

HIVUpdate

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LAWS & POLICIES

Laws and policies that relate to HIV should, by their very nature, support and advance the agenda for prevention as well as treatment, care and support. They should also guarantee and protect the human rights of communities and individuals at the forefront of the epidemic.

Yet the shocking reality is that, after over thirty years of HIV and despite knowing what works and what doesn't, laws that contradict the very essence of HIV prevention are a growing reality.

In many countries and regions punitive laws and policies continue to hinder access to comprehensive sexual and reproductive health (SRH) and HIV information and services. Frequently, these also undermine efforts to address some of the key structural drivers of the epidemic. Over sixty countries have laws that specifically

criminalize HIV transmission or exposure; over seventy that criminalize same-sex sexual activity; over one-hundred deem sex work to be illegal; and over one-hundred still have laws that do not recognize equal inheritance rights for women. These policy barriers act as a disincentive for groups particularly vulnerable to and affected by HIV including people living with HIV, men who have sex with men, sex workers and young women and girls.

Launched in 2010, with evidence gathered through a number of regional dialogues

(some of which IPPF were involved in) throughout 2011, the Global Commission on HIV and the Law is providing much needed leadership on this issue. The Commission's report which will be launched later this year will provide a platform for concerted action (see page 2).

It has been known for some time that a sustainable response to HIV must also endeavour to create an enabling environment by reducing stigma and discrimination and protecting human rights. To uphold the principles of our *Sexual rights: an IPPF declaration*, we need

to ensure that our advocacy voices are raised even louder as we aim to support, defend and uphold the human rights of all individuals. Member Associations from across the Federation are involved in advocating for legal and policy changes at the national level, and because of the partnerships they have built, are increasingly recognized as key players in regional and international dialogues towards the advancement of these rights (see page 3).

Love
Kevin



Perpetuating Stigma

Thirty-six states and two territories in the United States have laws that criminalize HIV exposure or failure to disclose. 'Perpetuating Stigma' is a documentary featuring the personal stories of women living with HIV and investigates the injustices that arise when a person's HIV status becomes a crime. Watch the film at: <http://www.hivandthelaw.com/node/217/usa>

Visit the website, www.hivandthelaw.com





The Global Commission on HIV and the Law: Building resilient HIV responses

By Mandeep Dhaliwal (UNDP) and Emilie Pradichit (Global Commission on HIV and the Law)

Law is a critical element of our response to HIV and public health. It can bridge the divide between vulnerability and resilience. Much in the same way that HIV has exposed health and social inequalities; it has magnified weaknesses in the rule of law that the world can no longer afford to ignore.

Legal frameworks can be powerful tools for countries struggling to control their epidemics. The last three decades have given rise to contentious legal debates on HIV-related issues (e.g.: criminalization of HIV transmission, exposure and non-disclosure; legal restrictions on needle and syringe distribution in the US, on methadone in Russia, versus legal comprehensive harm reduction in Australia). The last few years have seen an insurgence of punitive laws and practices related to drug use, HIV transmission and exposure, sex work, and same sex sexual relations. There is also a growing body of evidence on the relationship between HIV and violence against women. There is enough variation in legal responses to HIV around the world to highlight the need to rigorously examine the impact of different legal environments on HIV outcomes. This is why the [Global Commission on HIV and the Law](#) (the Commission) was created: to examine the impact of law on HIV responses and to catalyze action at the country level, to create legal environments which protect and promote human rights.

Over the last eighteen months, the Commission, led by the United Nations Development Programme (UNDP) on behalf of the UNAIDS family, has looked at the relationship between legal responses, human rights and HIV and developed actionable, evidence-informed recommendations for effective HIV responses. Based on an analysis of where the law could transform the AIDS response and send HIV epidemics into decline, the Commission has focused on four areas:

- 1 laws and practices which criminalize those living with - and most vulnerable to - HIV
- 2 laws and practices which sustain or mitigate violence and discrimination lived by women
- 3 laws and practices which facilitate or impede access to HIV-related treatment and
- 4 issues of law pertaining to children and young people in the context of HIV.

One of the Commission's key contributions is its evidence on issues of HIV and the law. The Commission has examined public health and legal scholarship, as well as evidence on the impact of legal environments on the lives of people living with and vulnerable to HIV. Perhaps the most compelling evidence came from the Commission's seven [regional dialogues](#),¹ held from February to September 2011. To inform its deliberations, the Commission received 644 submissions from 140 countries. 40 per cent of the submissions were from Africa and over 70 percent of the submissions described the daily reality of stigma, discrimination, marginalization, verbal and even physical abuse experienced by people living with HIV. 60 percent of the submissions noted human rights violations lived by women, including barriers to sexual and reproductive health and equal inheritance and property rights. 50 per cent of submissions highlighted the negative health and human rights impact of criminal laws. Submissions also highlighted issues such as the negative impact of laws on age of consent which don't recognise the evolving capacity of the child and prevent young people from accessing HIV and health services and the problems posed

by the current intellectual property regime and trends in intellectual property enforcement, such as free trade agreements, which are impeding the scale up of life sustaining treatment.

Building a movement for enabling legal environments

The regional dialogues in Africa, Asia-Pacific, Caribbean, Eastern Europe and Central Asia, High Income Countries, Latin America and the Middle East created policy space for frank, constructive multi-stakeholder dialogue between those who influence, write and enforce laws, and those experience its impact. Through these dialogues, the Commission heard from over 700 people living with HIV, sex workers, men who have sex with men, transgender people, people who use drugs, police and prison officials, ministers of justice and health, public health officials, parliamentarians, judges and religious leaders. The dialogues have been crucial for identifying how the law can advance health and human rights, for example: where police cooperation with community workers has increased condom use and reduced violence and HIV infection among sex workers; where effective legal aid has made notions of justice and equality real for people living with HIV and contributed to better health outcomes; where advocates have creatively used traditional law in progressive ways to promote women's rights and health; where court and legislative actions have introduced gender-sensitive law on sexual assault and recognized the sexual autonomy of young persons; where governments have provided harm reduction and HIV infection rates among people who use drugs have dropped. The good practice and constituencies mobilized through these dialogues are vital resources for creating legal environments which support effective HIV responses.

Even before the Commission has launched its final report, country level action on improving legal environments is emerging. For instance, Fiji recently chose to not criminalize HIV transmission and lifted HIV-related travel restrictions; in Guyana, a Select Parliamentary Committee chose not to criminalize HIV transmission; the first ever judicial sensitization on HIV and the law took place in the Caribbean; national dialogues on HIV and the law have been held in Papua New Guinea, Belize, Panama and Nepal; and in Moldova and Kyrgyzstan, patent laws are being reviewed. At the Asia Pacific High-Level Intergovernmental Meeting on HIV which took place in February 2012, several governments announced their intentions to review and reform punitive legal approaches towards key populations. The Commission's work has also influenced the report of the Commonwealth Eminent Persons' Group which includes a recommendation for the removal of punitive laws blocking effective HIV responses.

The Commission's final report will be launched at a global dialogue in July 2012. Undoubtedly, the report will emphasize the necessity for an honest appraisal of prejudice, fear and false morality which have confounded the AIDS response for decades. The Commission's messages and recommendations will form the basis of the next generation of HIV responses, where governments and citizens approach HIV as an issue of health, development and social justice.

All research and submissions will be available on the Commission website when the final report is launched. All Regional Dialogue materials are already available on the Commission's website. For more information, visit www.hivlawcommission.org.

1. From February 2011 to September 2011, seven regional dialogues were held: in Asia-Pacific, the Caribbean, Eastern Europe and Central Asia, Latin America, Arab States, Africa and High Income Countries.

Advocating for change

By Daniel McCartney, HIV Officer: Research and Technical Support (IPPF Central Office)

IPPF Member Associations (MAs) are often a voice for those that often go unheard, and have contributed to a number of legal and policy changes and reform related to HIV. Increasingly, MAs are also becoming involved in a number of HIV policy activities at a regional and international level to advance the issue of human rights.

Advocating for changes to laws and policies in support of sexual and reproductive health, and defending hard-won positions, is a cornerstone of IPPF's work. In countries where laws exist that create challenges for SRH and HIV programmes to reach key populations, strong voices are required to support sexual and reproductive health.

Laws should support people living with HIV and key populations to access essential SRH and HIV-related services. This includes advocating for law reform to enable harm reduction services to operate for people who use drugs, to decriminalize sex work and sex between men, to ensure gender equality, and to provide wider protection from violence and discrimination.

Increasingly IPPF Member Associations have contributed to a number of legal and policy changes related to HIV. These changes often resulted from strong partnerships with other organizations advocating for similar reform.



Swedish Association for Sexuality Education

By working to educate and inform key decision makers on the negative impact of the current legislation on Sweden's HIV response, the Swedish Association for Sexuality Education (RFSU) is calling on the government to review the 'Communicable Diseases Act' and change the application of legislation surrounding people living with HIV. In Sweden, HIV-positive people can be prosecuted and convicted under criminal law for transmission of HIV, exposure without transmission and/or failure to disclose HIV status, as current legislation requires an HIV-positive person to inform a prospective sexual partner of their status.



Planned Parenthood Association of Thailand

PPAT is calling on the government to revise legislation to actively protect the rights of individuals that enter into the sex industry without being criminalized, stigmatized and marginalized. Though openly practiced, sex work is illegal in Thailand under the 'Prevention and Suppression of Prostitution Act', and has fuelled an environment where law enforcement officers feel empowered to be abusive while enforcing punitive laws. Even possession of condoms has been used as evidence to prosecute sex workers. These laws and the actions of police have become the main barrier for all sex workers, including male and transgender sex workers, trying to access services.



Family Planning Association of Trinidad & Tobago

FPAT is working towards the right to equality, equal protection of the law, and freedom from all forms of discrimination by calling on the government to amend the 'Equal Opportunity Act' to add sexual orientation and gender as a status that merits protection from discrimination, and to decriminalize all consensual private sexual activities between adults. In Trinidad & Tobago, the 'Sexual Offences Act (1986)' criminalizes consensual same-sex sexual activity as 'serious indecency' with a penalty of 25 years imprisonment. This law, along with societal homophobia, is seen as a major contributing factor to the significantly higher HIV prevalence among MSM compared to the general population.

Homophobic bullying in educational institutions

By Drashko Kostovski, Programme Director (H.E.R.A., Macedonia) and Nathalie Nkoume, Programme Director (CAMNAFAW, Cameroon)

Widespread violence and systemic discrimination and stigma against lesbian, gay, bisexual, transgender, and intersex (LGBTI) people impacts many students and young people. Students around the world are routinely denied the basic, universal human right of access to education because of the discrimination and violence they experience in school on the basis for their actual or perceived sexual orientation, gender expression and gender identity.

From 6-9 December 2011 in Rio de Janeiro, Brazil, we participated in the first ever United Nations consultation to address homophobic bullying in educational institutions. Convened by UNESCO, this consultation gathered around forty organizations representing academia, UN agencies, civil society and governmental institutions from Africa, Asia, Caribbean, Europe, Latin America, North America and Pacific. Civil society was mainly represented by LGBT community organizations, but there were also

some organizations working on SRH, HIV, education and youth – including IPPF Member Associations, represented by Nathalie from CAMNAFAW in Cameroon, and Drashko from H.E.R.A. in Macedonia.

Together, we had the opportunity to present IPPF's strategic efforts based on the recognition of sexual rights (or the *Sexual rights: an IPPF Declaration*) and share examples of specific activities implemented in our respective countries for the sexual and reproductive health and rights of all people, including LGBTI people. One area in particular was IPPF's work to increase access to comprehensive sexuality education for young people, which provides a positive view on issues related to sexual orientation and gender identity.

During the consultation, we heard about some great work and important lessons learned for challenging homophobia in schools. In particular, we took away the importance of using strategies that work

with both parents and teachers, and the need to address all forms of bullying, not just homophobic, by promoting diversity, building confidence and providing resource materials in schools.

At the end of the consultation, a joint statement was published and distributed on International Human Rights Day, which called upon governments to live up to their responsibility to provide universal access to a high quality education by eliminating the barriers created by homophobia, lesbophobia and transphobia, including the unacceptable and devastating prevalence of anti-LGBT bias and violence in elementary and secondary schools around the world. An outcome document will also be finalized soon.

Related resources

Rio Statement on Homophobic Bullying and Education: <http://www.unesco.org/new/en/hiv-and-aids/our-priorities-in-hiv/gender-equality/anti-bullying/>

UNESCO HIV and AIDS Education Clearinghouse:
<http://hivaidsclearinghouse.unesco.org/>

People at IPPF



Dr Anupam Khungar Pathni

Programme Officer, HIV and AIDS –
IPPF South Asia Regional Office

A clinician by background, I started working in public health purely by accident rather than design. I became involved with the AIDS control programme in India more than a decade ago and have never really looked back. The more that I worked in the programme, the more committed I became. Interacting with people living with and affected by HIV, hearing stories, seeing the difference that

we make and the immense opportunity that exists for much more, really keeps me going.

In August 2011, I joined IPPF in the South Asia Regional Office as the Programme Officer, HIV and AIDS. I am responsible for operationalizing IPPF's HIV strategy and supporting the implementation by our Member Associations in the South Asia Region. I also provide technical assistance to the MAs for

providing HIV-related services within the larger framework of sexual and reproductive health and rights.

I am committed to make a difference by strengthening the systems and services at the MA level. I believe that our MAs, being sexual and reproductive health service providers, are uniquely positioned to provide integrated SRH and HIV services for key populations and people living with HIV. This integrated approach enables the provision of comprehensive and holistic services to these populations, along with outreach services.

New publications

Preventing HIV and unintended pregnancies: strategic framework 2011–2015



This strategic framework supports the 'Global Plan Towards the Elimination of New HIV Infections among Children by 2015 and Keeping their Mothers Alive'. It offers guidance for preventing HIV

infections and unintended pregnancies – both essential strategies for improving maternal and child health, and eliminating new paediatric HIV infections. Eliminating new HIV infections among children and keeping their mothers alive is based on a four-pronged strategy. Developed by the Inter-agency Task Team (IATT) for Prevention and Treatment of HIV Infection in Pregnant Women, Mothers, and their Children, this framework focuses on what can be done to strengthen programming for prongs 1 and 2 – preventing HIV and unintended pregnancies.

The guidelines are available at: <http://www.ippf.org/en/Resources/Guides-toolkits/Preventing+HIV+and+unintended+pregnancies.htm>

News in brief

Maurice Tomlinson
Inaugural recipient of the David Kato
Vision & Voice Award

The award is inspired by the life of Ugandan gay rights activist David Kato, who was murdered on 26 January 2011, and recognizes the leadership of individuals who strive to uphold the human rights and human dignity of lesbian, gay, bisexual, transgender and intersex (LGBTI) people around the world. The inaugural award was presented to Jamaican lawyer and activist Maurice Tomlinson almost one year to the day when David was murdered, on 29 January 2012 at a ceremony in London.

Jamaica is regarded as one of the most homophobic countries in the world, where at least 35 people have been murdered because of their sexuality since 1997. Despite the very real risks to his own life and safety, Maurice Tomlinson has been one of the most outspoken advocates for LGBTI rights in Jamaica, working tirelessly to promote change in laws and policies and challenging misrepresentations about LGBTI communities.

Frank Mugisha, chair person of the David Kato Vision & Voice Award Steering Committee, and Executive Director of Sexual Minorities Uganda (SMUG) said: "The spirit of the work that David fought and died for is perfectly captured by the very essence of Maurice's tireless efforts in Jamaica and the region. In a highly competitive process Maurice is a worthy recipient of the very first David Kato Vision & Voice Award."

Nominations for the 2013 David Kato Vision & Voice Award will open later in 2012. Visit the website for more information and to join the mailing list: www.visionandvoiceaward.com

Key dates

International Women's Day
8 March 2012

World Tuberculosis Day
24 March 2012

World Health Day
7 April 2012

**International Day Against
Homophobia and Transphobia**
17 May 2012

World Hepatitis Day
19 May 2012

AIDS 2012
related events
Washington DC, USA

**IPPF Global HIV Competency
Workshop**
18-20 & 28 July 2012

**13th International Conference of
People living with HIV (LIVING 2012)**
19-20 July 2012
www.living2012.org

5th MSM Pre-Conference Event
21 July 2012
www.msmsgf.org/aids2012

XIX International AIDS Conference
22-27 July 2012
www.aids2012.org

HIV team contact details

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Kevin Osborne
Lucy Stackpool-Moore
Andy Guise
Daniel McCartney
Jon Hopkins
Liz Tremlett
Taghreed El-Hajj

Senior HIV Advisor
Senior HIV Officer: Linking SRH and HIV
HIV Officer: Prevention, Treatment and Care
HIV Officer: Research and Technical Support
HIV Officer: Youth
HIV Officer: Stigma
Linkages Campaign Officer

kosborne@ippf.org
lstackpoolmoore@ippf.org
aguise@ippf.org
dmccartney@ippf.org
jhopkins@ippf.org
ltremlett@ippf.org
telhajj@ippf.org

**International Planned
Parenthood Federation**
4 Newhams Row, London SE1 3UZ
United Kingdom
tel +44 (0) 20 7939 8200
email HIVinfo@ippf.org
web www.ippf.org