

Response to the Open Letter to AIDS 2020 Conference Organizers

Dear Jim and Suraj,

We appreciate the wide engagement on AIDS 2020, and we share many of the concerns voiced in the questions below. We have aimed to provide some insight on our strategy for addressing these important issues in the responses below.

We too are worried that colleagues, friends, and critical constituents may not be able to join us in the Bay Area in 2020. As described below, there are red lines that would demand a location change. Until those circumstances happen, however, we commit to working ceaselessly with political leaders in the lead-up to the conference to ensure all those who want to participate are able to attend.

At the foundation of this decision is a deep-seated belief based on the change previous controversial locations have wrought, that a conference in the Bay Area will enable all of us to work together to - visibly and noisily - effect change. The weight that such a change would have for individuals, as well on the HIV response, cannot be easily measured. The risk, however, is that if we don't work together, we will miss this moment, this critical juncture, so we request that the strong multi-sector groups and individuals attached to this letter join us and use our collective energy and power for good. We may not agree on the selected location, but what unites us in the AIDS response – especially at this critical time when funding and other strategic priorities are under threat – is greater.

We hope to remain in open dialogue with all of you as the local landscape evolves. We welcome further engagement and assure you we are asking the same types of questions and are instigating policy groups and processes to address short-term issues and longer-term opportunities.

Warmly,

Anton, Adeeba, Cynthia, Monica, and Kevin

1. As you know, efforts by the Obama administration and HIV community partners to obtaining exemptions or a waiver on the explicit ban on the entry of people who use drugs and sex workers were unsuccessful in 2012*. Since that time, federal policies and border practices regarding entry have devolved considerably. We recognize that IAS is in dialogue with Democratic elected officials about this issue. However, given the lack of success in this approach during a Democratic administration, what other strategies or measures is IAS taking to ensure the safe and unimpeded entry of all Conference participants?

The partnerships in 2012 on immigration issues were successful at developing critical relationships with the Department of Homeland Security, which in turn helped conference organizers understand how best to support groups particularly impacted by these unjust regulations. For AIDS 2020, we are committed to taking that a step further and have already convened a high level multidisciplinary bipartisan working group to address specific immigration challenges, of which safe and unimpeded entry for key populations - even beyond

the conference - is a priority. Additionally, this working group will coordinate with immigration experts to address these issues at a federal level.

We also expect to be better positioned to take this further over the next two years than was done in 2012, as we are joined not only by the 2012 supporters, but also by the California administration, which has committed to leveraging its collective weight to put this on the political agenda to galvanize change. Having met regularly with (likely to be) House Majority Leader Nancy Pelosi and Congresswoman Barbara Lee's staff prior to the 2018 U.S. mid-term elections, we anticipate the newly-elected majority Democratic House will further facilitate our efforts to proactively address, prevent and hopefully resolve immigration issues. We ask the signatories to the letter to use your political and advocacy connections to support our efforts to effect that change.

2. What combination of circumstances and/ or documented reports of barriers to entry and acts of detention or violence would be recognized by IAS as a de facto ban and/or situation of unacceptable potential risk for many people living with HIV and key populations, to the extent that participation in the conference would become unfeasible, unsafe or impossible for significant numbers of ourselves, our colleagues and our community leaders?

All countries have immigration restrictions, and as with each conference, we work with civil society, governments, private sector partners, and others to find innovative ways to ensure maximum participation in the conference – especially for key populations and people living with HIV. We pledge to use the conference platform to continue advocating against discriminatory and stigmatizing policies and practices in all countries to effect change on our shared concerns such as visa and immigration issues. Although many of these challenges are not just US-specific they are particularly challenging under the current administration. We have strong political commitment that we deeply believe will help us in finding creative ways to address these.

There are, however, specific events that would automatically be grounds for moving the conference: if, for example, the HIV travel ban is reinstated, the reintroduction of this policy would not allow for the GIPA Principle – one of the key markers in the HIV movement – to be realised, and as such would be a catalyst for moving the conference. Likewise, deliberate enforcement of discriminatory policy resulting in illegal detention, harassment and threats of government-sanctioned violence such as the use of military force will be a cause for moving the conference. If conditions worsen over the course of the next two years, and conference organizers decide that the location must be moved, that decision would need to be made in real-time based on the particular context.

3. How has the IAS worked with US-based and international legal experts to evaluate the impact of the United States January 2018 changes to the Foreign Affairs Manual via a memorandum to the consulates and the proposed public charge regulatory changes, as far as their current, ongoing and potential impact on the quantity and qualitative makeup of conference

participants? As you may know, the proposed public charge rule considers “costly medical conditions” a negative factor for those seeking entry to the United States. It further requires proof of significant financial holdings. Note that these criteria were used to deny entry to African would-be participants in the March 2018 meeting of the UN Commission on the Status of Women.

Medical conditions and evidence of financial security for entry are requirements from all governments, including “friendly” administrations such as The Netherlands and Canada. In anticipation that a strict administration would likely affect the interpretation and enforcement of these criteria, we commissioned a report from a subject matter expert to better understand current US immigration law related to non-immigrant travel into the U.S. (Business B-1 and Tourism B-2 Visas) and the implications for AIDS 2020. The report will be used to help guide the work of the national advisory group and the key leaders in the Californian administration as they work to help us leverage this moment for change.

We have also commissioned a broad governance review that will look at the future conference structure to ensure even wider representation. While this may not affect AIDS 2020, we are working to ensure that future conferences will be better positioned to avoid and address these kinds of concerns.

4. IAS has stated it will not hold the conference in the United States if there is an explicit ban on the entry of people with HIV. While we all hope this will not come to pass, how are you accounting for this possibility as far as contractual obligations, other financial matters, and in your relationships and plans with local and national groups in the United States, in a way that does not hold undue financial risk to IAS and partners if there is a need to alter plans?

As a standard matter of good business practice, we are cognizant of the serious financial risk that a cancelled conference would entail and have mapped out the financial realities that we and other partners would face if the conference were moved or cancelled. However, the IAS Governing Council weighed the financial and reputational risks when selecting the 2020 location and decided the risk was worth the potential reward in terms of the pivotal moment for policy change this location would offer. In addition, this location could stimulate a large-scale re-commitment to the response – notably by ensuring that it is a topic on the political agenda in the US as the 2020 elections approach. Similarly, our partners in the US likely weighed potential risks against the benefits in presenting the bid to bring the conference to the US and we ask you to engage with these partners directly for a more detailed response.

5. Given the explicit ban on the entry of people who use drugs and sex workers into the United States, how does or will the IAS advise members of these key populations who seek to attend the conference? Is there an implicit expectation by IAS that members of these communities will misrepresent their past or present lives in order to gain entry? How will IAS provide support and guidance to those who wish to attend without jeopardizing their identity or safety, or IAS itself?

As in 2012, conference organizers and the national advisory body are making access an early planning priority. We cannot advise people, however, on how to represent themselves on the visa application form and/or hide their identity should they wish to disclose. In collaboration with Leader Pelosi and Representative Lee's offices, we are coordinating a "Strike Team" to take swift action on visa denials, as well providing detailed guidance on the visa application process, working with our partners to ensure that embassies and consulates are aware of arrangements (a process which we have already instigated), and ensuring that all documentation required from the IAS by an individual for her/his/their application is provided very early to allow sufficient time for application review and subsequent procedures in cases where an application is not immediately successful. We will be publishing more information on the AIDS 2020 website it becomes available.

6. Last year, a new federal law went into effect, which criminalizes and applies significant legal penalties to a very broad range of professional and educational activities now considered sex trafficking (known as SESTA/FOSTA, the name of the two companion bills in Congress Stop Enabling Sex Traffickers Act (SESTA) and Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA). What legal counsel has IAS sought or obtained in order to evaluate its activities around AIDS 2020 to ensure that it would not be risking itself or participants given SESTA/FOSTA, which did not exist in the last time the conference was held in the US? As you may know, the Desiree Alliance, a national sex worker rights organization, was compelled to cancel their biannual national sex worker convening in the United States scheduled for 2019, due to its passage.

As with the immigration issues, we plan to use the election and the conference platform to advocate for change as we successfully did in the Durban 2000 conference. The FOSTA-SESTA legislation is one such law we oppose as it undermines efforts to protect sex workers and to support survivors of trafficking. We will be working with Congresswoman Lee, one of the main opponents of these bills, to organize political action on this oppressive legislation as well as ensuring relevant programming on these and other critical topics is featured at AIDS 2020.

7. The conference is scheduled to occur right before what is likely to be a highly contentious Presidential election (and in the midst of Political Convention season, a week before the Democratic National Convention). Given the recent politically based violence seen in the Bay Area and throughout the US, and sustained or increasing violence against people of colour, poor people, immigrant groups, and LGBT populations, there is reasonable and real concern for attendees' safety. What steps will IAS take to ensure the safety of all attendees on and around conference venues?

Within the conference venues, a comprehensive security plan will be put in place to ensure the safety of all attendees. Outside the conference venues, we always partner with the local police

and national security forces to ensure the safety of our delegates in country. In the lead up to the conference, we regularly commission a full-scale security risk assessment that informs our protocols on-ground. We also receive regular security alerts from our security provider and will use both the risk assessment and these alerts to inform our delegates of critical security concerns.

Locally, the Mayors of both the sanctuary cities of Oakland and San Francisco are currently in discussions to extend the definition to include sex workers and substance users, which will also support a more welcoming and safe environment.

8. Recognizing the limitations on the ability of people who use drugs and sex workers to be on site or who in principle refuse to participate, what explicit support, resources, and material aid will be given to ensure that these populations are able to gather in settings and in ways of their choosing?

In addition to investigating creative technical solutions for remote access mentioned in an earlier question, we have already been in early contact with the organizers of AIDS2020ForAll and are, in principle, supportive of collaborative events that will support access. This is currently a work in progress.