

# Enabling legal environments:

## Successful Strategies, Challenges and Opportunities

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PCB thematic segment on key populations  
with special focus on transgender people



# Our commitments

- **Reform laws that criminalize** HIV and key populations
- **Remove discrimination and combat stigma**
- Adopt **enabling, evidence-based** law and policies
- Ensure **access to justice**
- Promote **engagement and community-led** responses



# On the road to 2025: 10-10-10 targets

<10%

of PLHIV and key populations experiences stigma and discrimination

<10%

of PLHIV, women and girls and key populations experience gender-based inequalities and violence

<10%

of countries have punitive laws and policies

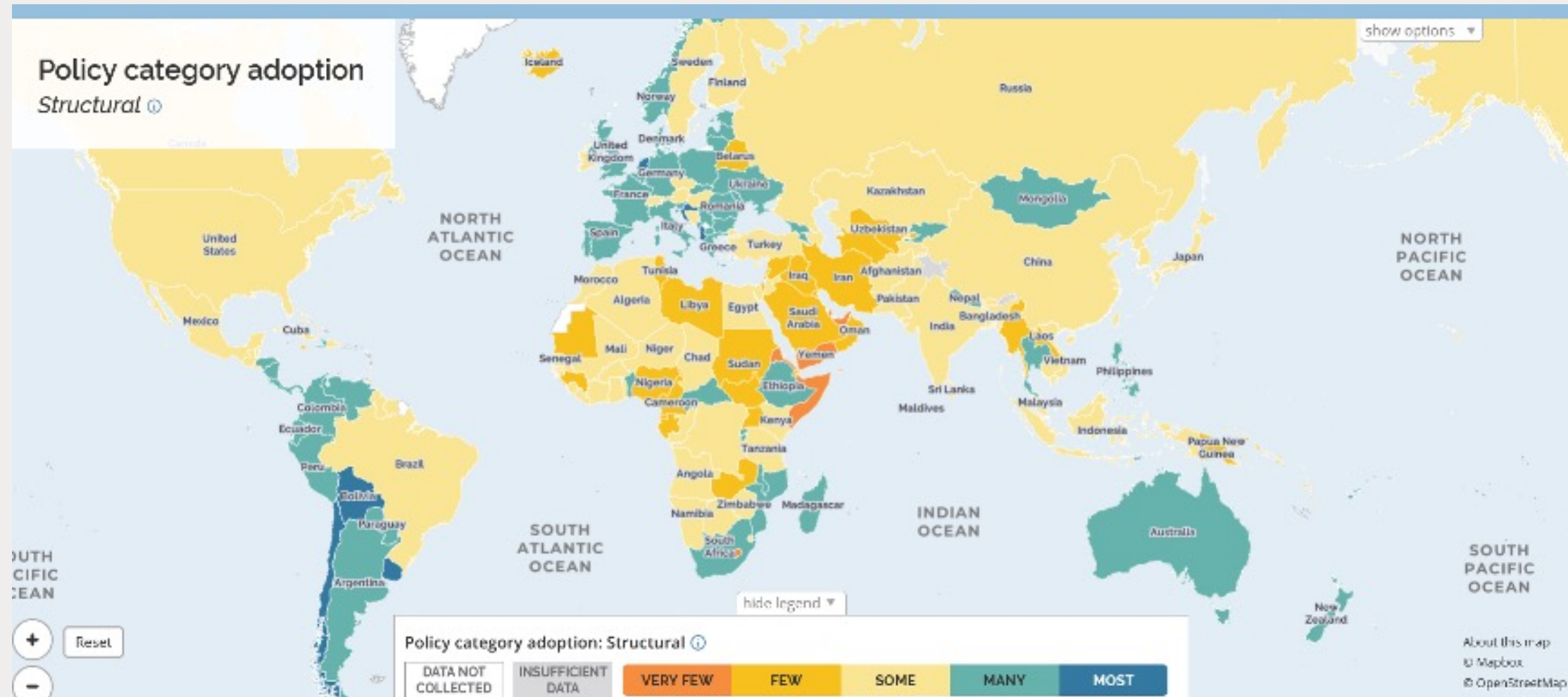




## Global Commission on HIV and the Law (2012, 2018 & 2020)

- Harmful laws, policies and practices cost lives and waste money
  - Barriers to effective HIV responses
  - Perpetuate and exacerbate stigma, discrimination and violence
  - Impede access to HIV services
- Enabling legal and policy environments result in a greater reduction in new HIV infections
- Protective laws can reduce stigma and discrimination and support and empower key populations

# Structural barriers persist



# Structural barriers matter

## Findings

<i>In countries that criminalize...</i>	<i>% of PLHIV who know their status is...</i>	<i>% of PLHIV who have achieved viral suppression is...</i>
<b>Same-sex sex</b>	↓ 11%	↓ 8%
<b>Sex work</b>	↓ 10%	↓ 6%
<b>Drug use</b>	↓ 14%	↓ 14%

<i>In countries that have...</i>	<i>% of PLHIV who know their status is...</i>	<i>% of PLHIV who have achieved viral suppression is...</i>
<b>Non-discrimination laws</b>	↑ 10%	↑ 11%
<b>Human rights institutions</b>	↑ 3%	↑ 3%
<b>GBV laws</b>	↑ 16%	↑ 16%

Analysis

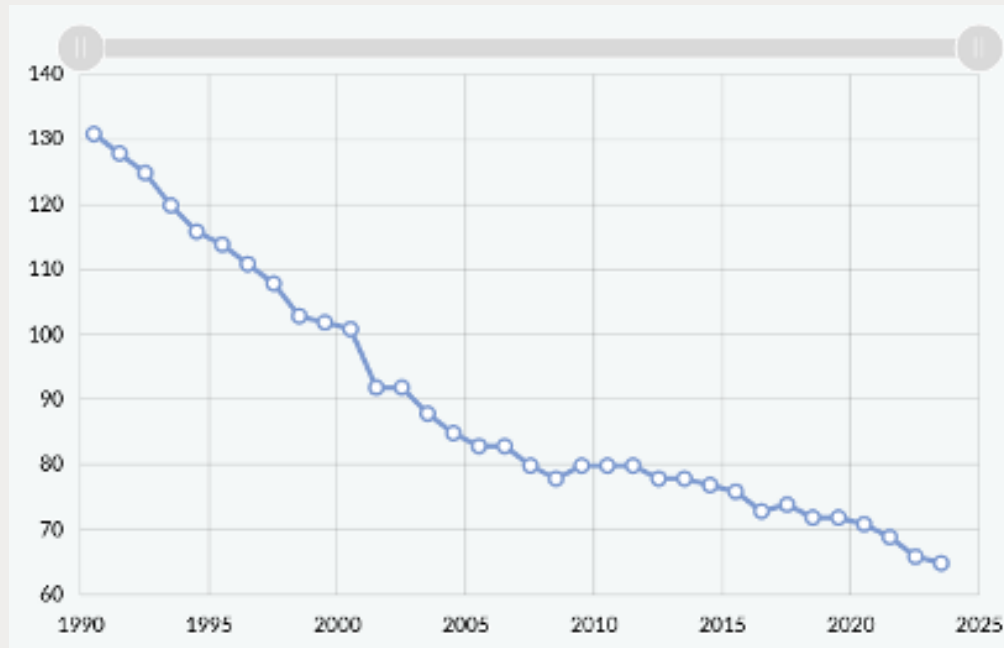
BMJ Global Health

**Law, criminalisation and HIV in the world: have countries that criminalise achieved more or less successful pandemic response?**

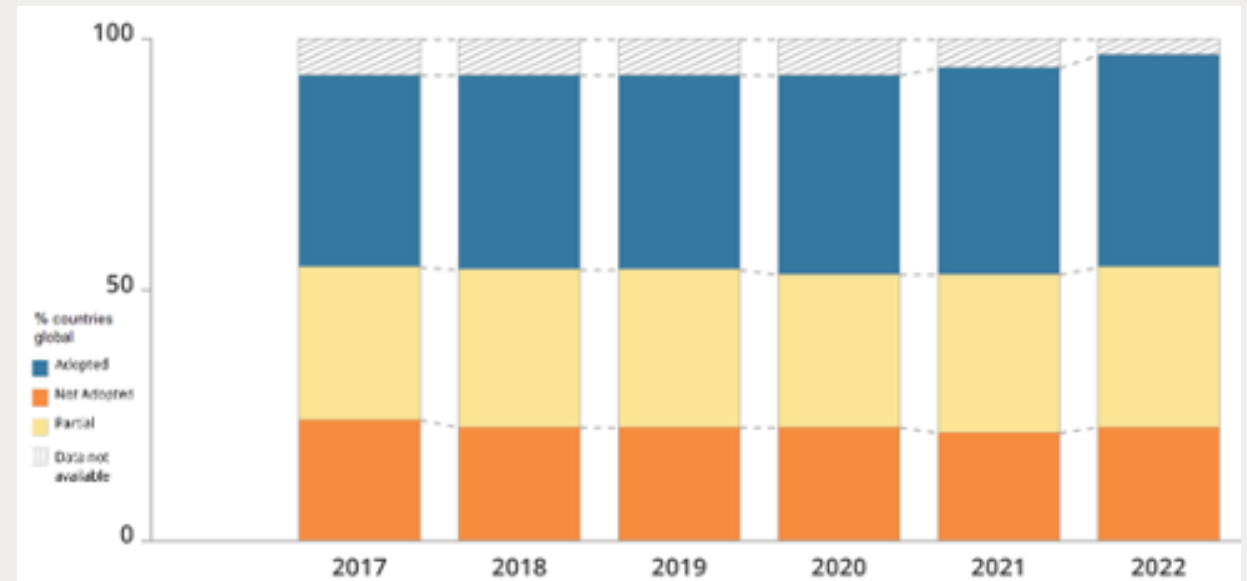
Matthew M Kavanagh <sup>1,2</sup>, Schadrac C Agbla,<sup>3,4</sup> Marissa Joy,<sup>2</sup> Kashish Aneja,<sup>2,5</sup> Mara Pillinger,<sup>2</sup> Alaina Case,<sup>6</sup> Ngozi A Erundu <sup>2</sup>, Taavi Erkkola,<sup>7</sup> Ellie Graeden <sup>6,8</sup>

# Progress is not fast enough

Same-sex decriminalization



HIV decriminalisation



Sources: ILGA World, HIV Policy Lab (2023)

# Strategies and approaches

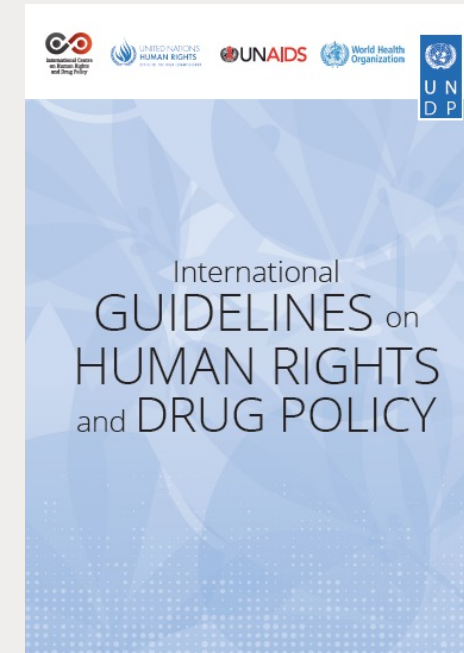
- **Legislative:** repeal, or amendment of unjust laws through parliamentary processes (e.g., Angola, Singapore, Cook Islands, Gabon - same sex relations)
- **Judicial:** typically challenging the constitutionality of criminal/punitive provisions (e.g., Botswana, India, Antigua and Barbuda)
- **Policy advocacy:** mitigating potentially harmful impact of punitive approaches, advancing good practices (e.g., Human Rights and Drug Policy Guidelines, Prosecutorial Guidelines)
- **Lived experience:** direct testimony and evidence of the impact of laws and policies on people living with HIV, key populations and communities (e.g., regional dialogues, Evidence Review)
- **Coalition building:** across communities, across sectors – health, justice, media, across multiple initiatives

GLOBAL

**Cook Islands decriminalizes consensual LGBTQ adult relationships making headway for other countries to do the same**

PRESS STATEMENT

**UNAIDS welcomes the decriminalisation of same sex relations by Singapore's Parliament**





UNAIDS Secretariat and UNDP contributed to legislators' efforts and community engagement on LGBTI inclusion to decriminalize same sex relations in the Cook Islands

Government-led legal environment assessment, supported by UNDP, which convened civil society together with government, was the basis of decriminalization of HIV in Zimbabwe



The Joint Programme and OHCHR supported government to adopt a human rights-based drug law in Côte d'Ivoire and the implementation of Ghana's drug law reform

The Joint Programme supported the Democratic Republic of the Congo to develop and implement an HIV law (following the recommendations of a plan developed by the Global Partnership to Eliminate HIV-Related Stigma and Discrimination)



Following adoption of Transgender Protection of Rights Act, UNDP partnered with the government and community organizations (Humsafar, Lakshya Trust, C-SHaRP) on the design and implementation of welfare and well-being measures for transgender people in India as well as diversity-inclusive media

The Joint Programme supported civil society organization LEGABIBO in successfully litigating for the decriminalization of same sex relations in Botswana



Belgium passed a law decriminalizing sex work, and recognizing rights to legal status, social protection, and health

South African government launched request for public comments on a bill that would end criminalization of sex work after years of advocacy by SWEAT, Sisonke, and the Asijiki coalition





# Global Commission on HIV and the Law

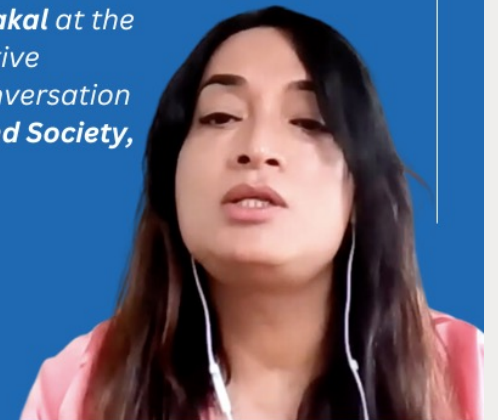
- Convening those who make and enforce the law with those who bear the brunt of the law
  - Regional dialogues and country follow up
- Supporting leadership and empowerment of people living with HIV, key populations and community organizations
- Engagement with regional mechanisms: AU, ACPHRC, SADC, WAHO, CARICOM, ASEAN, SAARC
- Support comprehensive and participatory legal and human rights analyses
- Access to legal services
- Judicial sensitisation
- Strategic litigation


# What have we learned?

- Law and policy reforms that advance the rights and health of people living with HIV and key populations are **possible and achievable**
- **Legislative changes take time:** data, direct evidence and lived experience of the law is critical. The how is important, **political will**, and engagement with legislators is key
- Rule of law and on-going sensitization of an independent judiciary
- **Change is uneven:** e.g. slower progress in HIV decriminalization and decriminalization of sex work. We need to analyze drivers, determinants and impediments and establish ways to speed up change
- **Changing social norms** is connected to law and policy reforms and vice versa
- **Media**, including social media, plays a significant role in shaping – and changing – public opinion. There is a need to work more to **foster inclusive and informed media**
- NONE of the demonstrated examples could have been achieved without **communities' leadership**

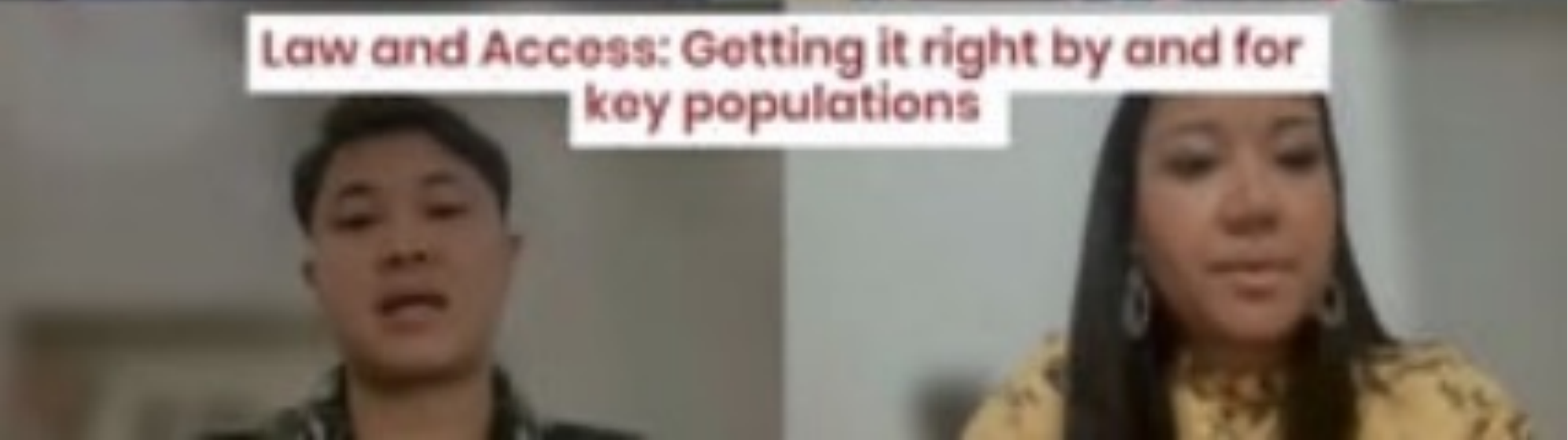
**“We need sensitization programmes along with the policy change to get support from society and wider stakeholders. For this purpose, youth mobilization is very important in the context of digitalization. Targeting policymakers with education and knowledge building efforts is also important.”**

*Manisha Dhakal at the  
SCALE Initiative  
Regional Conversation  
Blue Diamond Society,  
Nepal*



A video call interface showing two participants. On the left is a woman with blonde curly hair and glasses, wearing a blue top. On the right is a woman with dark hair and glasses, wearing a patterned top. A white text box is overlaid across the middle of the video.

**The SCALE Initiative hosted a series of regional dialogues**

A video call interface showing two participants. On the left is a woman with dark hair, wearing a dark top. On the right is a woman with long dark hair, wearing a yellow patterned top. A white text box is overlaid across the middle of the video.

**Law and Access: Getting it right by and for key populations**

# Pushback on rights, gender and civic space

- Well-funded and organized anti-rights, anti-women, and anti-gender movements
- Civic space under attack: civil society vilified, NGOs defunded and closed down. Human rights advocates attacked and persecuted
- Attack on independent media: media outlets and journalists, spreading of disinformation
- Polarising narratives impeding constructive discourse: “non-traditional sexual orientation” vs. “traditional family values”, LGBTI+ rights as “colonialism” and “foreign influence”
- Elections can become a fora
- Stigma, discrimination and violence in cyberspace: increased use of digital technologies to identify, target, threaten and attack people living with HIV, key populations and human rights defenders. Young people are particularly vulnerable.
- Aggravation of punitive laws, policies and norms : e.g., recent anti-homosexuality law and anti-trans court decision

**"A trans person might have a disability, or use drugs. It's not just one discourse for each issue. We must be united to make progress. We need a more comprehensive agenda where no one is left behind."**

*Marcela Romero at  
the SCALE Initiative  
Regional Conversation  
RedLacTrans  
Argentina*





# Pushback on rights, gender and civic space

“No one should be discriminated against based on their sexual orientation.”

Christine Kaseba Sata  
Former First Lady  
Zambia



NONE ON RECORD



FREE & EQUAL  
UNITED NATIONS FOR LGBTI EQUALITY



#AfricanAllies

NEWS

June 26, 2022

SundayObserver | 13

## LET US ALSO SERVE LGBTQI COMMUNITY - MP

STAFF WRITER SHONZOMU SIKALILI

“It is our duty to ensure that the LGBTQI community is not left behind in our development journey.”

The MP was addressing fellow parliamentarians from 17 other countries represented, including Australia.

The MP said she was grateful for the opportunity to share these thoughts about the importance of our country.

She said in her country, the LGBTQI community would not be made a part of the development plan, but she believed that many of the issues raised were of global and applicable nature.

Representatives from 17 other countries were also present at the meeting, including Australia, Canada, France, Germany, Italy, Japan, Kenya, Mexico, Netherlands, Norway, South Africa, Sweden, Switzerland, and the United Kingdom.

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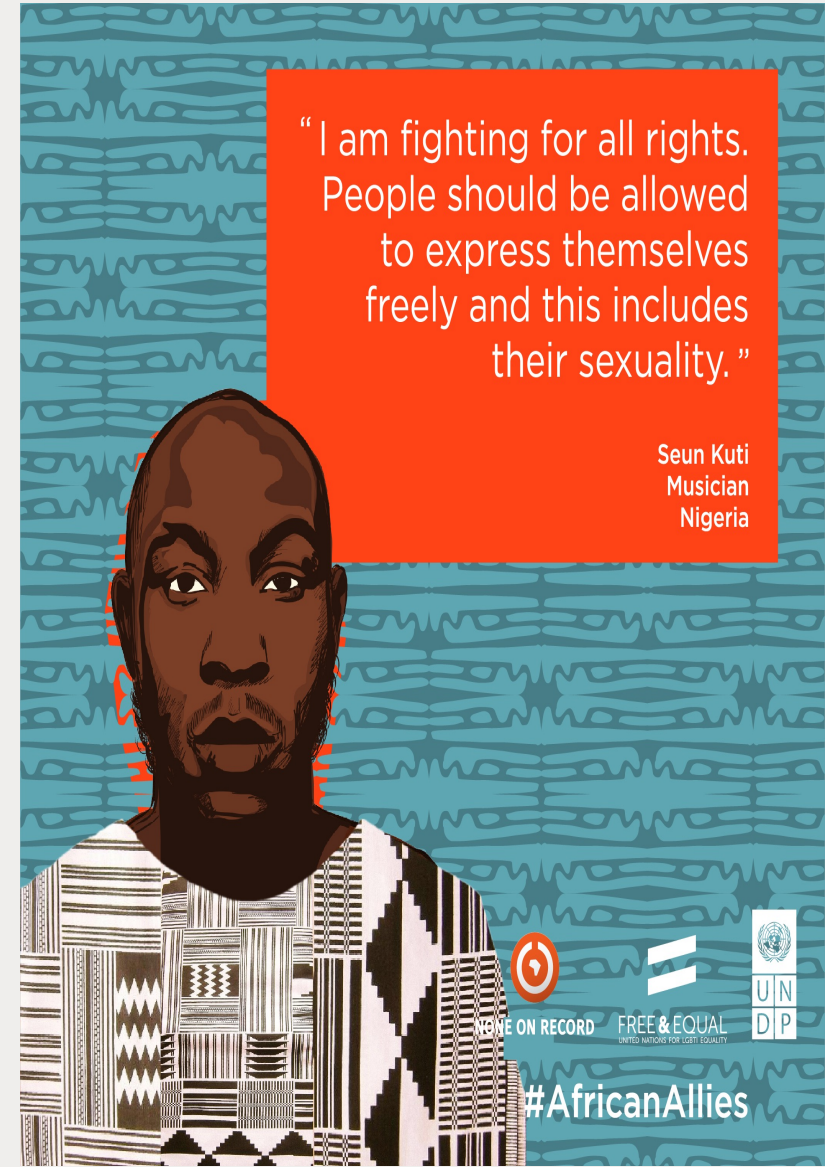
Lubombo Region MP Lorraine Ntshweni. (Courtesy: pic)



person being harassed and there for resulted in gender stigma and much less opportunities for their betterment.

She said that there were new social expressions especially working on the ground, the rights of the children.

She said although the fact that death threats would be conducted for the LGBTQI community was a challenge, she said that it was a challenge to the LGBTQI community and that the government should take steps to ensure that the rights of the LGBTQI community are protected.



“I am fighting for all rights. People should be allowed to express themselves freely and this includes their sexuality.”

Seun Kuti  
Musician  
Nigeria



NONE ON RECORD



FREE & EQUAL  
UNITED NATIONS FOR LGBTI EQUALITY



#AfricanAllies

# Strategies

- Strengthening partnerships with communities, partners and donors ... the Joint Programme, the Global Fund, PEPFAR
- Expanding and diversifying partnerships: greater engagement with parliamentarians, sensitization of the judiciary and the executive branch, traditional and faith-based leaders, young people, media, digital actors (social media),
- Analysis and sharing knowledge of successful and unsuccessful strategies and tactics and political mapping
- Lived experience of the law matters more than ever –more voices and more data
- “Prevention is better than cure” - early warning systems and cooperation are essential to stop harmful laws
- Combine tactics and approaches to achieve better outcomes: legislative, judiciary, policy advocacy, key population/community led approaches
- Scale up community leadership & community led monitoring by key populations, including young people, to remove structural barriers

