

FACT SHEET ON HIV & THE LAW

PUNITIVE LAWS AND DISCRIMINATORY POLICIES ARE STANDING IN THE WAY OF THE GLOBAL AIDS RESPONSE.

Thanks to advancements in science and modern medicine, we have the opportunity to make decisive progress toward ending the AIDS epidemic. Key remaining challenges are encouraging people to get tested and removing barriers to prevention, treatment, care and support services.

Laws that criminalize HIV transmission and exposure and those that penalize non-disclosure of HIV status discourage people from getting tested or accessing health services.

- More than 60 countries criminalize HIV transmission. Since only people who know their HIV status can be prosecuted, these laws discourage people from being tested and by extension, lead to them not seeking health services they may need.

HIV criminalization laws can exacerbate the unequal treatment of women and leave them more susceptible to discrimination.

- In many regions of the world, women remain disproportionately affected by HIV. In West and Central Africa, 64% of new HIV infections among young people in 2015 occurred among young women.
- Laws that criminalize HIV transmission, exposure and non-disclosure discourage women from learning or disclosing their statuses due to fear of domestic violence and prosecution.

Laws targeted at key populations can perpetuate discrimination and block people from seeking health services, undermining public health goals as a consequence.

- Key populations - including men who have sex with men, transgender people, people who use drugs and sex workers - already have a higher risk of being infected with HIV.
- Criminalizing same-sex relations, drug use and sex work often leads to these populations not being able to access the health services they need. Countries that criminalize same-sex relations have significantly higher HIV prevalence rates.
- There is evidence that criminalizing drug use increases the risk of HIV and viral hepatitis transmission. In contrast, when governments support harm reduction - for example, through clean needle distribution programs and safe injection sites - the levels of HIV and co-infection can drop significantly.

PROGRESS IS POSSIBLE: IN RECENT YEARS, SEVERAL COUNTRIES HAVE TAKEN STEPS TO REFORM HIV CRIMINALIZATION LAWS.

Mozambique revised its laws on criminalizing unintentional HIV transmission.

Seychelles decriminalized adult consensual same-sex relations.

The High Court of Kenya found a law criminalizing HIV transmission to be unconstitutional.

In Ghana, partners developed a stigma and reporting system that allows key populations, including people living with HIV, to file complaints about human rights abuses and seek redress.

The High Court of Botswana ruled that foreign prisoners living with HIV are entitled to receive lifesaving antiretroviral treatment.

TO CONSOLIDATE GAINS MADE AGAINST THE AIDS EPIDEMIC, COUNTRIES MUST REPEAL DISCRIMINATORY LAWS AND POLICIES AND PROMOTE PROGRESSIVE LEGISLATION THAT PROTECTS THE RIGHTS OF PEOPLE LIVING WITH AND AFFECTED BY HIV.

Public resources are wasted on enforcing laws that criminalize HIV transmission, exposure and non-disclosure and dehumanize people living with and affected by HIV.

Laws that protect at-risk populations are powerful tools to help ensure that financial and scientific investments for HIV are consolidated.

Enacting evidence-based laws that protect the rights of people with and affected by HIV will increase access to prevention, treatment, care and support services for those who need them most.