

Human rights, stigma and discrimination

UBRAF 2016-2021 Strategy Result Area 6



the 1990s, the number of people who have been infected with HIV has increased in almost every country in the world. The number of people who have died of AIDS has also increased in almost every country in the world. The number of people who are living with HIV/AIDS is also increasing in almost every country in the world.

The spread of HIV/AIDS is a global health crisis. It is a crisis that has no borders. It is a crisis that affects people of all ages, all ethnicities, and all social classes. It is a crisis that has the potential to wipe out entire populations. It is a crisis that we must all face together.

The good news is that we have the tools to prevent and control HIV/AIDS. We have the knowledge to understand how the virus is spread. We have the resources to develop and distribute effective prevention and treatment programs. We have the will to make a difference.

The bad news is that we are not using these tools effectively. We are not doing enough to prevent the spread of HIV/AIDS. We are not doing enough to care for those who are already infected. We are not doing enough to support those who are living with HIV/AIDS.

We need to do more. We need to invest more in prevention and treatment programs. We need to increase our efforts to reduce the stigma and discrimination associated with HIV/AIDS. We need to work together to make a difference.

Let us join together to fight HIV/AIDS. Let us work together to prevent the spread of the virus. Let us work together to care for those who are already infected. Let us work together to support those who are living with HIV/AIDS.

Let us make a difference. Let us make a difference that lasts. Let us make a difference that saves lives.

Let us make a difference that is worth the effort. Let us make a difference that is worth the cost. Let us make a difference that is worth the pain.

Let us make a difference that is worth the fight. Let us make a difference that is worth the struggle. Let us make a difference that is worth the sacrifice.

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Achievements

Strategy Result Area 6: Punitive laws, policies, practices, stigma and discrimination that block effective responses to HIV are removed.

2016 was a critical year for positioning human rights and zero discrimination at the core of the 2016 Political Declaration on HIV and AIDS and ensuring a rights-based approach. To this end, the UNAIDS Secretariat supported a panel on HIV and human rights at the March 2016 session of the Human Rights Council (HRC), which established formal bridges between the HRC and the June 2016 HLM on ending AIDS in New York. The UNAIDS Secretariat also organized a side event at the HRC September 2016 session, which reported back on challenges and successes in featuring human rights within the 2016 Political Declaration on HIV and AIDS

The Joint Programme and its cosponsors undertook considerable work in 2016 to address human rights and confront stigma and discrimination within legislative and policy frameworks, through technical support, advocacy, evidence, reviews and assessments. For example, UNDP supported work around legislation in a number of countries such as in Mozambique, where it supported the development of draft regulations for an HIV Law that was passed during 2014. The Ghana AIDS Commission Bill was also passed into law by the Ghanaian Parliament in 2016, following UNDP support in the development of the Bill and subsequent advocacy efforts with lawmakers for its passage. In the Seychelles, the National Assembly voted to decriminalise men who have sex with men activity by removing Section 151 from its Penal Code (Amendment) Act in May 2016. This was a result of, amongst other contributing factors, the Legal Environment Assessment conducted with UNDP support, which had strongly recommended decriminalising adult consensual sexual activity as a key action to strengthen the national response to HIV. UNDP also completed and validated Legal and Policy Environment Assessments in Burkina Faso and Gabon.

Assessments and reviews of HIV-related laws and policies were conducted in Bhutan, Lao PDR and Pakistan, building on a collaboration between UNDP, the UNAIDS Secretariat and Economic and Social Commission in Asia and Pacific, to support more than 20 countries to address legal and policy barriers that hinder effective responses to HIV. With support from UNDP and other co-sponsors and partners, 18 countries in sub-Saharan Africa reported results related to strengthening legal and policy environments for sexual and reproductive health, HIV and TB. The UNAIDS Secretariat also provided evidence and support in cases of HIV-related travel restrictions in six countries, while in cooperation with UNDP, UNFPA, UNODC and other cosponsors, the UNAIDS Secretariat provided comments and expertise in

developing or amending relevant laws in Lao PDR, Myanmar, Papua New Guinea, the Russian Federation, South Africa, Tajikistan and Turkmenistan

UNFPA, UNICEF, UN Women, UNDP and the UNAIDS Secretariat supported efforts to implement laws to end child marriage in sub-Saharan Africa. Following the adoption of the Marriage, Divorce and Family Relations Bill that raised marriage age from 15 to 18 years, with UN Women's support, Malawi's Constitution was amended to align the marriage age with the Bill. Furthermore, UN Women supported the Paramount Chiefs as they developed a unified by-law framework to guide implementation and monitoring of the gender equality, GBV and HIV laws and policies at the community level, including the Bill and new Constitutional amendment.

Addressing human rights and drug use, UNDP and the International Centre on Human Rights and Drug Policy at University of Essex initiated a project to develop human rights guidelines on drug policy in partnership with UN Member States, international organizations, civil society groups and others. Meanwhile, in the Philippines, the UNODC Executive Director made a statement condemning the extrajudicial killing of suspected drug traffickers in the Philippines. UNODC, as part of the joint UN Country team on punitive approaches and violations of human rights developed a Guidance for Community-based Assessment, Treatment, and Care for People Affected by Drug Use and Dependence, adopted by the Dangerous Drugs Board.

The Joint Programme and cosponsors also targeted discrimination in healthcare settings through a range of approaches in 2016. The Agenda for Zero Discrimination in Health Care was launched in 2016 by the UNAIDS Secretariat and WHO and is guiding collective advocacy, leadership, accountability and implementation of evidence-informed interventions. For example, in Egypt, WHO supported the government to develop a national policy to address stigma and discrimination in healthcare settings against people living with HIV. The policy identifies forms of discrimination faced by people in healthcare settings and articulates the right of people living with HIV to health care as well as the ethical duties of healthcare providers, both within and outside health care settings to provide adequate and equal care. Meanwhile, in Jamaica, UN Women worked with the National Family Planning Board to provide gender mainstreaming training to healthcare workers, which resulted in reduced stigma and discrimination against women living with HIV in the healthcare setting and positive outcomes in treatment access and adherence. The UNAIDS Secretariat also launched EqualHealth4All, a virtual platform for sharing evidence, tools and best practices with over 120 members from more than 50 organizations, including governments, civil society, UN, professional healthcare associations, donors. A reference paper on Eliminating Discrimination in Healthcare was produced and an e-repository - www.zeroHIVdiscrimination.com -

enhanced dissemination and use of tools to assess and address HIV-related discrimination in health care.

In 2016, UNAIDS Secretariat filed three amicus curiae briefs: one in the East African Court of Justice on the Uganda now-defunct Anti-Homosexuality Act, one on coercive sterilization in the High Court of Kenya, and one on mandatory HIV testing for foreign language teachers in Korea, with the Human Rights Committee.

Legal and policy reforms

UNAIDS Secretariat has been convening partners such as HIV Justice Worldwide, OHCHR, Amnesty International and leading efforts to address misuse of criminal law and its impact on health, including through developing a global scientific statement on HIV criminalization and a workshop on intersectionality of misuse of criminalization at AIDS 2016.

In South Africa, to contribute towards the generation of knowledge, the ILO, UNAIDS Secretariat and partners made significant inputs into the process of drafting a book focussing on HIV/AIDS and the Law in South Africa. The ILO was requested to moderate a panel discussion during the launch of the book, published by Nexis Lexis, in July 2016. The launch of the book was held in November 2016 in one of the biggest Law Firms in South Africa, Bowman Gilfillan. The event was attended by lawyers, doctors, activists and other stakeholders in the space of HIV and AIDS.

In the South Governorate of Yemen, UNHCR with UNAIDS Secretariat and the National AIDS Programme, advocated for the end of mandatory testing of refugees and asylum seekers. As a result of this, in 2016 mandatory testing for refugees and asylum seekers was halted during asylum procedures and refugees living with HIV were able to successfully renew their ID cards

Access to justice and enforcement of rights

In Malawi, UN Women, in collaboration with UNAIDS Secretariat and UNICEF led coordinated support to a court case against Eric Aniva, a man living with HIV, who publicly admitted engaging in sexual cleansing practice with 104 women and girls as young as 12 years old. Aniva was sentenced to 24 months under the provisions of the Gender Equality Act, this was the first time the act was used in the court.

The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) is a powerful instrument for articulating, advocating and monitoring women's human rights. With UN Women, UNDP and UNFPA's support, women living with HIV input to country reporting on CEDAW. In Ukraine, women living with HIV, sex workers and women who use drugs presented the shadow report to the CEDAW Committee. In Viet Nam, the network of women living with HIV contributed to the development of the monitoring framework of the 2015 CEDAW Concluding Comments.

The Eastern and Southern Africa Ministerial Commitment helped to inform a study by UNFPA on the harmonization of the legal environment on adolescent SRH in the region, to which UNESCO provided technical input. Recommendations include decriminalizing consensual sexual acts among adolescents, introducing legislative reforms to address age of consent to testing and treatment and providing young people with rights-based, age-appropriate, gender-sensitive CSE, among others.

The UNAIDS Secretariat with IDLO have supported efforts in Tanzania and Uganda to develop a cadre of lawyers - professors and students - committed and equipped with the knowledge and skills to support human rights-based responses to HIV, in order to scale up access to legal services.

Eliminating HIV healthcare discrimination

In line with the call of the 2030 Sustainable Development Goals to address inequalities and discrimination that leave people behind, and with the evidence that discrimination on many grounds continues to exist in healthcare settings, on 1 March 2016 UNAIDS Secretariat and the WHO Global Health Workforce Alliance have launched an Agenda for Zero Discrimination in Health Care. The Agenda aims to bring together relevant stakeholders for cohesive joint efforts towards a world where everyone, everywhere, is able to receive or provide health care with no discrimination. The Agenda prioritizes action to secure political leadership and commitment, scale-up implementation of what works to eliminate discrimination, and enhance accountability.

In Nigeria, working through the UN Joint Team on Gender, Human Rights and key populations, which comprises UNAIDS Secretariat, UNDP, UNODC, ILO and other agencies, the ILO provided technical input into the draft National HIV Stigma Reduction Strategy. Following the passage of the HIV and AIDS (Anti-Discrimination) Act, 2014, the National AIDS Control Authority began the process of developing an HIV/AIDS Stigma Reduction Strategy. The purpose of the Strategy is to align efforts of various stakeholders in addressing

HIV-related stigma and discrimination in their various health and non-health settings to bring about synergies. Advocacy was undertaken in 2016 to reduce stigma and discrimination in government hospitals and health facilities. Key topics that were tackled included discriminatory attitudes towards people living with HIV among health workers, mandatory HIV testing before surgery and during pregnancy, denial of treatment refusal of admission to the hospital refusal to operate or assist in clinical procedures and physical isolation in the wards for people living with HIV.

In South Sudan, WFP, the UNAIDS Secretariat and the Ministry of Health and Network of People living with HIV (SSNeP+) completed a Stigma Index and Vulnerability Survey among People living with and affected by HIV and AIDS. The goal of the survey was to establish a baseline for HIV-related stigma and discrimination among people living with HIV to inform programming, policy and advocacy efforts. One of the most striking findings of the survey was that people on ART are more food insecure than people living with HIV who are not yet on treatment. This is a worrying finding as people who are food insecure are less likely to adhere to their treatment and good adherence is critical for treatment success for both TB and HIV.

Challenges

Stigma and discrimination against key populations remain serious barriers to effective HIV responses worldwide: Despite UN Member States' commitments in the 2016 Political Declaration on HIV and AIDS, an increasing number of countries worldwide are debating and introducing punitive laws, policies and practices. Punitive laws remain in place against sex workers, men who have sex with men, transgender people and people who use drugs in many countries. There has also been a shrinking of civil society space and encroachment on rights and freedoms using public health or security rationales. Discriminatory laws and harmful practices continue to hamper women and girls' abilities to confront HIV and mitigate its impact. Increasing legal literacy of both informal justice community leaders and women, particularly those living with HIV, is critical in advancing women's security and rights. In South-East Asia the number of people in compulsory detention centres is not decreasing. Lack of domestic resources, limited quantitative data and insufficient focus on key population programming perpetuates this discrimination and limits the effectiveness of responses.

Translation of international standards into action: Though many international standards have been set regarding HIV, human rights and the law, there remains the overriding challenge to translate these into reduced stigma and discrimination, protective laws and law enforcement, and increased access to justice at country levels.

Key future actions

Key areas of focus for the Joint Programme in 2017 will include:

- Positioning of HIV-protections in rights bodies, building bridges among communities;
- Challenging misuse of criminal law;
- Advancing zero discrimination in health care
- Strengthening human rights at country level, including through coordination of responses to HIV-related human rights crises;
- Partnerships to develop a global scientific statement to influence HIV criminalization
- Responding to amicus curiae requests, leveraging law firm support and addressing the shrinking of civil society space and its impact on the AIDS response;

Specific actions by cosponsors will include:

- UNDP will commission a formal stock-taking exercise in 2017 to assess the impact of the report of the Global Commission on HIV and the Law. In partnership with UN Member States, international organizations, civil society groups and academia, UNDP will also continue to develop human rights guidelines on drug policy in 2017;
- UNHCR is planning to scale up regional activities to address protection concerns for people living with HIV, including the continuation of mandatory testing for HIV in four countries in MENA;
- UN Women will further invest in supporting legal literacy and promoting increased access to legal aid services for women and girls, in particular those living with HIV, as a strategic HIV prevention and impact mitigation strategy;
- In 2017, UNODC, will roll-out a training manual for police academy on HIV service provision for people who inject drugs, a guide for CSOs to improve Cooperation with Police, in seven high priority countries for HIV and people who use drugs;
- UNDP will address legal, policy and practice barriers affecting the rights of key populations. Legislative and policy change will be progressed during national dialogues and via legal environment assessments to facilitate enabling laws and policies, and KP-oriented national plans/GF grants.

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