

UNAIDS 2022

SRA 6: Human rights, stigma and discrimination

SRA report 2021

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SRA 6: Human rights, stigma and discrimination



Punitive laws, policies, practices, stigma, and discrimination that block effective responses to HIV are removed

Global overview

In 2020, ninety-six countries had laws that criminalize the nondisclosure, exposure and transmission of HIV and an additional 39 countries had prosecuted such cases based on general criminal law provisions. Thirty-five countries maintained the death penalty for drug offences and 67 criminalized the consumption and/or possession of certain drugs for personal use. Sixty-nine countries criminalized consensual same-sex relations, including 6 that authorized the death penalty for such violations; 98 countries criminalized some aspect of sex work; and 13 countries criminalized transgender persons.

In 25 of 36 countries with recent data, more than 50% of people aged 15–49 years displayed discriminatory attitudes towards people living with HIV.¹ The proportion of people living with HIV who reported being denied health services at least once in the past 12 months ranged from 1.7% in Malawi to 21% in Peru and Tajikistan.

Decriminalization strengthens HIV responses and save lives. The percentages of people knowing their HIV status and viral suppression among people living with HIV were significantly lower in countries that criminalize people living with HIV and key populations than in countries without criminalization. Conversely, countries with laws that advance nondiscrimination, the existence of human rights institutions and responses to gender-based violence had more effective HIV outcomes.

The ILO and Gallup conducted a 50-country study on HIV-related stigma and discrimination in the world of work, which showed a need for stronger actions to address HIV-related stigma and discrimination. Almost 40% of respondents said people living with HIV should not be allowed to work directly with people who do not have HIV.

¹ End Inequalities. End AIDS Global AIDS Strategy 2021-2026, page 42, para. 139.

Joint Programme contribution towards achieving SRA 6

UBRAF indicator progress

STRATEGY RESULT AREA 6: HUMAN RIGHTS, STIGMA AND DISCRIMINATION							
Indicator 6.1: Percentage of countries positively addressing laws and/or policies presenting barriers to HIV prevention, treatment and care services ²	2016 [N=87]	2017 [N=87]	2018 [N=87]	2019 [N=87]	2020 [N=87]	2021 [N=87]	Progress 2016 to 2021
Measurements							
Criminalization of HIV nondisclosure, exposure or transmission	47%	48%	54%	51%	54%	55%	↑
Criminalization of same-sex behaviours, sexual orientation and gender identity	45%	41%	41%	43%	41%	43%	↓
Lack of alternatives to imprisonment for nonviolent minor drug-related crimes	54%	53%	55%	51%	55%	55%	↑
Bans or limits on needle and syringe programmes and/or opioid substitution therapy for people who inject drugs, including in prisons settings	51%	52%	55%	54%	56%	60%	↑
Ban or limits on distribution of condoms in prison settings	60%	61%	63%	62%	62%	61%	↑
Ban or limits on the distribution of condoms for young people	25%	23%	25%	24%	28%	25%	→

² This indicator does not allow for precise interpretation, due to its formulation and the great diversity of laws and policies in countries.

HIV screening for general employment purposes	7%	6%	8%	10%	15%	14%	
HIV-related travel restrictions (HIV-specific regulations on entry, stay and residence)	8%	7%	6%	7%	7%	6%	
Restrictions to adolescent access to HIV testing or treatment without parental consent	63%	61%	61%	62%	57%	55%	

The Joint Programme is a key player (providing advocacy, technical support and more) in supporting countries to identify and repeal or reform discriminatory laws and policies. In many instances, it enables progress on reforms of laws, regulations or policies that present obstacles to effective HIV prevention, treatment, care and support. During 2016–2021, there was progress against three types of discriminatory laws: criminalization of same-sex behaviours, sexual orientation and gender identity; HIV-related travel restrictions (HIV-specific regulations on entry, stay and residence); and restrictions to adolescents' access to HIV testing or treatment without parental consent. This is seen in the decreasing percentage of the countries where these laws exist. However, in other areas a lack of change or even regression is of great concern.

Indicator 6.2: Percentage of countries with mechanisms in place providing access to legal support for people living with HIV		2016 [N= 87]	2017 [N= 87]	2018 [N= 87]	2019 [N= 87]	2020 [N= 87]	2021 [N= 87]	Progress 2016 to 2021
2021 UBRAF target—70%	Status 	53%	57%	61%	64%	66%	64%	
Measurements								
Any mechanisms in place to record and address cases of discrimination in relation to HIV		72%	79%	82%	83%	84%	84%	
Mechanisms in place to provide promote access to legal support (e.g. free legal services, legal literacy programmes) for HIV-related issues including gender-based discrimination (e.g. dispossession due to loss of property and/or inheritance rights in the context of HIV)		77%	84%	83%	83%	84%	84%	
HIV-sensitive training programmes on human rights and nondiscrimination laws for law enforcement personnel, members of the judiciary and members of national human rights institutions conducted		70%	72%	76%	78%	75%	76%	

For this indicator, the percentage for each individual mechanism providing access for legal support for people living with HIV all exceeded the 2021 UBRAF target, 70%. The percentage of countries having all these mechanisms at the same time also reached the 2021 UBRAF target. More work is needed to support countries to conduct HIV-sensitive training programmes on human rights and nondiscrimination laws.

Indicator 6.3: Percentage of countries with measures in place to reduce stigma and discrimination in health-care settings		2016 [N=87]	2017 [N=87]	2018 [N=87]	2019 [N=87]	2020 [N=87]	2021 [N=87]	Progress 2016 to 2021
2021 UBRAF target—60%	Status 	28%	30%	30%	32%	33%	40%	
Measurements								
Health care workers pre- and in-service training includes gender-sensitive stigma and discrimination reduction, including specific attention to the SRHR of women living with HIV in all of their diversity and throughout their lives		57%	59%	63%	64%	67%	70%	
An up-to-date assessment on HIV-related discrimination in the health sector is available (either through the Stigma Index or another tool)		49%	49%	49%	52%	48%	56%	
Measures in place for redress in cases of stigma and discrimination in the health-care sector		57%	62%	63%	66%	64%	68%	
<p>The Joint Programme supports the development of improved measurements of scope, nature and impact of stigma and discrimination in the health sector (and beyond), as well as efforts to document them (e.g., People living with HIV Stigma Index and other tools). The 2021 UBRAF target for this indicator was not reached. However, the percentage of countries with measures in place to reduce stigma and discrimination in health-care settings increased from 28% in 2016 to 40% in 2021. To meet the target, more countries need to have available up-to-date assessments on HIV-related discrimination in the health sector.</p>								

Top achievements in 2020–2021

Countries supported in creating enabling environments that included the repeal of discriminatory laws and/or the creation of new laws protecting the rights of people living with HIV.

UNDP, the UNAIDS Secretariat and other Cosponsors supported 90 countries in creating enabling environments, including through advocacy, policy and programme support, and HIV legal environment assessments. This work contributed to the repeal of laws criminalizing unintentional transmission of HIV in Mozambique and Zimbabwe; decriminalization of

consensual same-sex conduct in Angola and Bhutan; a new law in Chad protecting the rights of people living with HIV; two new legislative amendments in Ukraine that allow people living with HIV to adopt children, access assisted reproductive technologies and have improved access to reproductive and other health services; and the development of a strategy for mainstreaming HIV and human rights in the legal and regulatory framework in Sudan.

ILO, the UNAIDS Secretariat and other partners supported several countries to enact HIV antidiscrimination laws and policies at national and provincial levels, including a new national nondiscriminatory HIV workplace policy in Côte d'Ivoire; the revision of the labour code in Haiti; an antidiscrimination bill in Indonesia; a workplace HIV/TB strategy for Kilifi County in Kenya; and HIV workplace policies in Malawi and Uganda. UNESCO, in partnership with GNP+ and the Global Network of young people living with HIV (Y+ Global) updated the 2012 "Positive Learning" recommendations on meeting the needs of young people living with HIV in the education sector. UN Women, together with various Cosponsors and women's organizations and networks of women living with HIV, worked towards the repeal of discriminatory HIV-related laws in Guatemala, Philippines, Rwanda, South Africa, Tajikistan, Ukraine, Viet Nam and Zimbabwe.

In line with the new Global AIDS Strategy, cities were supported through the USAID-funded Joint UNAIDS-IAPAC Fast-Track Cities project, are addressing societal enablers such as stigma and discrimination, gender-based violence and human rights-related issues and are integrating HIV and other services. In eThekweni, South Africa, collaboration with the South African Human Rights Council helped bring young people living with HIV back into care through the Inanda project. The success of the project led to additional funds being raised to support the integration of HIV and COVID-19 services, and to address community-level stigma and discrimination.

UNHCR intervened to stop the refoulement (or forced return) of refugees living with HIV from several countries. UNHCR also documented the troubling persistence of mandatory HIV testing in many settings, with 47 refugee operations in five countries implementing this discriminatory and counterproductive approach.

UNFPA published the first-ever global data on the number of countries with laws and regulations that guarantee full and equal access to SRHR (SDG 5.6.2), including a dedicated section on HIV. In 2021, UNFPA also published a 2022–2025 Disability Inclusion Strategy.

UNDP and the UNAIDS Secretariat undertook a review of legal and policy trends affecting people living with HIV and key populations in Asia and the Pacific from 2014–2019 to inform law and policy reform initiatives in the coming years. A database of laws of the 38 Member States of Economic and Social Commission for Asia and the Pacific (ESCAP) was created as part of this review. Despite some positive legal developments in a number of countries (such as in China, India, Pakistan and the Philippines), numerous legal and policy obstacles continue to limit access to prevention, testing, treatment and care services. Stigma and discrimination often remain embedded in laws and policies.

The overly broad application of criminal law to HIV nondisclosure, exposure and transmission raises both serious human rights and public health concerns. In at least 11 other countries, HIV tests are mandatory for some entry, residence and travel permits. At least 14 countries require compulsory HIV testing for some groups. There has been a resurgence of harsh laws

and policies for drug control in some Asian countries, with the use of criminal punishments rather than public health approaches. The review reaffirmed the recommendations from the expert group, convened by ESCAP and UNAIDS, which conducted a 2018 mid-term review of progress in implementing the Regional Framework for Action to End AIDS by 2030.

UNDP, working with the UNAIDS Secretariat, the International Association of Prosecutors and civil society organizations, published guidance for prosecutors on HIV-related criminal cases, which presents ten principles that prosecutors and other actors involved in criminal justice administration can use to limit the overly broad use of punitive laws against people living with HIV

Continued sensitization of judiciary law and enforcement officers on HIV and the law, including the negative impact of discriminatory laws

The Joint Programme continued to sensitize the judiciary through regional Judges Forums in Africa, the Caribbean and eastern Europe and central Asia as well as country-level actions. For example, judges from nine countries (Albania, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Ukraine and Uzbekistan) were sensitized on HIV and the law, including the negative impacts of criminalization, and the Ukraine National School of Justices was supported to develop an HIV-specific curriculum for the continuous learning of judges.

In Burkina Faso, UNDP and the UNAIDS Secretariat supported sensitization on HIV and human rights for regional and national stakeholders, including customary and religious leaders, correctional officers, law enforcement officials and magistrates. In Algeria, UNDP and UN partners, in consultation with government and civil society stakeholders, supported the development of an HIV and human rights strategy. In Ghana, UNDP, the UNAIDS Secretariat and other UN partners supported national stakeholders in advocating against an antihomosexuality bill which had been introduced in the Ghanaian Parliament. In collaboration with Egypt's National AIDS Programme and its Ministry of Health and Population, UNAIDS launched the first series of engagements with religious leaders from Ministry of Endowment, El Azhar University and Coptic Orthodox Church to pave the way for policy changes.

In eastern Europe, UNODC—jointly with national academies of Ministries of Interior and civil society organization—developed guidance material for police officers when interacting with people using drugs, including e-training courses and videos on HIV-related risks and alternatives to incarceration. Together with WHO, UNAIDS, UNDP, OHCHR and the International AIDS Society, UNODC supported the organization of a side event at the High-Level Meeting on AIDS 2021. Organized by the International Network of People Who use Drugs, the event raised awareness about the human rights barriers faced by people who use drugs and the effects of punishment and intervention on their lives.

Convened the Global Partnership for action to eliminate all forms of HIV-related stigma and discrimination and supported the participation of communities and networks of people living with HIV and key populations and civil societies.

The Global Partnership for action to eliminate all forms of HIV-related stigma and discrimination membership grew to 29 countries. The co-convenors of the Global Partnership (UNDP, UN Women, the UNAIDS Secretariat, GNP+ and the Global Fund) supported

communities of people living with HIV and key populations to engage in the drafting of national antidiscrimination legislation in Jamaica; supported communities to engage with national ministries in Tajikistan, resulting in the decriminalization of unintentional transmission of HIV in a draft revision of the new criminal code; and supported networks of people living with HIV in Kenya and Lesotho to conduct or plan for the HIV Stigma Index.

In partnership with the International Community of Women Living with HIV–Eastern Africa (ICW-EA), UN Women piloted approaches to address HIV-related stigma and discrimination against women in the context of the COVID-19 pandemic in Senegal, South Africa and Uganda. In Uganda, ICW-EA provided inputs to the national plan on human rights, which has a strong focus on reducing gender-based stigma and discrimination.

UN Women facilitated the participation of women living with and affected by HIV in the reporting to the Committee on the Elimination of Discrimination against Women and implementation of its concluding comments. In Indonesia, UN Women mobilized 500 representatives of women’s organizations, including organizations of women living with HIV and women in key populations, to prepare a joint shadow report for the Committee on the Elimination of Discrimination against Women to review in 2021, highlighting instances of discrimination and violence against women in all their diversity. In Chile, UNHCR collaborated with the national network of LGBTQI+ refugees and migrants to strengthen a network of nine national organizations working with LGBTQI+ refugees and migrants, and undertaking successful advocacy to persuade the national AIDS programme to develop guidelines for improving access to HIV treatment among refugees and migrants.

The Joint Programme supported civil society organizations to strengthen rights awareness and provide legal aid to communities of people living with and affected by HIV, including key populations. In Somalia, UNDP supported COVID-19, HIV and human rights training for networks of people living with HIV, representatives from the Ministry of Justice, and legal aid clinics.

Key challenges and lessons learned

The COVID-19 pandemic affected ongoing work with national stakeholders to address HIV-related stigma and discrimination, including legislative responses that limit freedom of movement, assembly, association and expression, as well as compulsory testing and treatment. Law and policies have a critical role to play in pandemic preparedness and responses. The [COVID-19 Law Lab](#)—a joint initiative of UNDP, WHO, UNAIDS Secretariat, the O’Neill Institute for National and Global Health Law at Georgetown University, the Inter-Parliamentary Union and the International Development Law Organization—provides vital human rights information, including over 6,000 law and policy documents from over 190 countries, to 6,500 monthly users. The Joint Programme will continue to support countries to ensure that pandemic response measures are rights-based and strengthen national HIV responses.

Lack of adequate investment in programmes that address legal and structural barriers continues to undermine efforts to end AIDS by 2030. Limited data and inadequate use of available data to inform policy-making and programmatic actions also persist.

In line with the 10–10–10 targets, UNDP, in partnership with the UNAIDS Secretariat and key Cosponsors, is undertaking an evidence review of approaches, strategies and tactics used to reform and/or mitigate the impact of discriminatory laws, policies and practices that hinder access to services for people living with HIV and key populations. The evidence review will be available as an online compendium to support countries in their work towards reaching the 10–10–10 targets.

While digital technologies have the potential to improve access to services, especially for those left behind, and overcome barriers such as stigma, they can also present ethical and human rights challenges, including regarding privacy and non-discrimination. To share practical strategies to mitigate these risks, UNDP published guidance on the rights-based and ethical use of digital technologies in HIV and health programmes. UNDP is working with governments, other Cosponsors and civil society partners (including the Graduate Institute of Geneva's Digital Health and Rights Project and the UN University International Institute for Global Health) to advance rights-based digital health policies for HIV and health, as well as with populations of people living with HIV and key populations to advance rights-based digital health policies.

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