions are inaccessible because stigma and discrimination impose barriers to access to education. Many national institutions erroneously interpret HIV as an "infectious disease". This constitutes a barrier to access to higher education to a profession.
35. Women with HIV continue to be the most affected by stigma and discrimination, according to evidence collected in the People Living With HIV Stigma Index 2.0 in Argentina. Women in general, and those living with HIV in particular, are exposed to different situations of violence, discrimination and social exclusion based on gender and their HIV status. Living with HIV can be a risk factor for violence as communication of HIV status can expose women to experiencing violence by partners, family members, service providers or community members. (Luciano et al, 2020).
36. Sexist violence is knotted with hate violence against HIV+ people, causing a state of complete vulnerability in HIV+ women. The overload of care tasks, difficulties in accessing health, diagnosis and treatment, economic, social and educational inequalities translate into a reinforcement of stigma and discrimination. 0.2% of the women surveyed in IED 2.0 were sterilized without their consent due to serological status. Unnecessary cesarean sections and unfounded sterilizations are recommended to women based on prejudices already demolished by scientific evidence. Many times HIV+ women are advised not to have children for no other reason than misinformation and, at the same time, barriers are placed in their access to contraceptive methods.
37. The greatest violences experienced by women with HIV occurs in the field of medicine, as evidenced by the "Study of Violence and Women with HIV in Argentina carried out by ICW Argentina. The lack of training of gynecologists and obstetricians in HIV-related issues is remarkable. Menstruation remains a taboo and information about it does not circulate. The web is full of myths that are sometimes the only source of information.
38. When all of these difficulties are put together, it is clear that the mental health of women and all people with HIV is affected. In Argentina, access to mental health support is poor, and often relegated or left in the background by the biomedical system focused on disease. All of this was reinforced in the context of the COVID-19 pandemic. With the suspension of face-to-face and quarantine, many people could

¹⁴ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/245000-249999/246687/norma.htm>

not continue with their usual psychological care, because video calls in a context of stigma and discrimination imply absolute exposure to violence. The same thing happened with in-person healthcare: health monitoring of people with HIV was interrupted and, on many occasions, their antiretroviral treatment was as well. According to a study conducted by ICW Latina surveying women from Argentina and other countries, 29% of the people surveyed reported having had difficulties in accessing medication during the first stage of the pandemic. This also revealed that access to sexual and reproductive health decreased.

Recommendations

39. Rule the “Respuesta Integral al VIH, Hepatitis Virales, Tuberculosis e ITS” Law, that was passed on June 30th, 2022 and monitor the implementation of the Law throughout all the country
40. Ministries of Health, Justice, Gender, Labour, Social Development and Education should work jointly.
41. Provide HIV testing in sexual violence situations and work together with HIV non-governmental organizations.
42. Modify, update or derogate laws that impair the rights of People Living with HIV to promote their rights instead.
 - a. Modify article No. 11 of National Nursing Law No. 24.004 to establish that a health institution cannot fire a nurser living with HIV.
 - b. Derogate article No. 18 of Venereal Prophylaxis Law No. 12.331 that establishes criminalization transmission.
 - c. Derogate Decreto No. 906/1995 for people living with HIV to work in the Security and Armed Forces.
43. Provide robust and comprehensive sex education not only speaking in terms of prevention, but also in terms of people living with a STI.
44. Collect evidence about HIV cases rising to highlight the importance of prevention campaigns and HIV testing.
45. Collect statistical data on incarcerated people living with HIV and their antiretroviral treatment adherence.
46. Potentiate the aims of Federal observatory on Sex education (OFESI) in order to guarantee the implementation of sex education on all educational levels. Influence for educational books about sex education to include topics on women and young people living with HIV. Strengthen the training of teachers on topics related to HIV, gender-based violence, sexual and reproductive rights, stigma and discrimination.
47. Promote the participation of women and young people living with HIV, to guarantee the incorporation of their specific needs in the design, monitoring and evaluation of public policies on health, prevention, protection and eradication of gender violence. Follow the Principle of Greater Involvement of People living with HIV (GIPA) in the design and execution of public policies.
48. Promote the training of journalists and health professionals on HIV and STIs in order to avoid fake news that might be stigmatizing.
49. Provide free female condoms.

