



# HIV, Human Rights and Gender Equality

## Technical Brief

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## Contents

I.	Introduction.....	3
II.	Global Fund commitments.....	3
III.	Effectiveness and impact.....	4
IV.	Programmatic responses.....	6
V.	Ensuring implementation at scale.....	13
VI.	A rights-based and gender-responsive approach to HIV programs.....	14
VII.	Conclusion.....	15
VIII.	Resources.....	15

# I. Introduction

The purpose of this Technical Brief is to assist Global Fund applicants in their efforts to include and expand programs to remove human rights and gender-related barriers to HIV prevention, diagnosis and treatment services. This Brief discusses the barriers these programs help to remove, the various forms the programs take, the need to cost and allocate budget for them, and how to implement them in effective ways and at appropriate scale. It also aims to help stakeholders ensure that, as they are rolled out, HIV health services and programs promote and protect human rights and gender equality.

## II. Global Fund commitments

**The Global Fund has committed to increase investment in programs to remove human rights and gender-related barriers to HIV services.**

Years of experience and greater understanding of HIV prevention and treatment now enable the world to end the HIV epidemic as a public health problem. But research shows that reaching this goal is possible only if there is much greater focus on the vulnerabilities that lead to HIV infection, as well as on the populations living with and most affected by HIV.<sup>1</sup> Human rights violations, including gender inequality and gender-based violence, constitute major vulnerabilities to HIV infection, as well as major barriers to HIV and other health services.<sup>2</sup>

For these reasons, the Global Fund in its Strategy 2017-2022: *Investing to End Epidemics* has committed to increase Global Fund support to programs for people who are most affected by the 3 diseases yet less likely to access services and to “*introduce and scale up programs that remove human rights barriers to accessing HIV, TB and malaria services*” (Strategic Objective 3(c)) and to “*scale-up programs to support women and girls, including programs to advance sexual and reproductive health and rights and investing to reduce health inequities, including gender-related disparities*” (Strategic Objective 3(a & b)).<sup>3</sup> To support these commitments, the Global Fund “Sustainability, Transition and Co-Financing Policy” *requires* that all countries, regardless of income level, include in their funding proposals programs that respond to key and vulnerable populations and to human rights and gender equality-related barriers.<sup>4</sup>

Through this commitment, the Global Fund recognizes that programs to remove such human rights-related barriers are critical to ensure that the health services supported by the Global Fund reach, and are taken up by, those most affected by HIV, TB and malaria. Thus, programs to remove human rights-related barriers are an essential means by which to increase the effectiveness of Global Fund grants.

Key and vulnerable populations of concern under Strategic Objective 3 include women and girls, people who use drugs, sex workers, men who have sex with men, transgender people, migrants, refugees, people in closed settings and people living with disabilities.

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<sup>1</sup> UNAIDS *Fast-Track Ending the AIDS Epidemic by 2030* at [http://www.unaids.org/sites/default/files/media\\_asset/JC2686\\_WAD2014report\\_en.pdf](http://www.unaids.org/sites/default/files/media_asset/JC2686_WAD2014report_en.pdf)

<sup>2</sup> UNAIDS. *The gap report*. Geneva: UNAIDS; 2014.

<sup>3</sup> *The Global Fund Strategy 2017-2022: Investing to End Epidemics*. GF/B35/02

<sup>4</sup> The Global Fund, 2016. *The Global Fund Sustainability, Transition and Co-financing Policy* [GF/B35/04 – Rev. 1], pp.6, 11-12 Available [online](#);

*In 2017, UNAIDS released guidance entitled *Fast-Track and human rights: Advancing human rights in efforts to accelerate the response to HIV*.<sup>5</sup> This guidance reinforces the importance of addressing human rights and gender-related barriers and issues in all national responses to HIV. Only by doing so will States be able to achieve their commitments to fast-track the HIV response and end the AIDS epidemic by 2030.<sup>6</sup> The UNAIDS guidance is an important compliment to this Technical Brief and should be read in conjunction with it. Within the context of fast-tracking, the Guidance provides applicants and implementers with practical approaches to integrating and expanding human rights principles and programs in national responses to AIDS so as to reduce barriers to health care, maximize uptake and adherence, and ensure that no-one is left behind.*

### III. Effectiveness and impact

#### **Removing human rights and gender-related barriers increases the efficacy and impact of HIV responses.**

The response to HIV is predicated on reaching people with information on how to avoid HIV infection, prevent HIV transmission, and take up treatment and adhere to it, if living with HIV. It requires support to behaviour change so that people can and will act on this information. It requires that people are willing and able to interface with health care services and are able to maintain prevention or treatment strategies that make sense in their lives.

Human rights and gender-related barriers undermine these efforts and block uptake of and retention in HIV prevention and treatment services. Fortunately, there are concrete programs to overcome these barriers. The following paragraphs briefly describe the main human rights and gender-related barriers that affect HIV services.

#### **Stigma and discrimination**

Though there is greater acceptance of people living with HIV than there was before, there remain high levels of stigma and discrimination against them, as well as high levels of self-stigma.<sup>7</sup> For this reason, people still fear that a positive HIV diagnosis will result in stigma and discrimination that will threaten their marriages and families, their livelihoods and their place in the community, their access to health care and justice, and possibly result in ostracism and violence. As a consequence, people deny that they may be HIV infected, fear to use condoms or find out about their HIV status, fear to get tested or inform partners of the results, and fear to take up treatment - all because it may reveal to others that they are HIV-positive.

In addition to stigma and discrimination based on HIV status, stigma and discrimination based on social or legal status or gender are also major barriers to the uptake of health services. In most countries, people who use drugs or sell sex are highly marginalized as well as criminalized. In many countries, LGBT people are also criminalized. Migrants and refugees may not have legal status and may face stigma and discrimination socially, as well as denial of health care.<sup>8</sup> People living with disabilities are also often highly marginalized, experiencing high levels of stigma, violence and lack of access to health and social services.<sup>9</sup> When they approach health care services, these populations fear stigma and discrimination on the basis of their social and legal status. Gender-based discrimination can exacerbate and compound the exclusion and abuse faced by marginalized and criminalized communities. Thus, women and girls in these groups often face higher levels of stigma and discrimination. (For more on gender-related discrimination and inequality, see section below.)

<sup>5</sup> UNAIDS, *Guidance: Fast-Track and human rights. Advancing human rights in efforts to accelerate the response to HIV*, Geneva: UNAIDS; 2017 (forthcoming)

<sup>6</sup> UNAIDS. *Fast-Track commitments to end AIDS by 2030*. Geneva: UNAIDS; 2016

([http://www.unaids.org/sites/default/files/media\\_asset/fast-track-commitments\\_en.pdf](http://www.unaids.org/sites/default/files/media_asset/fast-track-commitments_en.pdf), accessed 2 February 2017).

<sup>7</sup> *Global AIDS Update*, 2016, UNAIDS at: <http://www.unaids.org/en/resources/documents/2016/Global-AIDS-update-2016>

<sup>8</sup> *Ibid.*

<sup>9</sup> *Id.* See also « Disability and HIV Policy Brief », WHO, [http://www.who.int/disabilities/jc1632\\_policy\\_brief\\_disability\\_en.pdf](http://www.who.int/disabilities/jc1632_policy_brief_disability_en.pdf)

Unfortunately, stigma and discrimination is common in health care settings where health care workers may be under-trained or uninformed, fearful of infection and poorly supported to avoid infection, or if living with HIV, afraid of revealing their own HIV status.<sup>10</sup> Stigma and discrimination in health care settings takes many forms, including lack of respect for those vulnerable to or affected by HIV, judgemental or disparaging treatment, neglect, denial of or delays in providing care, or the provision of sub-standard care<sup>11</sup>

Thus, whether based on HIV status, social or legal status, or gender, or based on an intersection of such grounds, high levels of stigma and discrimination, found in communities, the workplace, schools, and health care settings, continue to act as major disincentives to uptake of and retention in HIV prevention and treatment.

### **Punitive practices, policies, and laws**

In many countries and communities, there are practices, policies and laws that drive people away from health care. Within health services, these may involve: (a) lack of informed consent and confidentiality, (b) mandatory testing, (c) demands for bribes or high fees, (d) policies allowing for discriminatory treatment of particular groups, and (e) laws requiring healthcare providers to report certain groups to law enforcement.

In the community, police may engage in harsh policing and illegal practices against people who use drugs, sex workers and LGBT people. Such illegal police practices involve harassment, extortion, arbitrary arrests and violence, including sexual violence. Harsh policing or illegal police practices may force sex workers and their clients, LGBT people and people who use drugs to go underground, avoid health services and/or engage in risky practices.

Other forms of punitive law enforcement directly undermine HIV prevention and treatment efforts. People who use drugs may be arrested by police as they try to enter harm reduction service sites; or harm reduction may be altogether denied due to criminalization of drug use. Sex workers may be arrested and condoms in their possession be used as evidence against them. There may also exist overly-broad laws criminalizing transmission of HIV that make people fearful of getting tested or informing their sexual partners of their HIV status.<sup>12</sup> Those in police custody, prisons or other closed settings may be denied access to condoms, harm reduction measures and other forms of HIV and TB prevention, as well as denied treatment. Migrants and refugees may be denied access to HIV prevention and treatment that is available to citizens.

Limiting the ability of certain population groups to effectively protect themselves from infection; or restricting their access to treatment, care and support services, are serious human rights violations with significant negative public health consequences.

### **Gender inequality and gender-based violence**

Gender inequality and discrimination on the basis of sex, gender and gender identity and expression cause major vulnerability to HIV infection and impact.<sup>13</sup> The forms and effects of gender inequality are different for men and women, boys and girls, and gender non-conforming communities. Health and community systems that respond to the gender-specific needs of individuals in where and how they receive services are more effective. Furthermore, health programs should promote gender equality, particularly for women, girls, transgender and gender non-conforming individuals, as a critical aspect of their health strategy.

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<sup>10</sup> *The Gap Report*, 2014, UNAIDS at: [http://www.unaids.org/en/resources/documents/2014/20140716\\_UNAIDS\\_gap\\_report](http://www.unaids.org/en/resources/documents/2014/20140716_UNAIDS_gap_report)

<sup>11</sup> *Eliminating Discrimination in Health Care. Stepping Stone towards Ending the AIDS Epidemic*, UNAIDS, 2016, at [http://www.unaids.org/sites/default/files/media\\_asset/eliminating-discrimination-in-health-care\\_en.pdf](http://www.unaids.org/sites/default/files/media_asset/eliminating-discrimination-in-health-care_en.pdf)

<sup>12</sup> *HIV and the Law: Rights, Risks and Health*, Global Commission on HIV and the Law, 2012 at: <http://www.hivlawcommission.org/index.php/report>

<sup>13</sup> *Global AIDS Update*, 2016, UNAIDS, page 8 at: <http://www.unaids.org/en/resources/documents/2016/Global-AIDS-update-2016>

Women's economic, political and social subordination are deeply entrenched in harmful cultural norms, attitudes, beliefs and practices, as well as in retrogressive laws. Depending on the locale, these gender-specific vulnerabilities for women and girls may comprise lack of autonomy, unequal access to educational and economic opportunities, forced or early marriage, third party authorization requirements limiting their access to health care, and various forms of violence in private or public spaces. In many communities, women fear to reveal their HIV status or seek treatment because they fear rejection, blame, loss of property and custody rights, and/or violence if their HIV status becomes known. Many women and girls cannot negotiate for safer sex with their intimate partners nor make decisions on use of contraceptives. In addition, early or forced marriage constitutes a serious human rights violation posing risks of HIV<sup>14</sup> infection and significant reproductive health problems.

In almost all contexts, women and girls face high rates of gender-based violence, and there is a proven link between gender-based violence and HIV.<sup>15</sup> Such violence can increase risk of HIV infection and/or can be a consequence of a positive HIV status. There is also growing evidence that violence not only increases risk of infection, but also negatively influences adherence to treatment and access to other health services.

Criminalized communities, including sex workers, people who use drugs and LGBT people are at higher risk of violence. Sex workers and LGBT also face higher risk of sexual violence, including rape, at the hands of clients, police and sometimes vigilantes and others in the community.

Boys and men also experience gender-related vulnerability to HIV. Gender norms may push men and boys into avoiding health seeking behaviour, and engaging in behaviours that put them at risk of HIV infection, such as high alcohol and drug use and having multiple and concurrent sexual partners.<sup>16</sup> Because of these gender-related vulnerabilities, a disproportionate number of men fall off treatment, and there is a disproportionately higher death rate of men from AIDS than women.<sup>17</sup>

## IV. Programmatic responses

**There are proven programs by which to reduce human rights and gender-related barriers to HIV services.**

The previous section has outlined some of the main human rights and gender-related barriers to accessing HIV services. These barriers can be overcome by implementing particular programs designed for this purpose. Governments committed to implementing these programs in the 2011 and 2016 *Political Declarations on HIV and AIDS*. In the 2016 *Political Declaration* in which States agree to fast track the AIDS response, they committed in paragraph 63 (e) to implement:

“national AIDS strategies that empower people living with, at risk of and affected by HIV to know their rights and to access justice and legal services to prevent and challenge violations of human rights, including strategies and programmes aimed at sensitizing law enforcement officials and members of the legislature and judiciary, training health-care workers in non-discrimination, confidentiality and informed consent, and supporting national human rights

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<sup>14</sup> *The Gap Report*, 2014, UNAIDS, pages 133-145 at:

[http://www.unaids.org/en/resources/documents/2014/20140716\\_UNAIDS\\_gap\\_report](http://www.unaids.org/en/resources/documents/2014/20140716_UNAIDS_gap_report)

<sup>15</sup> When Women Lead Change Happens. UNAIDS, 2017, at [http://www.unaids.org/sites/default/files/media\\_asset/when-women-lead-change-happens\\_en.pdf](http://www.unaids.org/sites/default/files/media_asset/when-women-lead-change-happens_en.pdf), p.14

<sup>16</sup> *Global AIDS Update*, 2016, UNAIDS, page 8 at: <http://www.unaids.org/en/resources/documents/2016/Global-AIDS-update-2016>

<sup>17</sup> [aidsinfo.unaids.org](http://aidsinfo.unaids.org) (deaths among men estimated at 580000 in 2015 compared to 420000 among women)

learning campaigns, as well as monitoring the impact of the legal environment on HIV prevention, treatment, care and support..”<sup>18</sup>

These programs are recognized as “critical enablers” by UNAIDS, WHO and other technical partners.<sup>19</sup> They are “critical” because they improve access, uptake and retention of health services by those vulnerable to and living with HIV. In particular, they help to ensure that health services will reach those who are most vulnerable as well as most marginalized. They also help to build strong community and health systems by educating and empowering affected populations, health care workers and law enforcement about human and patients’ rights related to HIV.

Since 2012, UNAIDS has advocated for *Seven Key Programs to Address Stigma and Discrimination and Increase Access to Justice*.<sup>20</sup> These program areas address human rights and gender-related barriers to HIV services. They comprise: (a) stigma and discrimination reduction; (b) training of health care workers on human rights and medical ethics related to HIV; (c) sensitization of law-makers and law enforcement agents; (d) legal literacy (“know your rights”); (e) HIV-related legal services; (f) monitoring and reforming laws, regulations and policies relating to HIV; and (g) reducing discrimination against women in the context of HIV.

These are programmatic outcome areas, within which a range of actions and interventions can be designed and implemented. Thus, these program areas and the interventions within them are flexible, can take many cost-effective forms, and can be tailored to different issues and contexts, as well as to different key and vulnerable populations. Also note that interventions to address human rights-related barriers can also be integrated into other HIV programs, such as prevention and testing outreach, healthcare worker trainings on HIV services, etc.

These program areas often contribute to the achievement of more than one objective that will positively affect uptake of and retention in health care services. For example, programs aimed at building ethical and human rights competence among health-care providers or supporting rights-based policing would also contribute towards reducing HIV-related stigma and discrimination.

It is best that these programs be delivered in combination so as to support each other and thereby maximize results. For instance, where stigma and discrimination are high in health care settings, three programs could be put in place that would mutually reinforce each other: (a) capacitating health care workers on human rights and medical ethics related to HIV and enhancing their accountability; (b) providing patients’ rights and human rights literacy to affected populations so that they can deal with the discrimination they face in the clinic and monitor the quality of health care they receive; and (c) providing community and peer-based legal services and support to those discriminated against so that they can have support in accessing and staying on health care.

## **Programs to reduce HIV-related stigma and discrimination**

Measurement and monitoring of stigma and discrimination is critical to inform evidence-based programs to reduce stigma and discrimination and other human rights-related barriers to access to health services, as well as to improve the quality of those services. A number of tools have been developed by which to *measure* HIV-related stigma and discrimination in communities, in health care settings, and as experienced by people living with HIV and key and vulnerable populations (see box). Many countries have carried out such measurements, and the results may be available to

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<sup>18</sup> See GA Resolution A/RES/70/266 adopted on 8 June 2016: *Political Declaration on HIV and AIDS: On the Fast Track to Accelerating the Fight against HIV and to Ending the AIDS Epidemic by 2030*; see also GA Resolution A/RES/65/277 adopted on 8 June 2011, *Political Declaration on HIV and AIDS: Intensifying Our Efforts to Eliminate HIV and AIDS*, para. 80 at [http://www.unaids.org/sites/default/files/sub\\_landing/files/20110610\\_UN\\_A-RES-65-277\\_en.pdf](http://www.unaids.org/sites/default/files/sub_landing/files/20110610_UN_A-RES-65-277_en.pdf)

<sup>19</sup> See WHO *Consolidated Guidelines on HIV Prevention, Diagnosis, Treatment and Care for Key Populations* at <http://www.who.int/hiv/pub/guidelines/keypopulations/en/>; see also Schwartlander B, Stover J, Hallett T et al. Towards an improved investment approach for an effective response to HIV/AIDS. *Lancet* 2011; 377 (9782): 2031-41.

<sup>20</sup>UNAIDS/JC2339E (English original, May 2012); ISBN: 978-92-9173-962-2.

inform design and implementation of programs to *reduce* stigma and discrimination. All countries should put in place a system to generate the data necessary to adequately monitor stigma and discrimination experienced by people living with HIV and key populations, as well as the impact of these on HIV service access and uptake.

Programs to *reduce* stigma and discrimination should address the drivers, facilitators and manifestations of stigma and discrimination; should involve those affected in the design, delivery and evaluation of the programs; and should be taken to the scale necessary to make a difference. The reduction of stigma and discrimination can be aimed at the structural level, the institutional level, the community level or individual level. In most cases, interventions to address all levels will be required for impact.

**At the structural level**, the implementation of policies and laws that protect against HIV-related discrimination sends important messages, helps to change harmful behavior, and provides redress to those affected. (For removing discriminatory policies and laws, see below section on programs on reforming policies, regulations and laws). Strong accountability mechanisms are also important for elimination of discrimination.

**At the institutional level**, programs to reduce HIV-related stigma and discrimination can be put in place in workplaces, health care settings, justice and law enforcement settings, and in schools. They can involve the development of institutional policies against stigma and discrimination, training of personnel and complaints and redress procedures.

**At the community level**, relevant programs might involve public engagement of people living with HIV, members of other key populations, religious leaders and celebrities against stigma and discrimination; community dialogues; media, advertisements, edu-tainment designed to reduce stigma; and mobilization, self-help and peer outreach of people living with HIV and other key populations.

People living with HIV, sex workers, people who use drugs, LGBT people, migrants and people with disabilities have been underutilized as a major resource for stigma reduction. Their engagement in efforts goes a long way to change attitudes.<sup>21</sup> In 2014, UNAIDS published a “Guidance Note on Reduction of HIV-related Stigma and Discrimination” that details programmatic responses to

**Tools by which to measure HIV-related stigma and discrimination**

- The People Living with HIV Index implemented by and for people living with HIV
- The GAM indicator on discriminatory attitudes in general population and its NCPI
- The survey tool by which to measure HIV stigma in health care settings by the Stigma Action Network
- The PLHV-friendly Achievement Checklist for health care settings by the Population Council.
- IBBS module on S&D experienced by key populations

**Programs to train health care workers on human rights and medical ethics related to HIV**

Health care settings should be places of exemplary welcome, acceptance, care and support for those at-risk to and affected by HIV. However, health care workers often do not have the training, awareness or support to provide such care and acceptance. In order to reduce stigma and discrimination in health care settings, research has shown it is necessary to deal with what have been identified as the three “actionable” causes of stigma in health care: (1) “lack of awareness of what stigma looks like and why it is damaging; (2) fear of casual contact stemming from incomplete

<sup>21</sup> UNAIDS PCB Thematic Segment: Non-discrimination Background Note, UNAIDS/PCB (31)/12.25, 2012 at : [http://files.unaids.org/en/media/unaids/contentassets/documents/pcb/2012/20121111\\_PCB%2031\\_Non%20Discrimination\\_final\\_nwcoverpage\\_en.pdf](http://files.unaids.org/en/media/unaids/contentassets/documents/pcb/2012/20121111_PCB%2031_Non%20Discrimination_final_nwcoverpage_en.pdf)

knowledge about HIV transmission; and (3) value judgments linking people with HIV to improper or immoral behavior”.<sup>22</sup>

Programs to train and support health care workers on human rights and medical ethics can first help them better understand and secure their own needs and rights. These include access to appropriate levels of understanding and knowledge about HIV transmission; universal precautions; protection against discrimination where they are HIV positive themselves or are perceived to be HIV positive; and access to workers’ compensation for job-related injuries or illness.

Secondly, such programs can help to increase access and uptake by those in need of HIV prevention and treatment where health care workers understand their duty to treat in a non-discriminatory fashion, drop stigmatizing attitudes and behaviors, and understand and implement informed consent and confidentiality. Furthermore, access and uptake is increased where clients understand that health care providers are being held accountable, including through monitoring of compliance with non-discrimination and providing redress mechanisms where discrimination occurs.

It is important that these programs are aimed not only at staff, but also at administrators and health care regulators who should lead or support activities to put in place and enforce policies that reinforce the training and ensure respectful and effective health care delivery, including appropriate quality assurance and client satisfaction.

Research has shown that programs are more effective where there is care taken to recruit trainers who are well respected by the health care workers. Program impact may also be enhanced when people living with HIV and members of other key populations are meaningfully involved as trainers. Consideration should be given to when and how often such training should be provided, as well as gender balance and other gender considerations.<sup>23</sup> These programs also significantly strengthen health care systems.

In Malawi, some 800 health care workers in hospitals were provided peer-based training that dealt with universal precautions and stigma. The workers participated in 10 sessions, each of 90-120 minutes in duration. Results showed statistically significant improvements in both knowledge of universal precautions and respectful interactions with patients. Patients also reported that they felt they could better trust the health care workers to keep their HIV and health status confidential.<sup>24</sup>

## **Programs to sensitize lawmakers and law enforcement agents**

Law making and law enforcement can go a long way to support access to HIV services and to protect those vulnerable to infection or living with HIV from discrimination and violence. However, lawmakers, judges, prosecutors and police often do not understand how HIV is transmitted or the many forms that vulnerability may take. They themselves may be sources of stigma, discrimination and hostile action. Programs therefore aim to provide information on basic HIV epidemiology; show how law and law enforcement can help or hinder the HIV response; and address stigma, discrimination and illegal police practices aimed at key populations.

These programs can take the forms of: (a) sensitization on HIV, the role of law and the enforcement of protective laws in the context of the HIV response; (b) development of HIV workplace policies and practices to protect law-makers and police from HIV infection; (c) facilitated community dialogues or joint activities with people living with HIV and members of other key populations, including on law enforcement that undermines the HIV response; and (d) efforts to improve prison policies and

<sup>22</sup> Nyblade L, Jain A, Benkirane M et al. A brief, standardized tool for measuring HIV-related stigma among health facility staff: results of field-testing in China, Dominica, Egypt, Kenya, Puerto Rico and St. Christopher & Nevis. *Journal of the Int’l AIDS Society* 2013;16 (3 Suppl 2):18718.

<sup>23</sup> See Csete, J. “Human rights-based training of health workers related to HIV: Theory of change and review of evaluations: Summary” (short paper), 2016 in draft

<sup>24</sup> Chimango JL, Kaponda CN, Jere DL et al. Impact of a peer-group intervention on occupation-related behaviors for urban hospital workers in Malawi. *Journal of the Association of Nurses in AIDS Care* 2009;20(4):293-307.

practices regarding access to HIV prevention, treatment and harm reduction in prison. Programs can be aimed at parliamentarians, personnel of Ministries of Justice and Interior, judges, prosecutors, religious and traditional leaders, police, and prison personnel.

Research has shown that it is difficult, but important, to counter, with sensitization, the strong forces at work that influence the attitudes and behaviors of these groups. For example, police often deal with low pay, lack of informed leadership, and pressure from communities and superiors that could undermine the effectiveness of training if it is offered “one-off” or in isolation. Thus, it is important to provide such training in combination with other efforts that will reinforce changes in attitudes and practices. These efforts might involve collective advocacy and ongoing engagement with the police by key populations. Sensitization and training offered by police peers and involving oversight and leadership from high-level officials are also important predictors of success and positive change.

Furthermore, police appear to be more responsive to the training if also deals with occupational safety issues involving risks of HIV infection during police work.<sup>25</sup> Other promising programs involve study trips between countries to see successful harm reduction programs, joint activities with key populations to address police violence against them including sexual violence, and joint activities to monitor abuses and find redress for key populations.<sup>26</sup>

In 2009, drug laws changed in Mexico with possession for personal use being decriminalized and diversion of habitual users into treatment becoming mandatory. In order to educate police about these changes and improve policing around them, a police education program was implemented in Tijuana, Mexico, using an occupational safety framework and addressing the new law, its enforcement, public health considerations and occupational knowledge of HIV. After the training and through follow-up studies, results indicated that police understood better the law, harm reduction and diversion; were less likely to arrest users and confiscate clean syringes; and were more likely to divert them into treatment. They also appeared better able to reduce risky occupational practices that exposed themselves to HIV infection.<sup>27</sup>

## **Programs to provide legal literacy (“know your rights”)**

Programs on human rights and legal literacy enable people to know their rights and the relevant policies and laws related to HIV and draw these down into concrete HIV-related demands. Being aware of their rights to health, non-discrimination, freedom from violence, privacy, gender equality, sexual and reproductive health, people can mobilize around these and advocate for nondiscriminatory health care; protective versus punitive policing; a dependable supply chain as well as reasonable prices for drugs; equality in custody and property rights; protection against gender-based violence; integration of services, etc.

Programs can also be provided on patients’ rights and integrated into HIV prevention and treatment literacy efforts. These programs enable patients to know, expect and advocate for informed consent, confidentiality, nondiscrimination and supportive attitudes in health care settings. Legal and rights literacy enables key populations to monitor aspects of the HIV response that are critical to them and deal with authorities on the basis of rights that are protected by local laws and policies. Legal and rights literacy is also a significant component of increasing access to justice, social accountability and monitoring and community system strengthening. Such programs can take the form of training, community mobilization, community paralegal support, community monitoring, peer support and outreach, media campaigns, and hotlines. Evaluations have shown that greater results are reached

<sup>25</sup> See Csete, J. “Police training to improve HIV responses: A summary of the evidence”, 2016 in draft.

<sup>26</sup> See Csete, J. “Police training to improve HIV responses: Theory of change, methods and results of a review of the literature”, 2016 in draft.

<sup>27</sup> L. Beletsky, J. Arredondo et al, “Police Education Program to Improve the Implementation of Drug Policy Reform in Mexico: Initial Findings from a Longitudinal Assessment”, 3<sup>rd</sup> International Conference on Law Enforcement and Public Health, 2-5 October 2016 Amsterdam, The Netherlands.

by combining these programs with community mobilization, legal services and support, and HIV prevention and treatment information.<sup>28</sup>

The Sex Workers Education and Advocacy Taskforce (SWEAT) of South Africa, in partnership with the Women's Legal Centre (WLC) of Cape Town, created a cadre of over 500 peer educators to strengthen the rights literacy of sex workers.<sup>29</sup> The material had an HIV focus but also dealt with the daily security risks faced by sex workers at the hands of police (arbitrary arrest, extortion) and clients (violence), as well as discrimination in the community. The initial cadre of peer educators trained more such educators. Their support to their sex worker colleagues focused not only on rights but also on access to HIV testing and treatment. Evaluation showed that the sex workers' working environment improved, they had better relations with police, and they were able to better access HIV services.<sup>30</sup>

### **Programs to provide HIV-related legal services**

Legal services in the context of the HIV response can assist people to address a number of issues that affect their health, their health seeking behavior, and their general wellbeing. These issues comprise discrimination in health services, employment, housing and property and custody rights; illegal police behavior involving harassment, arbitrary arrest and violence against key populations; overly broad prosecution for HIV transmission, drug use and sex work; prosecution based on sexual orientation; denial of services in prison and pretrial detention; and violence against women, including intimate partner violence and rape. Legal services can also help people access social services and plan for the future in such activities as estate planning and writing wills.

Legal services can take many cost-effective forms: community and/or peer paralegals, sensitized traditional and religious leaders, alternative forms of community dispute mechanisms, internet-based provision of advice, legal hotlines and attorney representation through *pro bono* clinics.<sup>31</sup>

The lawyers of the Uganda Network on Law, Ethics and HIV/AIDS (UGANET) have trained over 100 paralegals chosen from a diverse array of people who are already respected in their communities as teachers, health care workers, traditional leaders and people living with HIV. These community-paralegals travel on bicycles provided by UGANET to far-flung communities where they provide advice on HIV-related rights, better access to health services, mediating disputes including over property grabbing and child support, working with the police, and writing wills. On complicated cases, they get support from the five legal AIDS clinics of UGANET. They also disseminate legal advice through call-in radio shows. They not only support individuals, but also support community activism around critical HIV issues.<sup>32</sup>

### **Programs to monitor and reform laws, regulations and policies relating to HIV**

There have been significant efforts, with some great successes over the years of the HIV response, to put in place policies and laws that protect people from discrimination and support their access to HIV prevention and treatment. Unfortunately, there remain many policies and laws that retard access, undermine proven HIV health strategies and discriminate against key populations (laws criminalizing same-sex sexual conduct, expression of gender identity, possession of small amounts of drugs or injection equipment for personal use, buying or selling sex; laws that provide for the overly broad criminalization of HIV; laws that fail to protect the equality of women in the public and private sphere, as well as protect them from violence). Regulations and policies of concern involve such things as mandatory testing, disclosure and treatment; registration of people who use drugs;

<sup>28</sup>See Csete, J. "Legal/rights literacy or awareness to improve HIV program outcomes: Theory of change, methods and results of a review of the literature", 2016 in draft

<sup>29</sup> Maloney J. I feel empowered, I know my rights: communities empowered by peer educators and paralegals. Melbourne: Victoria Law Foundation, 2014.

<sup>30</sup> For another description of this program, see *Bringing justice to health: the impact of legal empowerment projects on public health*. Open Society Foundations, New York, 2013. See also Csete, J. "Legal/rights literacy or awareness to improve HIV program outcomes: Theory of change, methods and results of a review of the literature", 2016 in draft

<sup>31</sup> *Toolkit: Scaling Up HIV-related Legal Services*, UNAIDS, UNDP, IDLO, 2009 ISBN 978-88-96155-02-8 at : [http://data.unaids.org/pub/Manual/2010/20100308revisedhivrelatedlegalservicetoolkitwebversion\\_en.pdf](http://data.unaids.org/pub/Manual/2010/20100308revisedhivrelatedlegalservicetoolkitwebversion_en.pdf)

<sup>32</sup> *Bringing Justice to Health: The Impact of Legal Empowerment Projects on Public Health*, Open Society Foundations, New York, 2013 ; ISBN 978-1-936133-90-1

user-fees; failure to take into account flexibilities in intellectual property law; and sterilization of HIV positive women.

When contemplating programs to monitor or reform policies, regulations and laws, it is important to determine whether a review of existing HIV-related policy frameworks has already been done or needs to be done. Such a review may be useful in determining which policies, regulations or laws should be subject to reform as a priority. Programs to monitor or reform laws entail monitoring the impact of policies, laws and regulations in terms of uptake and retention on HIV services; assessing the degree to which key populations have access to justice and advocating for improvements; advocacy for policy or law reform; and working with parliamentarians and Ministries of Health, Justice, Gender and Interior. Though national and sub-national laws send a powerful signal regarding the social and legal acceptance or rejection of key populations, reform of laws can be a difficult and long process. Reform of regulations and policies may be quicker and may have more immediate impact on the lives of those vulnerable to and living with HIV. Hence, assessments should be made by which to prioritize action or carry out both objectives can be simultaneously through appropriate programs.

Over the years of the HIV response, many national reviews of policies and laws related to HIV have been conducted and may be available to inform programs to address human rights and gender-equality related barriers to services. More recently UNDP has supported countries to implement “legal environment assessments” based on a particular methodology that also seeks to bring together government and civil society into a partnership that can support law reform. These legal environment assessments enable countries to review policies and laws based on evidence, health policy, and human rights considerations, so as to be able to ensure a policy and legal framework that supports effective national HIV responses.<sup>33</sup>

### **Programs to reduce discrimination against women and girls in the context of HIV**

All the programs that have been described above can be implemented for and by women and girls in the context of HIV. Such programs would go a long way to reduce the discrimination, gender inequality and violence that make women and girls highly vulnerable to HIV infection and impact in many societies. These programs can be tailored to the particular needs of women and girls, whether it be rights literacy on women’s rights; legal services for women in the context of HIV; reform of policies and laws relating to gender inequality and violence that impact HIV vulnerability for women and girls (e.g. policies and laws on early marriage, age of consent, girls’ education, property and custody rights, marital rape, intimate partner violence, female genital mutilation, protection from forced sterilization); training of health care workers on informed consent, confidentiality and nondiscrimination in maternal and child health, including those working to reduce mother-to-child transmission and providing treatment to women<sup>34</sup>; sensitizing law makers and police on protective laws and protective policing, including for women who use drugs, women engaged in sex work, bisexual and transgender women, and women and girls suffering gender-based violence.

Other programs that are critical to reduce human rights and gender inequality-related barriers to HIV services include programs that challenge and address harmful gender norms and that seek to eliminate violence against women. These are programs for women, men and young people that address harmful gender practices that also put women, girls and men at risk of HIV, including culturally accepted practices such as cross-generational sex, concurrent partnerships, wife inheritance, early or forced marriage, intimate partner violence, disproportionate burden of care, harmful dowry practices, female genital mutilation, and homo- and trans-phobia. They can be delivered as stand-alone programs focusing on HIV-related vulnerabilities; or the vulnerabilities

<sup>33</sup> *Practical manual: Legal environment assessment for HIV: An operational guide to conducting national legal, regulatory and policy assessments for HIV*, UNDP at <http://www.undp.org/content/undp/en/home/librarypage/hiv-aids/practical-manual--legal-environment-assessment-for-hiv--an-opera.html>.

<sup>34</sup> For more on the EMTCT validation process and its human rights, gender equality and community engagement elements, see: <https://results.unaids.org/sites/default/files/documents/Validation%20Case%20Study.pdf>

specific to HIV can be integrated into general programs to promote gender equality and an end to violence against women, as well as into life skills and sexuality education programs for young people.

In South Africa, research conducted in partnership with an NGO, People Opposing Women Abuse (POWA), offered women survivors of intimate partner violence education on human rights, HIV prevention and gender dynamics at drop-in centers and shelters for these women. Results included better understanding of risks associated with HIV and the right to insist on condoms, as well as greater willingness to tell family members about the interpersonal violence they had experienced. Also of interest was that the sessions appeared to allow the women to have increased knowledge of HIV prevention and to develop prevention strategies that they could use safely while they were in violent relationships. They also received support to leave such relationships if they decided to do so.<sup>35</sup>

## V. Ensuring implementation at scale

**Programs to address human rights and gender-related barriers to HIV services should be identified, included, costed, budgeted, implemented and evaluated at a scale to make a difference.**

During the period of its last strategy, the Global Fund encountered the following phenomenon: the majority of the applications referred to human rights and gender-related barriers to HIV services in the introductions or analysis found in their Concept Notes. However, few programs were identified to address these barriers, and those that were identified were seldom costed, budgeted or implemented. The very few that were implemented were at small scale with little capacity to make the necessary difference and almost no evaluation. Thus, there needs to be concerted efforts to ensure these programs are fully described in Concept Notes and taken through to implementation, monitoring and evaluation.

Those developing concept notes, investment cases, Fast Track strategies and national strategic plans should take the following steps to ensure implementation of the necessary programs to reduce human rights and gender equality-related barriers to HIV services. This should be done during country dialogues and other opportunities in consultation with members of affected populations, government counterparts, relevant civil society, technical partners and advocates working on human rights and gender equality in the context of HIV. While this document and the resources listed below seek to elucidate the programmatic elements of these programs, costing them can be assisted by use of the UNAIDS *Human Rights Costing Tool* and its accompanying *User Guide*.<sup>36</sup> Steps to be taken in full and meaningful consultation with people living with HIV and other key populations include:

1. Identify key and vulnerable populations who are at increased risk of infection and/or low access to HIV prevention and treatment
2. Define the main human rights and gender-related issues that are acting as barriers to access, uptake and retention of HIV prevention and treatment
3. Identify the populations, communities, health care services most affected by these barriers
4. For each barrier, identify the relevant programs described above and key programmatic actions, actors and scale that would result in effectively eliminating or minimizing the impact of such barriers
5. Estimate program costs
6. Allocate budget

<sup>35</sup> Sikkema KJ, Neufeld SA, Hansen NB, Mohlahlane R, Van Rensburg MJ, Watt MH, et al. Integrating HIV prevention into services for abused women in South Africa. *AIDS Behavior* 2010;14(2):431-9. See also Csete, J. "Legal/rights literacy or awareness to improve HIV program outcomes: Theory of change, methods and results of a review of the literature", 2016 in draft.

<sup>36</sup> *The Human Rights Costing Tool (2012) UNAIDS*, [http://www.unaids.org/en/media/unaids/contentassets/documents/data-and-analysis/tools/The\\_Human\\_Rights\\_Costing\\_Tool\\_v\\_1\\_5\\_May-2012.xlsm](http://www.unaids.org/en/media/unaids/contentassets/documents/data-and-analysis/tools/The_Human_Rights_Costing_Tool_v_1_5_May-2012.xlsm) and the *User Guide for the HIV-related Human Rights Costing Tool*, UNAIDS, JC2276e (English original, May 2012); ISBN: 978-92-9173-952-3 at [http://files.unaids.org/en/media/unaids/contentassets/documents/document/2012/The\\_HRCT\\_User\\_Guide\\_FINAL\\_2012-07-09.pdf](http://files.unaids.org/en/media/unaids/contentassets/documents/document/2012/The_HRCT_User_Guide_FINAL_2012-07-09.pdf).

7. Identify principal recipients and implementing partners, participatory implementation modalities, and technical capacity gaps that need to be addressed to ensure effective implementation
8. Devise and budget for monitoring and evaluation of results
9. Integrate into national health policies, strategies, monitoring and evaluation plans to ensure sustainability.

## VI. A rights-based and gender-responsive approach to HIV programs

The previous section outlines specific and concrete programs that address particular human rights and gender-related barriers to HIV program effectiveness. But there is more to rights-based and gender responsive health services than specific programs to address human rights and gender-related barriers. First there are the five human rights standards with which all Global Fund-funded programs must comply. These standards require that implementers:

1. Grant non-discriminatory access to services for all, including people in detention
2. Employ only scientifically sound and approved medicines or medical practices
3. Do not employ methods that constitute torture or cruel, inhumane or degrading treatment
4. Respect and protect informed consent, confidentiality and the right to privacy concerning medical testing, treatment or health services rendered, and
5. Avoid medical detention and involuntary isolation, which, consistent with WHO guidance, are to be used only as a last resort.

Secondly, a human rights-based and gender-responsive approach to addressing HIV and other health problems means integrating human rights and gender equality norms and principles – non-discrimination, transparency, participation and accountability -- into the design, implementation, monitoring, and evaluation of HIV and health programs. It also means empowering vulnerable groups and key populations, putting in place necessary programs to address their particular vulnerabilities and needs, ensuring their participation in decision-making processes which concern them, and ensuring that there are mechanisms for monitoring, complaint and redress when rights are violated. Human rights-based services should be informed by a thorough assessment and analysis of where human rights barriers and gender inequality exist, whom they affect and how. In some cases, improved targeting of existing programs to ensure inclusion of marginalized persons can be an important human rights measure.<sup>37</sup>

The planning, implementation and evaluation of Global Fund-supported HIV programs are opportunities to contribute to rights-based national HIV responses. They can help ensure that users of health services and those most affected by HIV are brought together in meaningful and non-threatening consultation with government, service providers, community leaders and others in civil society. The perspectives and voices of those affected by the disease are irreplaceable, including in determining priorities for reducing human rights barriers and gender inequality. Where there are established national human rights bodies or ombudspersons, those institutions may also play an important role in ensuring the respect, protection and fulfillment of the rights of people needing and using HIV services.

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<sup>37</sup> For a full discussion of the integration of human rights principles in national HIV responses, see *UNAIDS 2017, Guidance: Fast-Track and human rights Advancing human rights in efforts to accelerate the response to HIV*

## VII. Conclusion

The Global Fund intends to do its part to end the epidemics of AIDS, tuberculosis and malaria. Realizing this vision requires a bold and strategic approach to achieve greater impact. In this context, the Global Fund strives to support efficient and effective country-led responses to the challenges of national epidemics of the three diseases. Efficient and effective responses are those that reach all those living with or vulnerable to HIV, TB and malaria and overcome barriers they face in accessing and remaining on health services. Thus, the Global Fund will do its best to support countries to increase investment in and implementation of programs to remove human rights and gender-related barriers to health services and to take these to necessary scale.

## VIII. Resources

- “Seven Key Programs to Address Stigma and Discrimination and Increase Access to Justice”, UNAIDS, 2012 at [http://www.unaids.org/sites/default/files/media\\_asset/Key\\_Human\\_Rights\\_Programmes\\_en\\_May2012\\_0.pdf](http://www.unaids.org/sites/default/files/media_asset/Key_Human_Rights_Programmes_en_May2012_0.pdf).
- “Reduction of HIV-related Stigma and Discrimination”, Guidance Note 2014, UNAIDS at [http://www.unaids.org/sites/default/files/media\\_asset/2014unaidsguidancenote\\_stigma\\_en.pdf](http://www.unaids.org/sites/default/files/media_asset/2014unaidsguidancenote_stigma_en.pdf).
- *Practical manual: Legal environment assessment for HIV: An operational guide to conducting national legal, regulatory and policy assessments for HIV*, UNDP at <http://www.undp.org/content/undp/en/home/librarypage/hiv-aids/practical-manual--legal-environment-assessment-for-hiv--an-opera.html>.
- *Justice Programs for Public Health, A Good Practice Guide* Open Society Foundations; ISBN: 9781940983462.
- *Bringing Justice to Health: The impact of Legal Empowerment Projects on Public Health*, Open Society Foundations, 2013 ; ISBN 978-1-936133-90-1.
- *Gender Strategy, Global Fund to Fight AIDS, TB and Malaria* at <http://www.theglobalfund.org/en/publications/>.
- “Gender Action Plan 2014-2016”, Global Fund to Fight AIDS, TB and Malaria at <http://www.theglobalfund.org/en/publications/>.
- *The Human Rights Costing Tool (2012) UNAIDS*, [http://www.unaids.org/en/media/unaids/contentassets/documents/data-and-analysis/tools/The\\_Human\\_Rights\\_Costing\\_Tool\\_v\\_1\\_5\\_May-2012.xlsm](http://www.unaids.org/en/media/unaids/contentassets/documents/data-and-analysis/tools/The_Human_Rights_Costing_Tool_v_1_5_May-2012.xlsm).
- *The User Guide for the HIV-related Human Rights Costing Tool*, UNAIDS, JC2276e (English original, May 2012); ISBN: 978-92-9173-952-3 at [http://files.unaids.org/en/media/unaids/contentassets/documents/document/2012/The\\_HRCT\\_User\\_Guide\\_FINAL\\_2012-07-09.pdf](http://files.unaids.org/en/media/unaids/contentassets/documents/document/2012/The_HRCT_User_Guide_FINAL_2012-07-09.pdf).
- *Global Commission on HIV and the Law*.
- Nyblade L, Jain A, Benkirane M et al. A brief, standardized tool for measuring HIV-related stigma among health facility staff: results of field testing in China, Dominica, Egypt, Kenya, Puerto Rico and St. Christopher & Nevis. *Journal of the Int'l AIDS Society* 2013;16(3 Suppl 2):18718.
- *Reducing HIV Stigma and Discrimination: A Critical Part of National AIDS Responses* (UNAIDS) at [http://www.unaids.org/en/resources/documents/2009/20090401\\_jc1521\\_stigmatisation\\_en.pdf](http://www.unaids.org/en/resources/documents/2009/20090401_jc1521_stigmatisation_en.pdf).
- *Toolkit: Scaling Up HIV-related Legal Services*, UNAIDS, UNDP, IDLO, 2009, ISBN 978-88-96155-02-8 at : [http://data.unaids.org/pub/Manual/2010/20100308revisedhivrelatedlegalservicetoolkitwebversion\\_en.pdf](http://data.unaids.org/pub/Manual/2010/20100308revisedhivrelatedlegalservicetoolkitwebversion_en.pdf).
- *HIV and the Law: Rights, Risks and Health*, Global Commission on HIV and the Law, 2012 at: <http://www.hivlawcommission.org/index.php/report>.