

UNAIDS STRATEGY DEVELOPMENT

UNAIDS STRATEGY REVIEW: Focus Group Synthesis

Country: Global

Organizer: Aidsfonds and Frontline AIDS

Date: 21 August 2020

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UNAIDS STRATEGY REVIEW: Focus Group Synthesis template

Please use the template to organize your feedback from the session. Please keep responses succinct and as clear as possible to ensure our synthesis is a reflection of the focus groups hosted.

You can enter your report directly into a form on SurveyMonkey:

<https://www.surveymonkey.com/r/3HC9Q6M>

If you are not able to enter it on line you can send us a copy via e-mail strategyteam@unaids.org

Would you accept for UNAIDS to make your report publicly available: **Yes** / No

SECTION 1: Information about the focus group (to be completed by host of Focus Group)

Organization leading discussion: Aidsfonds and Frontline AIDS

Date of discussion: 21 August 2020

Theme discussed:

- **Decriminalization HIV non-disclosure, exposure and transmission; Sex work; Same-sex sexual relations; Drug use or possession; Nonconforming gender identities; And lowering the age of consent** (as recommended by 2014 WHO Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations).

Participants (types of organizations participating):

- Global networks working on decriminalization and other issues related to people living with HIV and key populations, including: people who use drugs, sex workers, gay men and other men who have sex with men, and transgender people.
- National networks working on decriminalization and other issues related to key populations (as noted above)
- Representatives from national or sub-national organizations representing youth and people living with HIV
- Representatives from the Aidsfonds, Frontline AIDS, the World Health Organization, and UNAIDS

Country, regional or global focus: Global

Introducing the theme

Please enter the main characteristics of the theme being explored in 5 sentences (please share the presentation if possible by email)

- Criminalization of behaviors and populations associated with HIV creates barriers and reinforces stigma and discrimination that prevent adequate access to HIV prevention, diagnosis, treatment, care and support – often creating intersectional harms for key populations.
- For people living with HIV, the main concerns about criminalization are around transmission of HIV.
- For people who use drugs, sex workers, gay men and other men who have sex with men, and transgender people, the main concerns about criminalization are around drug possession and use, of the sex trade, of same-sex relationships, and of gender identities that do not match sex assigned at birth (respectively).
- Other issues of criminalization including limitations on sexual and reproductive health and rights – including, but not limited to age of consent and access to safe abortion care – and restrictions on the assembly and expression of civil society organizations is also of concern, and often overlaps with other problematic, population-based criminalization.
- These harms of punitive legislation have been previously mentioned by UNAIDS in the Political Declaration and UNAIDS 2016-2021 strategy, though neither has included explicit support for decriminalization.

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

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

REACHING THE PERSON	
How do we see the current situation?	<ul style="list-style-type: none"> • Misuse and abuse of law and powers to target marginalized and vulnerable individuals <p>Even though key populations (many of whom are criminalized) have been a key feature of the global conversation on HIV response for decades now, the experience of most criminalized individuals has changed very little. Sex workers, people who use drugs, transgender people, gay men and other men who have sex with men, and -- in many countries -- people living with HIV - still live in fear and have to first and foremost protect themselves from law enforcement. Most recent wave of misuse and abuse of emergency powers to target marginalized and vulnerable populations has been inflamed by COVID-19. Criminalization of HIV non-disclosure, exposure and transmission; sex work; same-sex sexual relations; drug use or possession; nonconforming gender identities still presents the fundamental barrier for our populations to focusing on and accessing HIV prevention, diagnosis, treatment, care and support services. Even in the best systems providing high-quality HIV services, criminalization can put up an impenetrable barrier.</p> <p>COVID-19 is a perfect example of how it's not just about HIV programs and access to HIV care. Our access to health more broadly, irrespective of a disease, is hijacked by criminalization, which is preventing key populations from getting any care, including now COVID-19-related testing, treatment and support (social protection, economic aid).</p>
What concerns us?	<ul style="list-style-type: none"> • Our bodies and behaviors continue to be criminalized against fundamental human rights and scientific evidence <p>We have seen lots of progress on HIV prevention, testing, treatment – anything that is easily captured and reported in numbers. We have not seen the dedication or the progress on decriminalizing our bodies and our behaviors. It doesn't matter how important we say this is, it's always seen as a second priority and too difficult to influence.</p> <p>Another concern is what replaces criminalization when we achieve decriminalization. Does the stigmatization, discrimination and control simply get shifted? Do we move to forcing people onto treatment? To over-regulating sex work? To reducing access to drugs that affects the safety of supply?</p>
What gives us hope?	<ul style="list-style-type: none"> • Equity, inclusion and human-rights-base of community-led and people-centered approaches <p>We have hope because of the resilience of our people, of our populations. Social media and technology are now tools for people to speak out more safely, and we see some movement in/at community levels. Social changes can lead to policy change – but we need UNAIDS to be on the leading edge of this and capitalize on momentum that is built by civil society. Do not wait and come in late, when it is politically safe. We need UNAIDS to take an active role in these moments and broker the connecting with government officials to make change.</p> <p>There are also some opportunities related to COVID-19, that it has pushed for new ways of delivering services, and some of these reduce the dangers that we face in accessing services usually. Things like increased mobile outreach and virtual consultations, take-home supplies of opioid substitution therapy, prison releases, etc. reduce the need to come for services in person, which can reduce interactions with law enforcement. But of course there are risks with this, too, as not everyone has access to the new way of doing things.</p>
What constrains our ability to achieve our goals?	<ul style="list-style-type: none"> • Politics and absence of political will or concerted effort by the powers-that-be <p>There are problematic limitations on how our needs, as criminalized populations, are defined. Sometimes we need support on something related to criminalization, and we are told that's outside of the scope of what UNAIDS can help with. In other cases, individual UNAIDS officers are not open to or accepting or understanding of our population's needs, so we are completely</p>

	<p>dismissed. (Note: this is not always the case; some of us experience great support from individual UNAIDS officers.)</p> <p>There is also some lack of understanding about terminology and what decriminalization means, especially as it contrasts with legalization. Language needs to be incredibly precise in order to transmit the right messages.</p> <p>There is also not enough measurement of how/whether we achieve our goals. The reporting on human rights issues, stigma and discrimination, etc. is not strong – it is not communicated by UNAIDS to be as important as testing and treatment numbers, so governments see it as optional.</p>
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<h2>THE STRUCTURES THAT RESPOND TO HIV</h2>	
<p>How do we see the current situation?</p>	<ul style="list-style-type: none"> • Short-sighted and politically motivated decisions by the powers-that-be and resistance by funders to invest in long-term systemic changes and law reforms allows for continued misuse of powers and laws to criminalize marginalized and vulnerable populations <p>For criminalized populations, we remain invisible to many HIV programs. We, and the issues that affect us, may be discussed and even included in political declarations, but these do not mean anything – they do not translate to action on the ground, to changes in the structures that harm us. This is partly because political declarations are so diluted, in order to get signatories, that by the time they are palatable to enough countries, they are meaningless.</p> <p>In terms of doing the work to make decriminalization a reality, we are not supported. Donors see this as hard, messy, impossibly large work. There is not standard of how it is done, little understanding about best approaches and not much space to discuss our experiences with peers doing the same work. The same can be said for stigma and discrimination work, which is often the precursor to having discussions on decriminalization.</p>
<p>What concerns us?</p>	<ul style="list-style-type: none"> • Lethal affect of criminalization, allowed to happen due to lack of inaction and investments by the powers-that-be and funders <p>At the implementation level, we see that human rights are optional. Global Fund’s funding request process, for example, asks to include issues of human rights and gender equality if appropriate. But when is this not appropriate? Why are these things optional? There is too much focus on a health approach, rather than a human rights approach – and without the latter, you can’t achieve the former.</p> <p>In some countries, we are seeing epidemics that are slipping out of control. The response from governments is a punitive one, criminalizing HIV transmission and/or cracking down on behaviors associate with our populations, which the government sees as “driving” the epidemic.</p> <p>The singular focus on Ministries of Health is unrealistic and problematic in terms of achieving safety and health for key populations; there needs to be broader, more strategic engagement of other Ministries, especially Ministries of Justice. Without their buy-in, we get results such as de facto decriminalization, where the Ministry of Health advocates for law enforcement to stop arrests of sex workers, people who use drugs, etc. and that may last for some time – but in the end the law is still on the books and people are still vulnerable to law enforcement changing their practices overnight. Communities can’t engage in this kind of work alone. This kind of approach needs brokering from the UN.</p> <p>We are also vulnerable to the changes in donor presence and engagement. For instance, criminalized populations are given a place at the table on Global Fund Country Coordinating Mechanisms – but what happens when the Global Fund leaves? PEPFAR may make it a priority to focus on key populations -- but what happens if they change their priorities, how does the country respond to spending domestic funds on populations that are criminalized?</p>
<p>What gives us hope?</p>	<ul style="list-style-type: none"> • Concerted efforts of progressive UN members states and their partnership with communities, civil society and progressive funders

	<p>It is hard to have much hope sometimes. Some of us have examples of positive partnership between civil society and government, and opening of dialogue space within health and development responses to talk about decriminalization. In some places, young people are gaining access to more reproductive health and human rights. But for many others of us, this is contrasted with a difficult situation in which our populations are increasingly villainized or excluded from health access. Even as the world talks about Universal Health Coverage, it does not seem that that includes us.</p>
<p>What constrains our ability to achieve our goals?</p>	<ul style="list-style-type: none"> • Lack of uniform, unequivocal, evidence- and human rights-based stand on decriminalization by the UN itself <p>The response from the United Nations family is often uncoordinated and inconsistent in its messaging. Some actions are being duplicated, some issues or functions that really need attention are not being covered.</p>

<p>CONTEXTUAL ENVIRONMENT</p>	
<p>How do we see the current situation?</p>	<ul style="list-style-type: none"> • Systemic misuse and abuse of law and powers to target marginalized and vulnerable populations <p>All of our work right now goes to stopping things from getting worse; we see populism and fascism causing direct harm to our communities, increasing criminalization and the enforcement of long-standing harmful laws. We are fighting like hell, but our ambition to make things better has faded.</p> <p>In some cases, even “health approaches” are very harmful – e.g. in Asia, laws on rehabilitation, while not overtly criminalizing drug users, are not actually supportive of access to health services.</p>
<p>What concerns us?</p>	<ul style="list-style-type: none"> • Abuse of punitive laws and power by some governments kills and it is also the fundamental reason why the global community is failing to make progress towards Universal Health Coverage and other SDGs. <p>We need cultural shifts in addition to legislative changes, and this is very hard to achieve. Decolonizing our mindsets is important – e.g. in Africa, removing the colonial homophobic mindset; shifting from the stigmatization of “drug addiction” to understanding trauma and the complex nature of drug use. Shifting the support of the population is important for sustaining any legal changes/progress in the long term. Without such societal support, laws and policies can always change with political regimes.</p> <p>We also need consistency from the UN. The 2016 Political Declaration talks about promoting laws and policies and practice to end stigma and discrimination, but in the same breath calls on law enforcement efforts to prevent crimes and violence – without acknowledging that it is law enforcement that perpetrates human rights crimes and violence against many key populations.</p>
<p>What gives us hope?</p>	<ul style="list-style-type: none"> • Concerted efforts of progressive UN members states and their partnership with communities, civil society and progressive funders <p>There are some examples of things changing. Stigma and discrimination towards HIV in general has reduced in many places (notably, in Africa). Some countries are moving away from homophobia and acknowledging transgender populations as distinct from MSM – not just in health programming, but in general in society. Social media and different channels of communication allow [key population] communities to connect more deeply and to then communicate to society at large to build allyship.</p>
<p>What constrains our ability to achieve our goals?</p>	<ul style="list-style-type: none"> • Limited efforts of progressive UN members states and their partnership with communities, civil society and progressive funders <p>There needs to be an understanding of how different countries organize their legislation and policy, and how federal countries, for instance, hold a lot of power for issues of criminalization at the state level. When UNAIDS only engages at the national level, it misses the opportunity to influence state-level legislation – which can either be moving in a harmful direction (i.e.</p>

introducing or strengthening criminalization), or can set an example for how decriminalization can work in other states.
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EMERGING PATTERNS:

- We see a convenient denial happening: it is being ignored that criminalization is a major, underlying root cause of not achieving the 2020 Fast Track targets.
- The current 2016-2021 UNAIDS strategy has not gone far enough. Its approach (*Result area 6: Punitive laws, policies, practices, stigma and discrimination that block effective responses to HIV are removed*) has focused mostly on stigma and discrimination – which cannot be effectively addressed for key populations until their actions, and their very existence, is decriminalized.
- To the degree that the 2016-2021 UNAIDS strategy specified decriminalization (*Core action: Remove punitive laws, policies and practices that violate human rights, increase people’s vulnerability to and risk of acquiring HIV and impede utilization of services, including travel restrictions and those that block key populations’ access to services*), the language used was vague and missed many of the real harms that criminalization poses to key populations. Criminalization does not just impede *utilization* of services, but violently violates rights to physical and psychological safety, extorts people, prevents them from securing livelihood, and actively blocks them from *accessing* services.
- There are no targets for achieving any of the legislative change (e.g. remove punitive laws) that are specified in the current strategy. This creates lots of problems: lack of accountability for governments to change, lack of clear mandate for UNAIDS to help at the country level, lack of justification for communities to approach government entities about change.
- Ultimately, criminalization is an issue that not only threatens the achievement of ending AIDS, but also the achievement of the Sustainable Development Goals. Leveraging, aligning with, and pushing broader movements like Universal Health Coverage and even capitalizing on the current focus on the COVID-19 response provide opportunities for UNAIDS to highlight the importance and urgency of decriminalization as a means to assuring health and well-being for all.

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	<ul style="list-style-type: none"> • Connecting governments and civil society, acting as a mediating force to open and/or maintain dialogue on decriminalization. <i>UNAIDS is able to raise issues with governments and create space for civil society in a way that civil society cannot achieve alone. This role in brokering conversations should be continued and expanded at country level.</i> • Working closely with criminalized communities, at the country level, to ensure their voices are not lost or silenced during national program design, implementation and oversight. <i>The process of achieving legal and policy change for decriminalization can be long and is dependent on political will. It is important that, in the meantime, UNAIDS continue to advocate and protect space for criminalized populations to be involved in HIV program processes.</i>

	<ul style="list-style-type: none"> • Advocating for the important role of civil society, including the importance of donors investing in the decriminalization advocacy work done by civil society. From protecting civil society from closing civic space at the country level, to assuring that the role of civil society and decriminalization is on the investment agenda of international donors, UNAIDS must continue to support civil society’s role in the HIV response without yield.
STOP	<ul style="list-style-type: none"> • Supporting systems that oppress us; stop putting politics first and stand up to Ministries and governments that harm us. UNAIDS must prioritize achievement of its own goals to end AIDS and reach zero stigma, which will mean being honest and firm when governments are creating and enacting policies that harm key populations. This leadership needs to be seen from the highest, global level, and extend down to individual countries (and, in some cases, states). • Using language that does not align with community experience and values – e.g. referring to “non-conforming” genders, references to stopping crime and engaging law enforcement as a means to end AIDS, etc. While the intentions may be to protect key populations, UNAIDS must deeply understand the impact of such terms, and should ensure full, meaningful engagement of affected people in the design and review of its language choices. • Defining the issues and needs of criminalized populations within narrow bounds, limiting our communities’ abilities to determine what is important and what support is needed from the UN. Criminalization is often intersectional in its harms, reaching across different populations and putting individuals at risk on multiple levels. At the global level, full engagement of key populations in defining an agenda for decriminalization will be a good start, but there must also be recognition that the harms and intersections of criminalization will vary for each population in each country. UNAIDS must be committed to the overall goal of ending criminalization, while allowing for flexibility at the local level to address decriminalization how and when it is needed by key populations. • Viewing criminalization as a set of unrelated, population-specific issues. The result is not only a failure to capitalize on the movement and understanding of how to achieve decriminalization across different places and populations, but also the balkanizing of the UN family response. When each population, in each country, must navigate which branch of the UN will help with their decriminalization efforts (sometimes concluding, after significant effort, that the answer is “none”), the UN places the burden of coordination on already over-burdened communities.
START	<ul style="list-style-type: none"> • Lead your strategy and messaging with human rights language and concepts, building on top of that as a foundation to achieve health for all. Do not leave room to question whether ending AIDS, achieving Sustainable Development Goals or Universal Health Coverage can possibly be attained without decriminalizing and fully protecting the rights of key populations. Be clear that human rights is a non-negotiable foundation for any success in the next strategy period.

	<ul style="list-style-type: none"> • Take a stronger, more explicit stand on the harms of criminalization: define a decriminalization agenda and set targets for progress during the strategy period. Acknowledging that criminalization is an underlying, intersectional cause for failure to achieve Fast Track targets, UNAIDS must set a bold agenda for defining how criminalization creates harm not only to individual populations, but across the full spectrum of the HIV response. Positions must be accompanied by clear targets, building off of ongoing work on target-setting for social enablers and requiring countries and UNAIDS to report on progress towards decriminalization. • Help communities and decision-makers alike to understand language and concepts around decriminalization – especially as it differs from legalization. The issue of decriminalization remains poorly understood by communities and decision-makers alike – sometimes including the UNAIDS and other UN offices in countries. UNAIDS must provide consistent messaging that decriminalization is important and a valid, evidence-based and non-negotiable pursuit for realization of human rights, SDGs, and health outcomes. UNAIDS must use careful and specific language (defined with community engagement) to describe what decriminalization means, why it is important, how it differs from legalization, etc. <i>UNAIDS should use the already-available evidence around the impacts of criminalization on HIV infections, and times to diagnosis and initiation of treatment, aligning closely with WHO and their established guidance on decriminalization.</i> • Work beyond Ministries of Health, for a whole-of-system approach, especially engaging with Ministries of Justice. Recognize that simply calling for law enforcement engagement in the HIV response poses great harm to criminalized populations. Work to stop these harms must also be undertaken from the top-down, to educate and shift the perspective of Ministries of Justice and other high-level decision makers. Without this, all bottom-up work of sensitizing law enforcement will be temporary and hold tenuous results. • Take a strong position on key populations and decriminalization in discussions on Universal Health Coverage. UNAIDS can and should further leverage achievement of a range of Sustainable Development Goals (not only SDG3, but also SDGs 5, 10, 16 and 17) as rationale for decriminalization, insisting that currently-criminalized populations be not only included in health coverage schemes but also protected legally to access health services.
<p>What is the one key recommendation you want to reiterate for strong consideration?</p>	<ul style="list-style-type: none"> • Acknowledge in the new Strategy Beyond 2021 and during the Strategy development process that criminalization is an underlying, intersectional cause for failure to achieve Fast Track targets and SDGs and take an explicit stand on the harms of criminalization; commit to a (an ambitious) decriminalization agenda and set a programmatic target for the social enabler of “supportive legal environment and access to justice,” in the new Strategy requiring countries

and UNAIDS to report on progress towards the decriminalization target i.e.:

- **<10% of countries criminalize sex work; same-sex sexual relations; drug use or possession; nonconforming gender identities; HIV transmission, exposure or non-disclosure by 2030**

There has been sufficient evidence for UNAIDS and the UN to acknowledge that criminalization is an underlying, intersectional cause for failure to achieve Fast Track targets and SDGs. UNAIDS must set a programmatic target for the social enabler of “supportive legal environment and access to justice,” requiring countries and UNAIDS to report on progress towards decriminalization i.e.:

- ✓ *<10% of countries criminalize sex work; same-sex sexual relations; drug use or possession; nonconforming gender identities; HIV transmission, exposure or non-disclosure by 2030*

Achieving HIV goals and the SDG3, SDG5, SDG10, SDG16 and SDG17 will require new investments and sustained co-action across development sectors and stakeholders, which UNAIDS is uniquely placed to facilitate. Social enablers are not optional! Social enablers must be central and place criminalization (of HIV non-disclosure, exposure and transmission; sex work; same-sex sexual relations; drug use or possession; nonconforming gender identities; and lowering the age of consent), in the context of shrinking civil society space, violence and misuse of power in limiting and violating related freedoms and human rights. UNAIDS must play a role in leveraging development synergies towards achieving outcomes across pressing issues – i.e., health, education, justice, SRHR, poverty.

Please share with us any references you think would be useful for the Strategy Development, such as examples of case studies that illustrate the challenges or recommendations you outlined in the discussion report.

Please also share a list of names and email addresses of participants who would wish to continue to be informed of the Strategy development process. Note names and contacts will not be shared publicly or with any third party.

You can send us additional documents via e-mail strategyteam@unaidso.org

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