

# **STATEMENT OF MEMBERS OF THE GLOBAL COMMISSION ON HIV AND THE LAW ON THE PASSING OF UGANDA'S HIV PREVENTION AND AIDS CONTROL ACT**

The HIV Prevention and AIDS Control Act was passed by the Ugandan Parliament on 13 May 2014. We have learned with great dismay that the Act contains punitive provisions including the imposition of lengthy custodial sentences for the intentional transmission of HIV (up to 10 years) and attempted transmission (up to 5 years).

The HIV Prevention and AIDS Control Act was enacted despite an overwhelming body of evidence cited in our report and several other sources which show the harmful impact of these well-intentioned but ultimately misguided laws. Sadly, this development in Uganda is not isolated. Our report found that more than 60 countries around the world have criminalized at least one aspect of HIV transmission, exposure or non-disclosure.

While the desired aim of such punitive laws is to protect people from HIV infection, they often have the opposite effect. Laws which criminalize HIV transmission and exposure widen the net of criminal liability and turn people living with HIV into potential criminals. They shift the responsibility for HIV prevention solely onto people living with HIV, in direct contrast to effective HIV prevention messages that call for everyone to practice safer sex. Most damagingly, the fear caused by the criminalization of HIV transmission and exposure isolates people living with HIV. Misdirected criminal laws discourage people from accessing HIV testing and other HIV prevention and care services. Ultimately these laws undermine investments and corrode hard-fought gains in HIV prevention, treatment and care.

The new law in Uganda stands in stark contrast to the growing number of countries making evidence-based decisions on the criminalization of HIV transmission, exposure and non-disclosure. In recent years, Guinea, Senegal and Togo have revised existing - or adopted new - legislation to limit the use of HIV transmission to exceptional cases of wilful transmission. A Parliamentary Select Committee in Guyana rejected a bill calling for the criminalization of HIV on the grounds that it was bad public health policy. In the United States where 34 states and territories still retain HIV specific criminal statutes, the state of Iowa recently reformed its HIV specific legislation which unfairly singled out HIV as a basis for criminalization.

The HIV Prevention and AIDS Control Act also subjects pregnant women and their partners to mandatory HIV testing, and in certain criminal cases, allows for disclosure of a person's HIV status under a court order without their consent. The majority of people living with HIV in Uganda, as is the case with people living with HIV in most parts of the world, are unaware of their HIV status. Mandatory testing contradicts proven internationally applied principles and strategies of voluntary counselling and testing. It also constitutes a fundamental violation of the right to privacy.

Most of the progress we have seen in the AIDS response has been founded on laws, policies and practices that are based on scientific evidence and grounded in human rights. We call for the President of Uganda to reject this Act which poses a grave danger to the hard-won gains of its AIDS response.

**Fernando Henrique Cardoso**

**Charles Chauvel**

**Shereen El Feki**

**Bience Gawanas**

**Dame Carol Kidu**

**Hon. Michael Kirby**

**Hon. Barbara Lee**

**Stephen Lewis**

**JVR Prasada Rao**

**Sylvia Tamale**

**Jon Ungphakorn**

**Miriam Were**