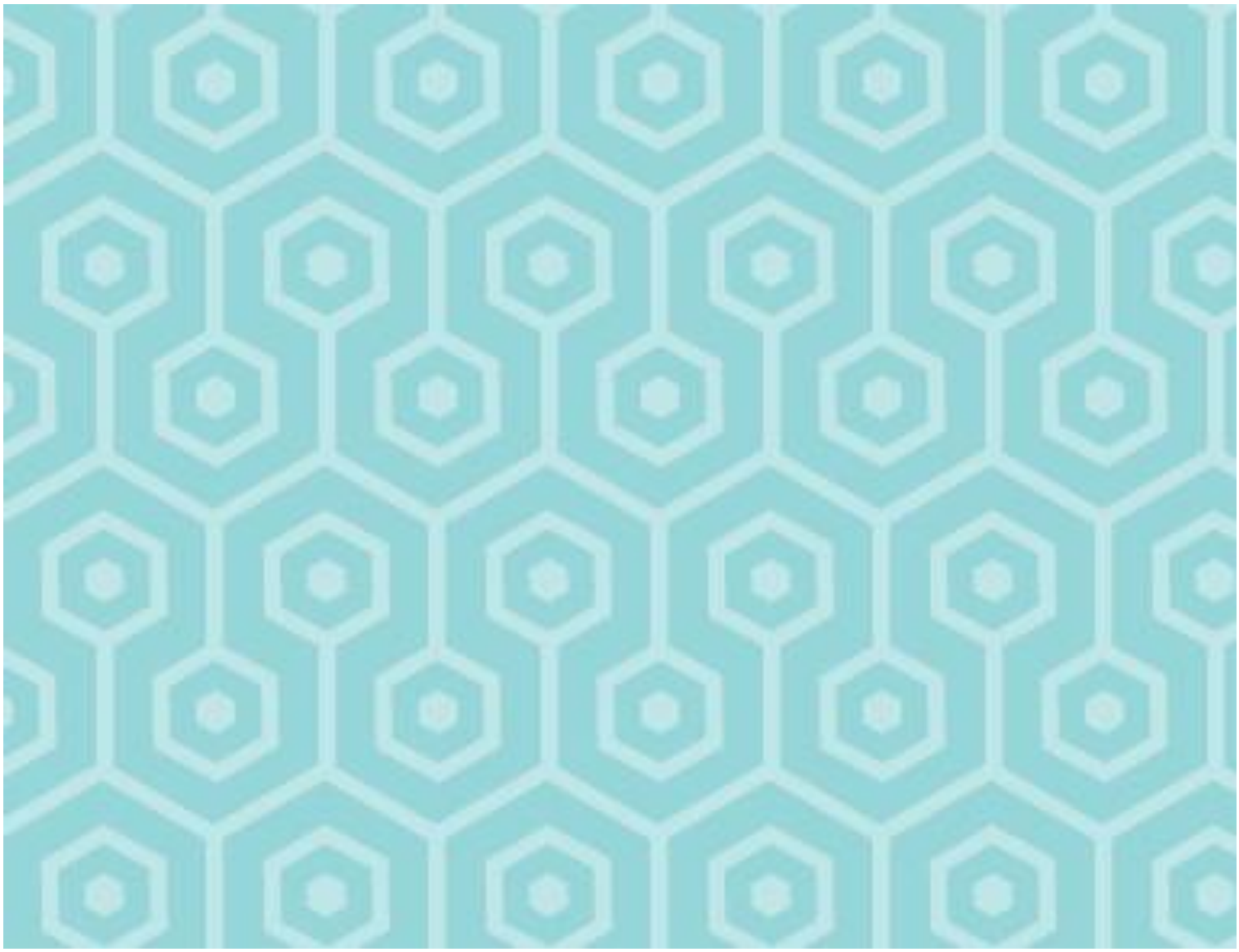
Human rights, stigma and discrimination

UBRAF 2016-2021 Strategy Result Area 6



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Achievements

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

Three decades into the global response to HIV, it has been shown that an evidence-informed, rights-based approach helps ensure services are accessible to those most vulnerable to HIV. It also enables key populations and other affected communities to participate in improving legal and policy environments, which can also have a direct impact on increasing access to HIV and health services, thereby reducing the risk of HIV transmission. By contrast, laws that criminalize HIV transmission, nondisclosure and exposure, consensual same-sex relations between adults, gender expression, sex work and drug use, as well as legal and policy frameworks and practices that fail to protect the rights of people living with HIV, women, girls and key populations, increase risk and act as major barriers to services for the people who need them most. Removing punitive laws, policies and practices is critical to attaining the 2030 Agenda for Sustainable Development, the UNAIDS 2016–2021 Strategy and the 2016 Political Declaration on HIV and AIDS.

Legal and policy reforms

The adoption of a new Political Declaration on HIV by UN Member States charts a course to end AIDS as a public health threat by 2030, stating the importance of all human rights as an objective and means to ending AIDS. It contains specific paragraphs devoted to human rights, whereby governments commit to ending violence and discrimination, to reviewing and reforming laws that perpetuate stigma and discrimination, and to scaling up human rights programmes. Some highlights of the work undertaken by the Joint United Nations Programme on HIV/AIDS and partners to remove punitive laws, policies, practices, stigma and discrimination that block effective responses to HIV are reflected below.

UBRAF indicators show that of the 96 countries providing data, 38 (40%) have shown progress in addressing at least one law or policy that presents a barrier to delivering HIV services. The report of the Global Commission on HIV and the law continues to provide an important framework for ongoing efforts to promote a rights-based response to the HIV epidemic and to compel countries to reform punitive laws and policies that impede the AIDS response. Since the release of the report, UNDP, in collaboration with UNAIDS Cosponsors, the Secretariat, UN Member States and civil society, has worked in 88 countries to support implementation of the Commission’s recommendations to remove human rights and legal barriers to HIV and health services and increase rights-based programming. This work included supporting legal environment assessments (LEAs) and legal reviews in 52 countries.

The follow-up to the LEAs has brought many positive results; for example, in the Seychelles, the National Assembly voted to decriminalize male to male sex activity by removing Section 151 from its Penal Code (Amendment) Act in May 2016. UNDP also worked closely with the Stop TB partnership and civil society partners to develop and roll out LEA guidance for tuberculosis, which ensures intersectionality and compatibility with the HIV-related LEA operational guidance.

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. UN Women facilitated input from networks and organizations of women living with HIV to in-country reporting on CEDAW. For example, in Ukraine, with UN Women's support, women living with HIV co-authored a shadow report assessing how CEDAW implementation addresses the rights of women living with HIV. The report's findings were reflected in CEDAW's Concluding observations on Ukraine, which called for accelerated HIV prevention among women and girls and improved access to gender-based violence (GBV) services for women to prevent HIV. In Viet Nam, the national network of women living with HIV contributed to the development and review of the monitoring framework of CEDAW's 2015 Concluding comments.

UNODC encouraged UN Member States, UN partners, civil society, communities of people who use drugs and other stakeholders to contribute to the preparatory process for the 2016 UN General Assembly Special Session on drugs (UNGASS 2016). Partners shared their expertise and practical experiences on the ground among people who use drugs. The UNGASS outcome document prioritizes health and addressing human rights and gender in responding to the world drug problem, reflecting UNODC´s joint advocacy with UNDP, UN Women, the UNAIDS Secretariat and WHO, and their technical support, to ensure inclusion of these key issues.

As part of efforts to promote a-rights based response to drug policy, UNDP, in partnership with the International Centre for Human Rights and Drug Policy (HRDP) at the University of Essex in the United Kingdom, and in close consultation with OHCHR, UNODC and other UN entities, is developing International guidelines on human rights and drug control. In 2016 and 2017, UNDP and HRPD convened four consultations with UN Member States and entities, UN and regional human rights mechanisms, civil society and academia to provide feedback on draft guidelines on human rights and drug policy and to share country and regional perspectives on rights violations experienced by communities affected by international drug control efforts.

The support of ILO, UNDP, UNAIDS Secretariat and other partners to UN Member States to strengthen legal protections and reduce levels of stigma and discrimination yielded many positive results, including: inclusion of protections against discrimination in the workplace in Ukraine's AIDS law; regulations on HIV non-discrimination in employment in Uganda; development of the Employment Code of Conduct on HIV and AIDS at the workplace in Zanzibar; development of a draft labour policy in Lesotho; collaboration with the Coalition of Lawyers for Human Rights (a network of pro bono lawyers) to support employees who face HIV-related discrimination; and preparation of the draft workplace policy on HIV in the textile sector in Haiti where more than 10 000 workers from the textile sector are receiving HIV-related information and prevention tools.

UNHCR facilitated the inclusion of refugees, internally displaced people (IDPs) and other populations affected by humanitarian emergencies in national reproductive health, TB and HIV programmes, plans and legislation. UNHCR successfully advocated for their inclusion in all relevant government HIV policies, programmes and funding proposals in South Sudan, including funding proposals to the Global Fund and in the UN Interim Cooperative Framework, and for Burundian refugees' inclusion in Rwanda's national HIV plan. UNHCR continued to advocate to remove mandatory HIV testing in six countries in the Middle East and North Africa, including unlawful restrictions of freedom of movement for refugees based on HIV status. As a result of this advocacy, no cases of mandatory testing of refugees were reported in South Sudan. In Yemen, mandatory testing for refugees and asylum seekers was halted in one governorate and refugees living with HIV were able to successfully renew their ID cards following advocacy by UNHCR, UNAIDS Secretariat and the National AIDS Programme. UNHCR integrated HIV into its internal training, policies, programmes and needs assessments. This included integrating specific HIV-related information in regional- and country-level training for protection officers, particularly in countries with a high prevalence of HIV.

Access to justice and enforcement of rights

UBRAF indicators show that of the 96 countries providing data, 80 (83%) reported having mechanisms to record and address cases of HIV-related discrimination; 78 (81%) reported having mechanisms to promote access to legal support (such as free legal services or legal literacy programmes) for HIV-related issues; 71 (74%) reported having HIV-sensitive training programmes on human rights and non-discrimination laws for law enforcement personnel and members of the judiciary; and 57 countries (59%) reported having all mechanisms in place.

In 2016–2017, UNDP and the Secretariat contributed to the Global Fund's initiative on scaling up human rights programmes in 20 countries. The Global Fund has completed baseline assessments in most of them (with several scheduled for 2018) to determine the interventions implemented to address human rights barriers and identify gaps. UNDP has provided policy and programme support to countries, including the Democratic Republic of the Congo, Kenya, Kyrgyzstan, Malawi, Mozambique, Namibia, Senegal and Zimbabwe, to develop funding requests to the Global Fund, with a focus on defining and costing interventions to address human rights and gender-related barriers to secure additional resources.

UN Women worked to enhance access to legal aid for women living with HIV to reduce gender-based stigma and discrimination in China, Malawi, Uganda, Viet Nam and Zimbabwe. In Viet Nam, UN Women worked with the national network of women living with HIV to analyse gender-specific discrimination and identify gender-specific bottlenecks in access to legal aid. This analysis was influential in shaping amendments to the legal aid law and included proposals to increase state-funded legal aid to people living with HIV.

Through the UN Cares programme, UNFPA coordinated delivery of the UN for All programme to make the UN a more inclusive workplace, including for LGBTI people. To date, nearly 8000 UN employees worldwide have undertaken the UN for All workshop. UNFPA, UNDP and other Cosponsors supported a global interfaith dialogue to encourage acceptance of LGBTI people.

In Uganda, UN Women collaborated with judicial officers, lawyers and civil society to develop the Gender bench book to help the judiciary better understand the specific needs and priorities of women in the context of HIV. UN Women mobilized, enhanced capacity and mentored cultural and community leaders and elders involved in informal justice and women living with HIV in rural areas to identify women's rights violations and gender-based discrimination in the context of HIV and respond through informal justice mechanisms. This work has resulted in increased trust in these mechanisms and faster review of complaints for women living with HIV and stronger coordination with the formal justice system.

UNODC backed efforts to update national drug policies and supported drug policy consultations among government and civil society counterparts in 16 high-priority countries. The consultations aimed to lay the foundation for drug policies and related legal reforms, and developing human-rights centred and health-focused approaches for people who use drugs and people in prisons.

In 2016–2017, UNHCR promoted access to asylum procedures and protection from expulsion, arbitrary detention, unlawful restrictions on freedom of movement, including the right to return (regardless of HIV status) in the context of voluntary repatriation, and an end to mandatory testing for asylum seekers, refugees, IDPs and other marginalized groups.

UNFPA made inputs to several UNDG-led “frontier dialogues” on human rights. Within the dialogue on human rights in increasingly urban settings, UNFPA promoted local, city-based programming with key populations, as illustrated in the UNAIDS’ Fast-Track Cities initiative. UNFPA, with technical input from UNESCO, produced a study on harmonizing the legal environment on adolescent sexual and reproductive health (SRH) in the eastern and southern Africa region. 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 comprehensive sexuality education (CSE).

Eliminating HIV healthcare discrimination

UBRAF indicators show that of the 96 countries providing data, 46 (48%) reported having an up-to-date assessment on HIV-related discrimination in the health sector available; 59 (61%) reported health-care workers’ pre- and in-service training includes gender-sensitive stigma and discrimination reduction, including specific attention to the SRH and rights of women living with HIV; 58 (60%) reported having measures in place for redress in cases of stigma and discrimination in the health sector; and 28 countries (29%) reported having all these mechanisms in place.

Discrimination in health-care settings was a key intervention point for the Joint Programme over the biennium. UNAIDS and the WHO Global Health Workforce Network launched the Agenda for Zero Discrimination in Health-Care Settings on Zero Discrimination Day (1 March 2016). The agenda brings together all stakeholders to tackle discrimination in its many forms, including by removing punitive laws, policies and practices that undermine people living with HIV, key populations and other vulnerable groups, or block their access to good quality health-care services, and by empowering them to exercise their rights. In 2017, in support of the implementation of the action plan of the agenda, 12 UN entities issued a Joint UN Statement on Ending Discrimination in Health Care Settings, committing to working together to support Member States in taking coordinated multisectoral action to eliminate discrimination in health-care settings.

The Time Has Come training package, developed by UNDP and WHO to reduce stigma and discrimination at health-care settings, was incorporated in national HIV training programmes in Bhutan, India, Indonesia, Nepal, the Philippines and Timor-Leste. More than 1500 health-care providers in 12 countries have been trained since 2014 using the package. The roll-out of the training was supported through the Multi-Country South Asia Global Fund HIV Programme and the ISEAN-Hivos Multi-Country HIV Programme. Together with USAID, UNAIDS and other partners, UNDP convened the Asia Regional Consultation on Addressing HIV-related Stigma and Discrimination in Healthcare Settings in May 2017. As a result, 120 government, civil society and health sector representatives developed 12 country action plans to address stigma and discrimination in health-care settings.

In Egypt, WHO supported the Government to develop a national policy to address stigma and discrimination in health-care settings against people living with HIV. The policy identifies the forms of discrimination faced by people in these settings and articulates the right of people living with HIV to health care and the ethical duties of health-care providers, both within and outside health-care settings, to provide adequate and equal care.

In 2017, the ILO Governing Body initiated a process to develop international labour standards on violence against women and men in the world of work. These standards will address physical, psychological and sexual violence, with a focus on GBV in the context of work. HIV concerns have been mainstreamed into the process of developing the standards, which are expected to strengthen the protection of people living with HIV and people of diverse sexual orientations and gender identities from harassment, bullying, mobbing and violence. In South Africa, ILO, in collaboration with Webber-Wentzel, Legal Aid South Africa and SECTION27, supported the South African National AIDS Council (SANAC) to improve the services of the HIV and TB Legal Clinic. This led to the development of the SANAC stigma and discrimination booklet, launched in 2016 and disseminated in 2017. ILO also made significant inputs into the process of drafting a book on HIV/AIDS and the law in South Africa. Working with the UN joint team on gender, human rights and key affected populations, ILO contributed to the development of Nigeria’s draft National HIV Stigma Reduction Strategy.

In China, UN Women collaborated with the National Center for AIDS/STD Control and Prevention to design and pilot a training of trainers’ manual on gender-sensitive HIV services. Guided by CEDAW, the manual aims to enhance capacity of health-care providers and policy-makers to promote elimination of stigma, discrimination and violence against women living with HIV.

UNODC reviewed existing indicators, methods and tools for monitoring and evaluating HIV services in prisons, identified country-specific needs in consultation with national prison and health authorities, and national and international partners, and provided targeted technical assistance for developing and improving harmonized approaches and tools to monitor and evaluate HIV services in prisons. UNODC continued to advocate and strengthen capacity for aligning prison health-sector plans with the recommended comprehensive package of HIV prevention, treatment and care services in prison settings.

In 2016–2017, UNHCR collaborated with Yemen's national AIDS programme to campaign against discrimination directed at people living with HIV in public and private health facilities, including denial of treatment, refusal of hospital admission and mandatory HIV testing before surgery and during pregnancy. During this period, UNHCR conducted workshops with 987 health workers and 760 police officers on stigma and discrimination against people living with HIV.

WHO and the UNAIDS Secretariat led discussions and efforts on addressing discrimination in health-care settings. Best practice guidelines were developed on discrimination in these settings, urbanization, shrinking space for civil society and prevention of violent extremism.

UNFPA supported delivery of rights-based, people-focused SRH services in many countries, including Bangladesh, Egypt, Indonesia, Kenya, Myanmar, Nepal, Pakistan, the Philippines, South Sudan, Zambia and Zimbabwe, ensuring non-discrimination against sex workers and other key populations. WHO, UNFPA, UNAIDS and OHCHR published guidelines for the provision of rights-based SRH services for women living with 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, an increasing number of countries are debating and introducing punitive laws, policies and practices against sex workers, men who have sex with men, transgender people and people who use drugs, adding to existing punitive laws against these key populations.

The work of the Joint Programme, including follow-up to the recommendations of the Global Commission on HIV and the Law and supporting countries to implement the Global Fund's initiative on scaling up human rights, have contributed towards progress in meeting UBRAF goals across all areas in SRA6. Yet progress remains uneven. As UBRAF results show, while at least 50% of countries have made progress towards SRA 6 targets, many have not implemented a comprehensive approach. Initiatives to improve access to justice, including mechanisms to provide access to legal support and to reduce stigma and discrimination in health settings, do not automatically lead to removal of punitive laws, policies and practices. They are part of a process, which takes time, ongoing concerted effort and investment of technical and financial resources.

There has also been a shrinking of civil society space and encroachment on rights and freedoms, using public health or security rationales. Discriminatory laws, gender-based discrimination 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 to 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. Targeted programming informed by sex-disaggregated data and analysis is required to understand the specific needs and priorities of the most disadvantaged groups of women and girls in all their diversity in the context of HIV. These problems are compounded in humanitarian emergencies. Laws and policies must be continuously monitored since positive changes can be reversed when political leadership changes or from societal pressure. Many international standards on HIV, human rights and the law have been developed but translating these into reduced stigma and discrimination, protective laws and law enforcement, and increased access to justice at country levels, remains a challenge.

Globally, among people who inject drugs, HIV and hepatitis C prevalence is high, and new HIV infections are increasing. Yet, in some countries where unsafe injection drug use is a driving factor of the HIV epidemic, coverage of evidence-based HIV and hepatitis C prevention interventions for people who inject drugs – in particular, needle and syringe programmes and opioid substitution therapy – remains low or non-existent. High prevalence of HIV and hepatitis C among prisoners who inject drugs, low availability and limited access to relevant services, and the lack of continuity of services on admission to and release from prisons and other closed settings, are all major barriers to preventing HIV among inmates.

Key future actions

Following up on the recommendations of the Global Commission on HIV and the Law in collaboration with governments, UN partners and civil society is critical for a coordinated and effective HIV response that focuses on enabling legal and policy environments. In 2018, UNDP will lead a process to develop a supplementary chapter to the report of the Global Commission and host a global dialogue on successes, persistent challenges and the sustainability of the AIDS response at the pre-conference of the International AIDS conference. UNDP will work with partners to finalize the International guidelines on human rights and drug control. UNODC will continue to advocate and provide support for policy and legal reform in high priority countries and at global level for human rights- and evidence-based drug policy.

UNHCR will continue to promote the inclusion of refugees and other crisis-affected populations in national strategic plans and Global Fund grants. UN Women will further support the meaningful engagement and participation of women living with HIV in CEDAW reporting and implementation, and monitoring of CEDAW's Concluding comments. UN Women will develop policy recommendations on addressing the needs of women left behind in the HIV response, such as indigenous women, women who use drugs, young women and adolescent girls. ILO will continue to build capacities of labour inspectors and the administration of labour ministries to strengthen monitoring of non-discrimination HIV workplace legislation, policies and programmes.

The Global Network of People Living with HIV (GNP+), UNDP, UN Women, the PCB NGO delegation and the UNAIDS Secretariat, will co-convene a global compact to eliminate all forms of HIV-related stigma and discrimination.

UNAIDS
20 Avenue Appia
CH-1211 Geneva 27
Switzerland

+41 22 791 3666

unaids.org