MAKING THE LAW WORK FOR THE HIV RESPONSE

A snapshot of selected laws that support or block universal access to HIV prevention, treatment, care and support

July 2010

«We can remove punitive laws, policies, practices, stigma and discrimination that block effective responses to AIDS»

Joint Action for Results: UNAIDS Outcome Framework 2009-2011

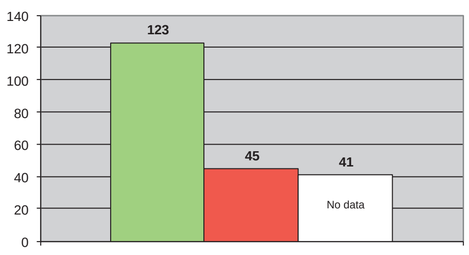
The present document is a compilation of some of the laws that can help create a legal environment which enables universal access to HIV prevention, treatment, care and support (i.e protective laws) or that can block such access for people living with HIV, sex workers and their clients, men who have sex with men and people who use drugs (i.e. punitive laws). Corrections to the information herein are welcome and will be reflected in any future update of this document.

Countries, territories and entities:	Protective laws		Punitive laws					
	A Laws and regulations that protect people living with HIV against discrimination [1]	B Non-discrimination laws or regulations that specify protections for vulnerable subpopulations [2]	C Laws, regulations or policies that present obstacles to access to prevention, treatment, care and support for vulnerable subpopulations [3]	D HIV-specific restrictions on entry, stay or residence [4]	E Laws that specifically criminalise HIV transmission or exposure [5]	F Laws that criminalise same-sex sexual activities between consenting adults [6]	G Laws deeming sex work («prostitution») to be illegal [7]	H Laws that impose compulsory treatment for people who use drugs and/or provide for death penalty for drug offences [8]
Afghanistan	No	Yes	Yes		Yes	Yes	Yes	
Albania				No	No	No	Yes	Yes
Algeria	Yes	Yes	No			Yes	Yes	
Andorra				Yes		No	Yes	
Angola	Yes	No	Yes		Yes	Yes	Yes	Yes
Antigua and Barbuda	No	No	No	No		Yes	Yes	
Argentina	Yes	Yes	Yes	No	No	No	No	
Armenia	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
Aruba				Yes	Contradictory	No		
Australia	Yes	Yes	Yes	Yes	Contradictory	No	No	
Austria				No	No	No	No	
Azerbaijan	Yes	Yes	Yes	No	Yes	No	Yes	Yes
Bahamas	Yes	Yes	Yes		Yes	No	Yes	
Bahrain	Yes	No	No	Yes		Contradictory	Yes	Death Penalty
Bangladesh	No	No	Yes	No	No	Yes	Yes	Death Penalty
Barbados	No	No	Yes	No	Yes	Yes	Yes	
Belarus	Yes	Yes	Yes	Yes	Yes		Yes	Yes
Belgium	Yes	Yes	Yes	No	No	No	No	
Belize	No	Yes	Yes	Yes	Yes	Yes	No	
Benin	Yes	Yes	No	No		No	No	
Bermuda					Yes	No		
Bhutan					No	Yes		
Bolivia, Plurinational State of	Yes	Yes	No		No	No	No	
Bosnia and Herzegovina	Yes	Yes	No	No	No	No	Yes	Yes
Botswana	No	Yes	Yes	No	No	Yes	Yes	
Brazil	Yes	Yes	No	No	No	No	No	
British Virgin Islands					No	No		
Brunei Darussalam	No	No	Yes	Yes	No	Yes	Yes	Death Penalty
Bulgaria	Yes	Yes	No	No	No	No	No	
Burkina Faso	Yes	Yes	No	No		No	No	
Burundi	Yes	Yes	Yes	No	Yes	Yes	Yes	
Cambodia	Yes	Yes	Yes	No	Yes	No	Yes	Yes
Cameroon	No	No	No	No	Yes	Yes	Yes	
Canada	Yes	Yes	Yes	No	No	No	No	
Cape Verde	Yes	Yes	No			No	No	
Central African Republic	Yes	Yes	No	No		No	No	
Chad	Yes	Yes	No	No		No	Yes	
Chile	Yes	No	Yes	No	No	No	No	
China	Yes	Yes	Yes	No		No	Yes	Death Penalty
Colombia	Yes	Yes	No	No	Yes	No	No	
Comoros	No	No	No	Yes		Yes	Yes	
Congo, Republic of the	No	Yes	Yes	No		No	Yes	
Cook Islands					No	Yes		
Costa Rica	Yes	Yes	Yes	No	Contradictory	No	No	
Côte d'Ivoire	No	Yes	No	No	Yes	No	No	
Croatia	Yes	Yes	Yes	No	No	No	Yes	
Cuba	Yes	Yes	No	Yes	No	No	No	Death Penalty
Cyprus				Yes	No	No	No	
Czech Republic	Yes	Yes	Yes	No	Yes	No	No	Yes
Democratic People's Republic of Korea (North Korea)				Yes		No	Yes	Death Penalty
Democratic Republic of the Congo	Yes	Yes	No	No	Yes	No	Yes	
Denmark	No	Yes	No	No	Yes	No	No	
Djibouti	Yes	Yes	Yes	No	Yes	Contradictory	Yes	
Dominica	Yes	No	Yes	No		Yes	Yes	
Dominican Republic	Yes	Yes	Yes	Yes		No	No	
Ecuador	Yes	Yes	Yes	Yes	No	No	No	
Egypt	Yes	No	Yes	Yes	Yes	Yes	Yes	Death Penalty
El Salvador	Yes	Yes	Yes	No	No	No	No	
Equatorial Guinea	Yes	No	No		Yes	No	Yes	
Eritrea	No	No	No			Yes	Yes	
Estonia	Yes	No	No	No	No	No	No	
Ethiopia	Yes	Yes	No	No	No	Yes	No	
Fiji	Yes	No	Yes	Yes	No	No	Yes	
Finland	Yes	Yes	Yes	No	No	No	No	
France				No	No	No	No	
Gabon	No	No	No	No		No	Yes	
Gambia	No	No	Yes	No	Contradictory	Yes	Yes	
Georgia	Yes	No	Yes	No	Yes	No	Yes	
Germany	Yes	Yes	Yes		Yes	No	No	
Ghana	Yes	Yes	Yes	No	No	Yes	Yes	
Greece	No	Yes	Yes	No		No	No	
Grenada	Yes	No	Yes	No		Yes	Yes	
Guatemala	Yes	Yes	No	No	Yes	No	No	
Guinea	Yes	Yes	No	No	Contradictory	Yes	Yes	
Guinea-Bissau	Yes	Yes	Yes	No	Contradictory	No	No	
Guyana	No	No	Yes	No		Yes	Yes	
Haiti	No	No	No	No	No	No	Yes	
Honduras	Yes	Yes	Yes		Yes	No	No	
Hong Kong (Special Administrative Region of China)				No		No	No	
Hungary	Yes	No	Yes	No	No	No	No	
Iceland				No	No	No	No	
India	Yes	Yes	Yes	Yes	No	No	No	Death Penalty
Indonesia	No	Yes	Yes	No	No	No	Yes	Death Penalty
Iran, Islamic Republic of	Yes	Yes	Yes	No		Death Penalty	Yes	Death Penalty
Iraq				Yes		Contradictory	Yes	Death Penalty
Ireland	Yes		No	No	No	No	No	
Israel	Yes	No	No	Yes		No	No	
Italy				No	No	No	No	
Jamaica	No	No	Yes	No	No	Yes	Yes	
Japan	Yes	No	Yes	No		No	Yes	
Jordan	No	Yes	Yes	Yes		No	Yes	Yes
Kazakhstan	Yes	Yes	No	No	Yes	No	No	Yes
Kenya	No	No	Yes	No	Yes	Yes	Yes	
Kiribati					No	Yes	No	
Kosovo				No		No	Yes	
Kuwait	No	No	No	Yes		Yes	Yes	Death Penalty
Kyrgyzstan	Yes	Yes	No	No	Yes	No	No	
Lao People's Democratic Republic	No	Yes	No	No		No	Yes	Death Penalty
Latvia	Yes	No	No	No		No	No	
Lebanon	No	No	Yes	Yes		Yes	No	
Lesotho	Yes	Yes	Yes	No		Yes	No	Yes
Liberia				No	Yes	Yes	Yes	
Libyan Arab Jamahiriya	Yes	No	No	No		Yes	Yes	Death Penalty
Liechenstein				No		No	Yes	
Lithuania	Yes	Yes	Yes	Yes	No	No	Yes	
Luxembourg	Yes	Yes	No	No	No	No	No	
Macau (Special Administrative Region of China)				No		No	No	
Macedonia, Former Yugoslav Republic of	Yes	No	Yes	No	No	No	Yes	Yes
Madagascar	Yes	Yes	Yes	No		No	No	
Malawi	Yes	Yes	Yes	No	Contradictory	Yes	No	
Malaysia	No	Yes	Yes	Yes	No	Yes	No	Death Penalty
Maldives	No	No	Yes	No		Yes	Yes	
Mali	Yes	Yes	No	No	Yes	No	No	
Malta				No	Yes	No	Yes	
Marshall Islands	Yes	Yes	Yes	Yes	Yes	No	Yes	
Mauritania				No	Yes	Death Penalty	Yes	
Mauritius	Yes	Yes	Yes	No	Yes	Yes	Yes	
Mexico	Yes	Yes	Yes	No	No	No	No	
Micronesia, Federated States of	Yes	No	No	No	Yes	No	Yes	
Moldova, Republic of	Yes	Yes	No	Yes	Yes	No	Yes	
Monaco	No	No	No	No		No	Yes	
Mongolia	Yes	No	Yes	Yes		No	Yes	
Montenegro	Yes	No	Yes	No	Yes	No	Yes	Yes
Montserrat						No		
Morocco	No	Yes	Yes	No		Yes	Yes	Yes
Mozambique	Yes	Yes	Yes	No		Yes	No	
Myanmar (Burma)	No	Yes	Yes	No	No	Yes	Yes	Death Penalty
Namibia				No		Yes	No	Yes
Nauru	Yes	Yes	Yes		No	Yes	Yes	
Nepal	No	No	Yes	No		No	No	
Netherlands	Yes	No	Yes	No	No	No	No	
New Zealand	Yes	Yes	No	Yes	No	No	No	
Nicaragua	Yes	No	No	Yes		No	No	
Niger	Yes	Yes	No			No	Yes	
Nigeria	No	No	No	No	Yes	Death Penalty	Yes	
Niue (New Zealand Associate)					No	No		
Norway	Yes	Yes	Yes	No	No	No	No	
Oman	Yes	Yes		Yes		Yes	Yes	Death Penalty
Pakistan	No	No	Yes	No	Yes	Yes	Yes	Death Penalty
Palau	Yes	No	No			Yes	Yes	
Palestinian Authority (Gaza Strip)						Yes	Yes	Death Penalty
Panama	Yes	Yes	No	No	Yes	No	No	
Papua New Guinea	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
Paraguay	Yes	Yes	Yes	Yes	Yes	No	No	
Peru	Yes	Yes	Yes	No	Yes	No	No	
Philippines	Yes	Yes	Yes	No	No	No	Yes	
Poland	Yes	Yes	Yes	No	Yes	No	No	Yes
Portugal	Yes	Yes	No	No	Yes	No	No	
Puerto Rico						No		
Qatar				Yes		Yes	Yes	Death Penalty
Republic of Korea (South Korea)				Yes		No	Yes	Death Penalty
Romania	Yes	Yes	Yes	No	Yes	No	Yes	
Russian Federation	Yes	Yes	Yes	Yes		No	Yes	
Rwanda		Yes	No	No	No	No	Yes	
Saint Kitts and Nevis	No	No	Yes	No		Yes	Yes	
Saint Lucia	Yes	Yes	Yes	No		Yes	Yes	
Saint Vincent and the Grenadines	No	No	No			Yes	Yes	
Samoa	Yes	Yes	Yes	Yes	No	Yes	Yes	
San Marino				No		No	Yes	
Sao Tome and Principe	Yes	No	No			Yes	Yes	
Saudi Arabia	Yes	Yes	No	Yes		Death Penalty	Yes	Death Penalty
Senegal	Yes	Yes	Yes	No	Contradictory	Yes	No	
Serbia	Yes	Yes	Yes	No	Yes	No	Yes	Yes
Seychelles	Yes	Yes	Yes			Yes	Yes	
Sierra Leone	Yes	No	No	No	Yes	Yes	No	
Singapore	No	No	Yes	Yes	Yes	Yes	No	Death Penalty
Slovakia				Yes	Yes	No	No	Yes
Slovenia	Yes	No	No	No		No	Yes	
Solomon Islands	No	No	Yes	Yes	No	Yes	Yes	
Somalia	No	No	No	No		Yes	Yes	
South Africa	Yes	Yes	Yes	No	No	No	Yes	Yes
Spain	Yes	Yes	Yes	No	No	No	No	
Sri Lanka	No	Yes	Yes	No	No	Yes	Yes	Death Penalty
Sudan				Yes		Death Penalty	Yes	Death Penalty
Suriname	Yes	No	Yes		Contradictory	No	Yes	
Swaziland	No	No	Yes	No	No	Yes	Yes	Yes
Sweden	Yes	Yes	Yes	No	No	No	No	
Switzerland	Yes	Yes	Yes	No	No	No	No	
Syrian Arab Republic	Yes	Yes	Yes	Yes		Yes	Yes	Death Penalty
Taiwan (Special Administrative Region of China)				Yes		No	Yes	Death Penalty
Tajikistan	Yes	Yes	No	Yes		No	Yes	
Tanzania, United Republic of	Yes	Yes	Yes	No	Yes	Yes	Yes	
Thailand	Yes	Yes	Yes	No		No	Yes	Death Penalty
Tibet								
Timor-Leste (East Timor)	Yes	Yes	No			No	No	
Togo	Yes	Yes	Yes	No	Yes	Yes	Yes	
Tonga	No	No	No	Yes	No	Yes	No	
Trinidad and Tobago	No	Yes	Yes	No	Contradictory	Yes	Yes	
Tunisia	No	No	Yes	No		Yes	Yes	Yes
Turkey	Yes	Yes	Yes	No	No	No	No	
Turkish Republic of Northern Cyprus					Yes	Yes	No	
Turkmenistan				Yes	Yes	Yes	Yes	
Turks & Caicos Islands				Yes		No		
Tuvalu	No	No	No		No	Yes	Yes	
Uganda	Yes	Yes	No	No	Yes	Yes	Yes	
Ukraine	Yes	Yes	Yes	Yes		No	Yes	
United Arab Emirates	Yes	Yes	Yes	Yes		Yes	Yes	Death Penalty
United Kingdom of Great Britain and Northern Ireland	Yes	Yes	Yes	No	Yes	No	No	
United States of America				No	Yes	No	Yes	Death Penalty
United States Virgin Islands						No		
Uruguay	Yes	Yes	No	No	No	No	No	
Uzbekistan	Yes	Yes	No	Yes	Yes	Yes	Yes	
Vanuatu	No	No	Yes	No	No	No		
Venezuela	Yes	Yes	No	No		No	No	
Vietnam	Yes	Yes	Yes	No	Yes	No	Yes	Death Penalty
Western Sahara								
Yemen	Yes	No	No	Yes		Death Penalty	Yes	Death Penalty
Zambia	Yes	Yes	Yes	No	No	Yes	No	
Zimbabwe	Yes	Yes	Yes	No	Yes	Yes	Yes	
Total number of countries, territories and entities with or without protective or punivite laws (black refers to number of countries, territories and entities that have laws providing for death penalty as sanction under a particular punitive law; yellow refers to cases of contradictory information; and white refers to the absence of data)	Number of countries, territories and entities reporting to have laws and regulations that protect people living with HIV (green) vs those that do not report such laws (red)	Number of countries, territories and entities reporting to have laws or regulations that specify protections for vulnerable subpopulations (green) vs those that do not report such laws or regulations (red)	Number of countries, territories and entities reported to have laws, regulations or policies that present obstacles to access to HIV prevention, treatment, care and support for vulnerable subpopulations (red) vs those that do not report such laws (green)	Number of countries, territories and entities reported to have HIV-specific restrictions on entry, stay or residence (red) vs those that are reported not to have such restrictions (green)	Number of countries, territories and entities reported to have laws that specifically criminalise HIV transmission or exposure (red) vs those that are not reported to have such laws (green)	Number of countries, territories and entities reported to have laws that criminalise same sex sexual activities between consenting adults (red) vs those that are not reported to have such laws (green)	Number of countries, territories and entities reported to have laws deeming sex work («prostitution») to be illegal (red) vs those that are not reported to have such laws (green)	Number of countries, territories and entities reported to have laws that impose compulsory treatment for people who use drugs (red) and those reported to apply death penalty for drug offences (black)
	123	111	106	51	56	79	116	27
	45	57	62	126	63	124	80	0
	41	41	41	32	80	3	13	32
			0	0	10	3	0	157
						6		

Colour code :

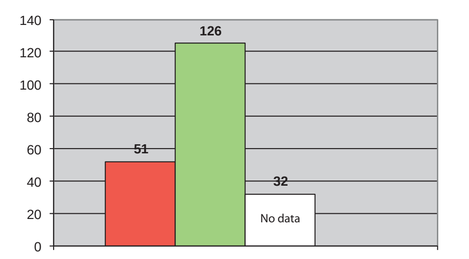
- Punitive law or lack of protective law
- Protective law or lack of punitive law
- Contradictory information
- Information not available
- Death penalty as sanction under punitive law

Laws and regulations that protect people living with HIV against discrimination [1]



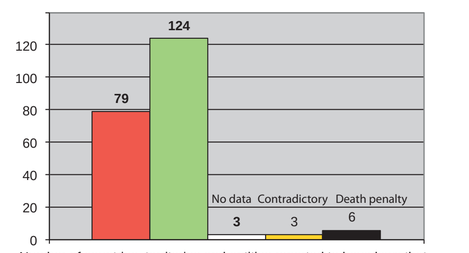
Number of countries, territories and entities reporting to have laws and regulations that protect people living with HIV (green) vs those that do not report such laws (red)

HIV-specific restrictions on entry, stay or residence [4]



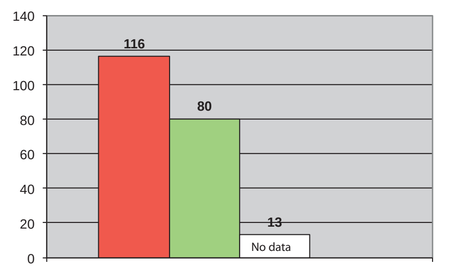
Number of countries, territories and entities reported to have HIV-specific restrictions on entry, stay or residence (red) vs those that are reported not to have such restrictions (green)

Laws that criminalise same-sex sexual activities between consenting adults [6]



Number of countries, territories and entities reported to have laws that criminalise same sex sexual activities between consenting adults (red) vs those that are not reported to have such laws (green)

Laws deeming sex work («prostitution») to be illegal [7]



Number of countries, territories and entities reported to have laws deeming sex work ("prostitution") to be illegal (red) vs those that are not reported to have such laws (green)

IMPORTANT DISCLAIMER:

This database is a compilation of data maintained by the following institutions: the International Planned Parenthood Federation (IPPF), the Global Network of People living with HIV (GNP+), the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), the International Harm Reduction Association (IHRA), Human Rights Watch (HRW), the Joint United Nations Programme on HIV/AIDS (UNAIDS), and the United States Department of State. The information collected was retrieved from cited sources between June 2009 and July 2010. While UNAIDS conducted interviews with representatives of these institutions to confirm the methodology employed in their data collection, none of the data presented here has been independently verified by UNAIDS against the actual text of the laws and regulations in question, nor has the data been the object of research in terms of its application and implementation at national level. This database has been compiled by the UNAIDS Secretariat as a working document for the UNAIDS Reference Group on HIV and Human Rights and as well as the UNAIDS Priority Area Working Group on removing punitive laws, policies, practices, stigma and discrimination that block effective responses to AIDS, comprising the United Nations Development Programme (UNDP), the United Nations Office on Drug and Crime (UNODC), the United Nations Population Fund (UNFPA), the United Nations High Commission for Refugees (UNHCR), the International Labour Organisation (ILO) and the UNAIDS Secretariat.

Details about the methodologies employed to collect the data and the possible limitations on data reliability in relation to each data set can be found on the respective websites of the aforementioned institutions. Also note that the designations employed and the presentation of the material in this document do not imply the expression of any opinion whatsoever on the part of the United Nations, the UNAIDS Secretariat or any of the UNAIDS Cosponsors concerning the legal status of any country, territory, city, entity or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

Notes:

[1] Data source: *«2010 National Composite Policy Index»* (NCPI) reports for the United Nations General Assembly Special Session (UNGASS) 2001 *Declaration of Commitment on HIV/AIDS*. In adopting the 2001 *Declaration of Commitment on HIV/AIDS*, Member States committed to submit country progress reports to UNAIDS every two years. The title of this column is based on a NCPI question. NCPI data, which is part of the UNGASS reporting system, is submitted by countries and civil society and validated for internal consistency and completeness by UNAIDS. Illogical values are corrected and countries are contacted in cases of substantial missing data or non-consolidated NCPI submissions. Data is not checked against the actual text of the laws. Columns A, B and C of this database are based on information from Part B of the NCPI, which is completed by civil society, bilateral agencies and UN organisations and is submitted by governments to UNAIDS.

[2, 3] Id.

[4] Data source: *«Mapping of Restrictions on Entry, Stay and Residence of People Living with HIV»* (UNAIDS, May 2009), and latest developments as of July 2010. Data is largely based on information originally collected by the German AIDS Federation and the European AIDS Treatment Group for the «Global Database on HIV-related Travel Restrictions», available on-line at www.hivtravel.org (accessed 8 April 2010). Subsequent data has also been collected by UNAIDS' Country Offices. Although UNAIDS, through the Chair of the UNAIDS Programme Coordinating Board, has provided countries with opportunities to validate the information, the data have not otherwise been independently verified and its accuracy is not guaranteed.

[5] Data source: *«Global Criminalisation Scan»* (GCS), Global Network of People Living with HIV (GNP+), available at http://www.gnpplus.net/criminalisation/ (accessed 7 April 2010). The title for this column is adapted from «Verdict on a Virus: Public Health, Human Rights and Criminal Law», International Planned Parenthood Federation (IPPF), available at http://www.ippf.org/NR/rdonlyres/D858DFB2-19CD-4483-AEC9-1B1C5EBAF48A/0/VerdictOnAVirus.pdf (accessed 8 April 2010). According to GNP+, data on the nature and scope of national laws relating to the criminalisation of HIV transmission or exposure is collected via a standard Global Criminalisation Scan questionnaire which is sent to, amongst others, HIV and AIDS organisations, government departments (Ministries of Justice or the equivalent), UN country representatives, and others deemed to be working on the issue in each country. GNP+ staff analyse the responses received and, where necessary, follow-up with telephone interviews to clarify incomplete and/or unclear responses. The collected data is continually verified by GNP+ and its partners, and primary legal text is obtained from official law databases, where possible.

[6] Data source: *«State-sponsored Homophobia - A World Survey of Laws Prohibiting Same Sex Activities Between Consenting Adults»*, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA, 2010), available at http://www.ilga.org (accessed 8 April 2010). The title for this column is adapted from «Verdict on a Virus: Public Health, Human Rights and Criminal Law», International Planned Parenthood Federation (IPPF), available at http://www.ippf.org/NR/rdonlyres/D858DFB2-19CD-4483-AEC9-1B1C5EBAF48A/0/VerdictOnAVirus.pdf (accessed 8 April 2010). According to ILGA, data was collected through regular research on factual macro- and micro-studies of the legal systems and laws in detail, or from second hand sources when the primary legal text was not possible to obtain. The actual text of the laws is quoted in the country profiles of the report, where available. Note that with regard to Nigeria, death penalty only exists in states that apply sharia law.

[7] Data source: *«2009 Country Reports on Human Rights Practices,»* United States Department of State, Bureau of Democracy, Human Rights and Labor, available at http://www.state.gov/g/drl/rls/hrrpt/2009/index.htm (accessed 6 April 2010). The title for this column is adapted from «Verdict on a Virus: Public Health, Human Rights and Criminal Law», International Planned Parenthood Federation (IPPF), available at http://www.ippf.org/NR/rdonlyres/D858DFB2-19CD-4483-AEC9-1B1C5EBAF48A/0/VerdictOnAVirus.pdf (accessed 8 April 2010).

[8] Colour code & data source: In this column, «yes» and red means that there is compulsory treatment for people who use drugs; «death penalty» and black means that there is death penalty for drug-related offences; and «death penalty» and red means that there are both compulsory treatment for people who use drugs and death penalty for drug-related offences. This data was collected from three sources; *(1) «Verdict on a Virus: Public Health, Human Rights and Criminal Law»*, International Planned Parenthood Federation (IPPF), available at http://www.ippf.org/NR/rdonlyres/D858DFB2-19CD-4483-AEC9-1B1C5EBAF48A/0/VerdictOnAVirus.pdf (accessed 8 April 2010). This booklet was written in partnership by IPPF, the Global Network of People living with HIV (GNP+), and the International Community of Women Living with HIV/AIDS (ICW) and subsequently reviewed by multiple stakeholders, including activists, lawyers, judges and academics; (2) *«The Death Penalty for Drug Offences, Global Overview 2010,»* International Harm Reduction Association (IHRA, 2010), available at http://www.ihra.net (accessed 8 April 2010); and (3) reports on compulsory treatment for people who use drugs published by Human Rights Watch between 2008 and 2010, available at http://www.hrw.org. The title for this column is adapted from «Verdict on a Virus: Public Health, Human Rights and Criminal Law», International Planned Parenthood Federation (IPPF).

GLOBAL NETWORK OF PEOPLE LIVING WITH HIV

INTERNATIONAL HARM REDUCTION ASSOCIATION

ilga

IPPF International Planned Parenthood Federation

UNAIDS JOINT UNITED NATIONS PROGRAMME ON HIV/AIDS — UNHCR, UNICEF, WFP, UNDP, UNFPA, UNODC, ILO, UNESCO, WHO, WORLD BANK