UNAIDS STRATEGY DEVELOPMENT

UNAIDS STRATEGY REVIEW:
Focus Group Synthesis: HIV and Human Rights

Organizers: UNAIDS Human Rights and Law Team, Joe Amon, Michaela Clayton (Co-Chairs, UNAIDS Reference Group on HIV and Human Rights)

Dates: 5 August 2020 and 7 August 2020

Two UNAIDS Strategy Focus Group Discussions (FGDs) were held on human rights in the response to HIV. Given the significant overlap in the key messages and themes, a single, consolidated report was drafted. This report therefore includes more key messages in each section and is slightly longer than the UNAIDS FGD guidance recommends.

UNAIDS STRATEGY REVIEW: Focus Group Synthesis

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SECTION 1: Information about the focus group

Individuals leading discussion: Michaela Clayton, Joe Amon

Theme to be discussed: HIV and Human Rights in the Global AIDS Response

Participants

NAME	COUNTRY	REGION	ORGANISATION
Joe Amon (Moderator)	UK	Western Europe	Global Health and Human Rights, Drexel University
Michaela Clayton (Moderator)	Namibia	ESA	Independent Consultant
Carolyn Gomes	Jamaica	LAC	UNAIDS HIV & Human Rights Reference Group
Omar Syarif	The Netherlands	EU	GNP+
Naomi Burke-Shyne	UK	EU	Harm Reduction International
Sofia Gruskin	USA	N America	Institute on Inequalities in Global Health, University of Southern California
Meena Seshu	India	Asia Pacific	SANGRAM
Lucinda O'Hanlon	Switzerland	Western Europe	OHCHR
Eszter Kismodi	France	Western Europe	Sexual and Reproductive Health Matters
Felicita Hikuam	South Africa	ESA	ARASA
Sara Meg Davis	Switzerland	Europe	Global Health Centre, Graduate Institute
Mandeep Dhaliwal	USA	N America	UNDP
Edwin Bernard	The Netherlands	Western Europe	HIV Justice
George Ayala	USA	N America	MPact Global Action for Gay Men's Health and Rights
Jules Kim	Australia	Asia Pacific	Scarlet Alliance

Ricky Gunawan	Indonesia	Asia Pacific	UNAIDS Reference Group on HIV & Human Rights
JP Mokgethi Heath	Sweden	Western Europe	UNAIDS Reference Group on HIV & Human Rights
Allan Maleche	Kenya	ESA	Kenya Legal and Ethical Issues Network on HIV/AIDS
Daouda Diouf	Senegal	CWA	Enda santé
Michael Kirby (written submissions)	Australia	Asia Pacific	Retired Justice, High Court of Australia
Aziza Ahmed	USA	North America	Northeastern University School of Law
Nina Sun	USA	North America	Global Health and Human Rights, Drexel University
Cecilia García Ruiz	Mexico	LAC	Equal Measures
Vivek Divan	India	Asia Pacific	Centre for Health Equity, Law & Policy, Indian Law Society
Susan Timberlake	USA	North America	Independent consultant
Ralf Jurgens	Switzerland	Western Europe	The Global Fund
Mikhail Golichenko	Canada	North America	Canadian HIV/AIDS Legal Network
Judy Chang	Italy	Western Europe	International network of people who use drugs
Scott Burris	USA	North America	Temple University
Ann Fordham	UK	Western Europe	International Drug Policy Consortium
Tyler Crone	USA	North America	ATHENA
Victor Madrigal-Borloz	Costa Rica	LAC	Independent Expert on protection against violence and discrimination based on SOGI
Oratile Moseki	South Africa	ESA	Frontline AIDS
Jaime-Todd Gher	USA	North America	Independent Consultant
UNAIDS Staff Attendees:			
Mianko Ramaroson	Switzerland	EU	UNAIDS
Emily Christie	Switzerland	EU	UNAIDS
Rodney Kort	Switzerland	EU	UNAIDS
Ibrahima Diop	Switzerland	EU	UNAIDS

Introducing the theme

The co-facilitators introduced the theme of HIV and human rights in the global HIV response with a short presentation highlighting some of the most recent data from the UNAIDS Global AIDS Update 2020, including on punitive laws, stigma and discrimination and inequalities in gains made during the HIV response. The theme was intentionally broad, covering the full range of human rights relevant to the HIV response, asking participants to reflect on existing and emerging human rights issues, current approaches to human rights within the response and what needs to change / continue.
The presentation also highlighted human rights issues addressed by the UNAIDS Reference Group on HIV and Human Rights, including:

- The use of big data, bio-surveillance and other digital technologies has the potential to significantly increase government intrusion and violate privacy rights of individuals
- Criminalization of HIV non-disclosure, exposure and transmission, sex work, drug possession & same-sex conduct as barriers to effective HIV responses.
- Access to medicines and intellectual property related-issues that reduce access to HIV diagnostics and treatment.
- Universal Health Coverage (UHC) as a political and legal human rights commitment.

The presentation is appended to this report.

SECTION 2: People-centered response to HIV – key emerging messages

FGD participants were then divided into four breakout groups to reflect on lessons learned over the past five years, discuss what has and has not worked and opportunities and challenges in advancing an HIV and human rights agenda. Participants were encouraged to address reaching the person, addressing the structures in the global architecture and contextual issues in human rights and HIV.

REACHING THE PERSON	
How do we see the current situation?	1. Key populations are being left behind. This is the result of hot enough investment in or attention to issues of stigma, discrimination and criminalization. 2. Criminalization: criminalization of key populations and HIV non-disclosure, exposure and transmission, coupled with punitive law enforcement practices in many countries remains a major barrier to reaching key populations with HIV and other essential health services; UNAIDS and other actors must continue to take a strong position on decriminalization; however, too direct an approach may be counterproductive level in some countries where more contextualized approaches, e.g.: • using language that is more effective with policymakers including focusing more on access to justice and addressing HIV-related stigma and discrimination.
What concerns us?	1. Criminalization and Law Enforcement Practices: HIV & COVID-19: lessons learned from the HIV response regarding dealing with transmission as a public health rather than criminal justice matter has not been applied; many countries have passed legislation or used existing criminal code offences against people who are not compliant with lockdowns or curfews and in a number of countries COVID-19 measures are being used to further undermine the rights of key populations. 2. intellectual property and access to essential medicines: IP issues continue to limit access to ART and are barriers to addressing co-infection (TB/HCV) & would help to address COVID-19

	3. Data Collection & Analysis: there are no proper targets on human rights and discrimination. Need to set real concrete amibitious but achievable targets on human rights and discrimination, including modelling the impacts of greater investments in human rights and gender programming. 4. Lack of meaningful inclusion: Donors, UN agencies and governments have failed to support the inclusion of all stakeholders in the HIV response, especially criminalized and socially marginalized individuals and the organizations that represent them. As a result, certain groups have an disproportionate influence on how issues are framed resulting in who can access to resources and who is further marginalized; this has significant impacts including: • Diversion by states of resources away from affected communities, competition between support for advocacy and services, and disregard for social enablers that capture socio-economic barriers and other inequities in access. • Lack of investment in quality data on key populations, including human rights, stigma and discrimination and impacts of punitive law enforcement practices 5. Missed opportunities: Human rights framework and AAAQ discourse in the right to health have not been exploited comprehensively to curb inequalities and marginalization in and beyond health. 6. Digital HIV technologies being introduced and envisioned pose potential threats to privacy and confidentiality and could result in a reinforcement or exacerbation of the "digital divide" in terms of access to HIV prevention and treatment. Such technologies, while offering promises of greater efficiency and positive impact, could also threaten fundamental rights of key populations, resulting in greater discrimination, detention, or violence.
1. What gives us hope?	1. There has been some progress over the past five years in decriminalization, including: • Development of a UN common position on drug policy and advances among some countries in moving from a criminal justice to public health approach to addressing drug use; • Decriminalization of or moratoriums on prosecutions for same sex conduct and HIV non-disclosure, exposure and transmission among some countries in the past five years • Strategic litigation using public health evidence has resulted in some gains in the courts (e.g. in LAC region): multisectoral support from UN system but driven by local civil society actors who understand the context. • Decriminalization could also be an argument in reducing prison populations in a context of constrained financial resources due to COVID.19 2. The COVID-19 response measures and learnings offer some hope: • Financing COVID-19 response measures: demonstrates that health systems need to be appropriately supported and financed in order to leave no one behind; significant financial commitments made by governments in response to COVID-19 demonstrates that where there is political will, sufficient financing is possible; the COVID-19 pandemic has also demonstrated the importance of socioeconomic determinants of health. • The release of prisoners, many of whom use drugs, for low-level offences to reduce the risk of COVID-19 transmission in prisons could

	be used to drive progressive drug policy, harm reduction programmes and ART in prisons; A model for how the systems can be developed for future pandemics; likewise it was uncontroversial to issue guidance on human rights in response to COVID-19 3. HIV Treatment: Outstanding treatment options and more in the pipeline (injectables). Taking/adhering to treatment has never been easier.
What constrains our ability to achieve our goals?	1. Too disease-specific focused: Stronger focus on human rights standards and less on disease-specific issues is needed: countries that are struggling in their response have put too much emphasis on disease and not enough on rights.

THE STRUCTURES THAT RESPOND TO HIV	
How do we see the current situation?	1. Role of UNAIDS, Co-Sponsors and other UN agencies: UNAIDS has been instrumental in supporting civil society and human rights advocacy, but that is not the case with all UN agencies (e.g., UNODC); collaboration with OHCHR and engagements with SDG is required, particularly given that UNAIDS has a stronger country presence. Additionally: 2. UNAIDS is trying to do too many things it is not equipped to do, reducing its impact at country level, and should refocus on key and other marginalized populations 3. Thinking only in terms of key populations in the HIV context often omits social and economic rights, as well as leaving out groups that faces intersecting discrimination not included in KPs (lesbians, people living in poverty) 4. UNAIDS work on human rights and gender barriers to access at HQ has been strong, but this is less so at the regional and country level, where tangible commitment to working with national partners in addressing human rights is highly variable, as is the level of engagement with civil society (in some cases very robust and in others almost non-existent) 5. Lack of progress by states on human rights and gender equality: FGD participants noted that countries are not following through on their commitments regarding addressing human rights and gender equality barriers in their response to HIV; there is ample evidence regarding the effectiveness of rights-based responses to HIV, but that has often not been implemented at country level and there is little accountability for the lack of action among UN Member States. 6. Global health financing: lack of global health financing in general and HIV programming in particular. 7.
What concerns us?	1. Budgetary system of the UN is disaster. 2. The existence of UNAIDS might be threatened because of the current financial crisis. 3. Financing for global health, HIV & UHC: The COVID-19 pandemic is illustrating the impact of underfunded health systems, inequitable access to healthcare and poorer health outcomes for key populations and other vulnerable groups (e.g. people with disabilities, elder people, Indigenous populations, women and girls, prisoners). Key points regarding **low and middle-income countries:**

	• Financing the HIV response in middle income countries is left to national governments, which results in less scrutiny or accountability and underinvestment in human rights programming. • Calculations (e.g. World Bank, Global Fund & other donors) to determine classification based on GNPI and therefore access to international assistance do not incorporate income inequality and social and economic rights into consideration: inconsistent with attaining the standards set by international human rights law including the right to health. • Lack of funding for Human Rights: Need to significantly increase funding for human rights, stigma and discrimination interventions, especially for community-led organizations on the frontlines. This will allow a more inclusive platform for discussion of health and human rights with governments and other stakeholders. 3. Inadequate bridge-building/partnerships: Not enough bridge-building across broader human rights movements and with other global health partners (e.g. TB, HCV); some of this is replicated in the UN system where there is a lack of consensus on some issues, for example sex work, the bridge-building that happened on the issue of criminalization across social justice movements could be extrapolated to other areas of human rights work in HIV. 4. Faith community engagement: faith leaders are being engaged, but not always strategically (e.g. in outreach to rural communities, on intellectual property issues that affect access to diagnostics and treatment), and when faith leaders are engaged they are not being challenged to address human rights barriers for key populations. 5. UNAIDS governance & co-sponsor relationships: UNAIDS and co-sponsors not always clear/transparent about operationalization of strategy, or investment in areas around human rights; tension about respective roles with co-sponsors (e.g. UNDP) and need to review governance (e.g. PCB), including having OHCHR join the Joint Programme
What gives us hope?	1. Global fund commitment to human rights. Human rights part of blueprint of Global Fund. And unprecedented funding to address HR barriers in countries. Increasing from 20 Breaking down barriers to 35 countries by next year in all three diseases. 2. Make use of failures in the response to COVID-19 to advocate the need for public resources for the health system.
What constrains our ability to achieve our goals?	1. UNAIDS Secretariat often offers solutions that are of general application that are perceived in country as not applicable to specific national contexts. The HQ is very progressive, but it has to realize that this idealistic approach at country level can sometimes impede progress. We need to be able to message things in a more tailored way to different national governments. 2. Financing for global health: HIV programmes continue to be de-prioritized and underfunded. COVID-19 has demonstrated the adverse impacts of underinvestment in global health; governments can significantly scale up financing in response to pandemics but this has not happened at the levels required in the HIV context. 3. Opportunities for partnerships have not been fully utilized One example was provided of GF financing being directed primarily to state hospitals

	and lack of coordination with clinics and hospitals run by faith communities. **4.** Global Accountability: No response from global institutions for failing to meet targets and goals means shying away from accountability, from ambition, etc. 5. Coalition-building: We need more and more coalition and partnership-oriented approach to respond to HIV in the future, driven by local activists with the strong support of UNAIDS country offices, particularly to provide a counter-discourse to populist/conservative government hostile to marginalized populations.

CONTEXTUAL ENVIRONMENT	
How do we see the current situation?	1. The continued disconnect in the "mainstream" human rights and HIV agenda for and clear and scaled up attention to gender equity/ human rights/ sexual and reproductive health and rights 2. The failure to bring human rights more clearly into HIV prevention frameworks, programming, and interventions, e.g. in the work the Prevention Coalition is doing.
What concerns us?	1. Key populations do not have the same impact when they try to make their voices heard outside of the HIV response. (e.g. Sex workers in the feminist movement.) 2. Countries have used COVID-19 pandemic to close borders and target already marginalized communities and vulnerable populations 3. The existence of UNAIDS might be threatened because of the current financial crisis. 4. Civil society support and shrinking civil space: The lack of funding for civil society to undertake human rights advocacy is further compromised by shrinking civil space in some countries as a result of several factors including. (1) governments passing laws that make it increasingly difficult for especially KP-led organization to register and to operate: (2) government are passing laws that make it impossible for CSOs to take funding from international donors (alleging “foreign influence in domestic affairs; (3) human rights defenders and activists are facing increasing persecution in many countries (e.g., The Philippines) 5. Governments (e.g., MoH) and government agencies are increasingly squeezing out community-based organizations for HIV and other global health financing. UNAIDS engagement with civil society at country level is highly variable, from completely unengaged to very active/strongly engaged. 6. Political Climate: Increased nationalism and protection of national interests over the global good, including weakening multilateralism, rise of autocracies and religious fundamentalism hostile to human rights. The backlash against human rights of key populations and gender equality and

	the rise of populist governments and nationalist/xenophobic rhetoric is having a significant impact on progress in responding to HIV, particularly with countries that have become conservative and authoritarian. Need for counter-discourse. 7. SDGs are a way that we might be able to get traction (UHC) on ensuring access to health services to people who are marginalized: need to ensure reaching vulnerable populations are priorities (Leave No One Behind)
What gives us hope?	1. Despite everything the various stakeholders of the AIDS response are working together and support each other, including explicit reference in the UNAIDS strategy to support major initiatives on human rights. 2. Golden opportunity in time of COVID to articulate the fundamental right to health and to rethink the global architecture and global financing and for UN system to articulate a human rights approach more strongly and prioritize marginalized populations who have systematically experienced discrimination. 3. Campaigns against COVID stigma and discrimination are inspired by the advocacy that is being done with HIV and discrimination, so people have a better understanding of these links now; UNAIDS must affirm human rights as a central focus and integrate health and human rights. 4. Need to ensure people are aware of interconnectedness between COVID and malaria, HIV and other health issues. We need an integrated approach to health and human rights. UNAIDS can affirm that by keeping human rights as a central focus. 5. Social Justice movements: There have bene important successes in social justice movements such as the recognition of LGBTI rights in some countries, the renewed focus on inequalities and racial discrimination (BLM) and legal victories in some regions on SRHR for key populations (ESA,) around access to vaccines and SDG 3, including the goal on universal health coverage. However, it is not always clear whether communities and other human rights actors in the HIV response are positioned well enough in these initiatives to ensure maximum benefit for HIV communities, key populations etc., e.g., how HIV services and UHC come together and whether key populations and other vulnerable populations are expressly included in these and other SDG targets and initiatives.. 6. SDGs Common Country Assessments could provide an opportunity to anchor a human rights analysis; UNAIDS has greater country presence than OHCHR and governments like the “softer” approach of SDGs, so this is an opportunity to mobilize civil society on human rights issues.
What constrains our ability to achieve our goals?	1. The tendency of pointing out the problem in public health instead of offering solutions. 2. Political Context: In many regions of the world it is a good political investment to exacerbate S&D against key populations, PLHIV and other traditionally marginalized populations. Populist discourse that links HIV and COVID is gaining political support and increasing stigma of key and vulnerable populations.

EMERGING PATTERNS:

- Criminalization remain a key barrier to rights-based responses to HIV and must remain a priority focus, but with contextualized strategies driven by local communities and activists, with a greater emphasis on issues such as access to justice, stigma and discrimination
- Financing for global health, HIV programmes and, in particular, human rights programming is significantly underfunded (particularly for community-led organizations on the frontlines of the HIV response) and increasingly de-prioritized, with little accountability for commitments on human rights made by Member States
- COVID-19 pandemic has illustrated both good practices (e.g., prisoner release to decrease transmission risk in closed settings) and bad practices (criminalization/punitive approaches for non-compliance with curfews, lockdowns and other emergency measures), but has also demonstrated that financing is available for public health issues if there is political will to do so.
- Stronger partnership and coalition-building is required both with other UN agencies (particularly OHCHR) and other social justice movements which have renewed attention on issues such as systemic racial discrimination.
- A renewed focus on the interdependence of all human rights, including social and economic rights, in pursuing a rights-based agenda for the global HIV response and to reflect this in global health financing and country investments.
- UNAIDS at the HQ level takes strong positions on human rights, but this is not consistently the case at the country level, and engagement with civil society in countries is highly variable.
- There needs to be strong accountability for countries that do not implement commitments around human rights and key populations.

SECTION 3: RECOMMENDATIONS World Café

Please enter the main messages coming out, up to 5 points maximum per section

What are the key recommendations back to UNAIDS in terms of the strategy specifically?	
CONTINUE	1. Pursuing stigma and discrimination programming as a strategy – accelerate country implementation. Maintaining a focus on discrimination in health settings provides a concrete focus for what can devolve into empty rhetoric. 2. UNAIDS strong support for harm reduction approaches and UNAIDS strategy to date has been good in terms of language and values. 3. Strengthening/increasing support for community-led programming and human rights advocacy with governments, particularly those representing key populations. 4. UNAIDS has produced high quality tools (e.g., normative guidance); can further strengthen its role as convener and unique role of its work on human rights. 5. Continue work on decriminalization. Essential to further this work. 6. Improve engagement with OHCHR and human rights mechanisms: a big push on strengthening the standards that have been established, e.g., sex work and drug policy.
STOP	1. Focusing on biomedical strategies alone: Pursuing biomedical strategies alone – biomedical investments and interventions must be integrated with community-led, rights-based approaches that harness the knowledge of affected communities

	2. Treating human rights as an afterthought of the HIV response, especially at the national level where countries commit to human rights and gender programming in order to secure financing but for which there is little accountability. 3. Funding governments that are shrinking civil space and attacking human rights defenders: In many cases government is taking over communities in HIV responses to secure financing – need UNAIDS to address that and to **stop** funding organizations and governments that do not support human rights-based approaches to health: UNAIDS through UN Country Teams can play a critical role in doing this. 4. Slogans and Unrealistic Targets: e.g, zero discrimination is not feasible or achievable. Targets need to be rethought and include human rights and gender equality targets that are SMART. 5. Being timid about political advocacy: UNAIDS needs to figure out how to speak truth to power and do stronger advocacy at the political level. E.g. PCB meetings where countries lie about their contributions and data (greater accountability) and to centralize human rights across work and do that in a stronger way given that it may not be safe for communities to do that on their own. Need strong UN voice on structural and legal barriers.
START	*What are we not doing that we have to start doing?* 1. Need to look at how digital technologies and big data analytics use can advance/harm human rights agenda. 2. More focus on policing and law enforcement and prosecutions (regarding overuse of criminal law). 3. Recognize that AIDS will not end as public health threat by 2030 until we address criminalization and the interdependence of fundamental human rights for which decriminalization is essential. 4. Need to completely rework the approach to global financing and address it as a health and human rights approach, recognize that it disproportionately impacts marginalized populations and include income inequality and socio-economic rights in the approach. 5. Invest in strengthening human rights capacity and commitment in UNAIDS country offices. 6. There is a need for multisectoral approaches by the UN system, but driven by local activists who are aware of local contexts (e.g., inroads via strategic litigation in the Caribbean). Broader objectives but locally driven.
What is the one key recommendation you want to reiterate for strong consideration?	1. Address the legal and policy barriers to effective HIV responses by developing nuanced approaches to decriminalization, including financing and scaling up human rights programming (access to justice, stigma and discrimination, gender equality) 2. A much stronger focus on the entire range of human rights and interdependence of rights, including civil, political, social and economic rights and in particular the right to health for key populations, women and girls and other vulnerable populations due to socioeconomic status.

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