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ENGAGING WITH PARLIAMENTARIANS ON HIV AND THE LAW

A practical manual for UNDP Country Office and Regional Staff

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United Nations Development Programme

HIV, HEALTH AND DEVELOPMENT

1. Background: HIV, human rights and the law

Three decades of experience has shown that promoting and protecting human rights are essential for preventing HIV transmission and reducing the impact of HIV and AIDS. Rights-based approaches and protective and enabling legal environments reduce vulnerability to HIV; ensure that HIV prevention, treatment and care services are accessible by those most at risk; and enable affected communities to participate in planning and implementing effective interventions. This experience reinforces the 'AIDS paradox' that experts have posited since the early days of the epidemic:

The protection of the human rights of persons at risk is the most effective way of arresting or slowing the spread of the virus... Only by recognising this paradox can the confidence and attention of the relevant audience be won and held. Only by doing this can the behaviour modification, necessary to containing the epidemic, be achieved.¹

The success of public health programmes in stopping the spread of HIV depends on their ability to engage people living with HIV and key populations most impacted by the virus and marginalized in society (including men who have sex with men, transgender people, sex workers, people who use drugs, prisoners and migrants). Such success is also incumbent on acting to protect and empower women, children and youth.

Evidence shows that HIV programmes that are grounded in human rights and empower key populations are cost effective and can significantly reduce HIV transmission—saving lives and money.²

Legal environments that secure and protect the rights and dignity of people living with HIV and key populations, and that ensure access to confidential HIV prevention, treatment and care services, positively impact national HIV responses and can be a powerful tool for social change.³ However, laws, practices, and social and cultural norms that perpetuate ignorance, stigma, discrimination and marginalization of people living with HIV or key populations, or that criminalize or punish their behaviour, can significantly hinder the HIV response.

2. About this manual

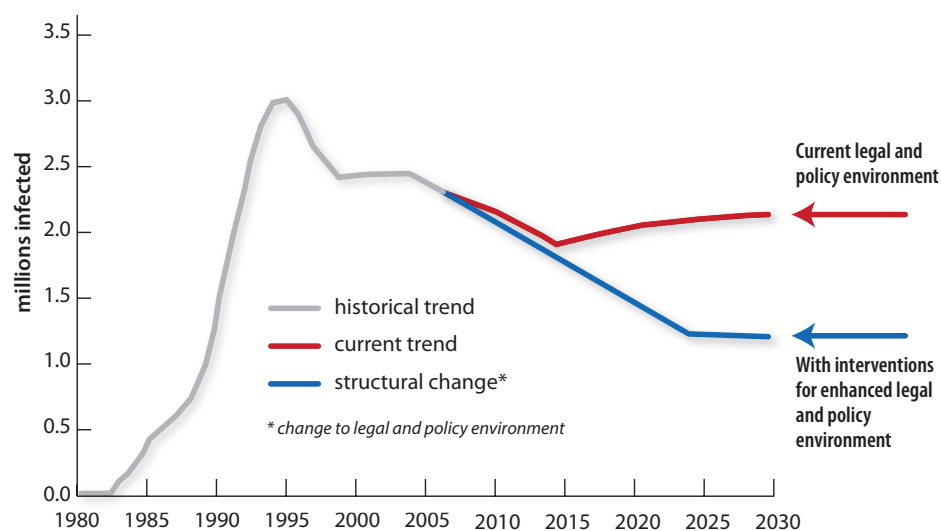
A key goal of the Joint United Nations Programme on HIV/AIDS (UNAIDS) 2011–2015 strategy is to halve by 2015 the number of countries with punitive laws and practices on HIV transmission, sex work, drug use or homosexuality that block effective responses.⁴ Within the UNAIDS division of labour, UNDP is tasked with leading work in the area of removing punitive laws, policies, practices, stigma and discrimination that block effective HIV responses. This includes focusing on the use of law, public policy and inclusive governance both to promote an enabling environment for public health and human rights, and to reduce HIV-related vulnerability. UNDP's Strategic Plan 2014–2017 emphasizes the reduction of inequalities and exclusion as key to a vision of sustainable development that is informed by outcomes of inclusive growth and strengthened democratic governance.⁵ These strategies are reflected in and implemented through UNDP's work on democratic governance (comprising support to countries in strengthening legislative systems and improving access to justice) and HIV and health, which includes UNDP's partnership with the Global Fund to Fight AIDS, Tuberculosis and Malaria. This resource has been prepared to support these overlapping and reinforcing areas of work.

This manual provides guidance on engaging with members of parliament on HIV and the law. It highlights key principles, strategies and activities drawn from similar tools created by the Inter-Parliamentary Union (IPU) and other organizations, as well as the experiences of UN country, regional and headquarters staff who have worked with elected officials in a variety of settings. The manual is intended as a practical tool that should be adapted to country contexts, and used in conjunction with other resource materials.

This manual is primarily intended as a resource for regional and country-level UNDP staff who may be involved in reaching out to parliamentarians. It may also be a useful resource for civil society organizations and other national and international entities advocating for enabling legal environments to improve the national HIV response.

WHY THE LAW MATTERS

Annual number of new HIV infections among adults aged 15–49 globally



Source: Results for Development Institute, Costs & Choices: Financing the Long-Term Fight Against AIDS, An aids2031 Project, 2010.

Terminology

Although this manual refers primarily to 'members of parliament', this term is meant to encompass all elected officials in a national legislative body, whether in a parliamentary or presidential system, and whether the body is called a parliament, congress or assembly.

3. The Global Commission on HIV and the Law

In June 2010, the United Nations Development Programme (UNDP), on behalf of the Joint United Nations Programme on HIV/AIDS (UNAIDS), launched the Global Commission on HIV and the Law. The Commission was established to develop actionable, evidence-informed and human rights-based recommendations for effective responses to mitigate the impact of HIV and protect and promote the human rights of people living with and most vulnerable to HIV. The Commission consulted widely over 18 months, including through a series of Regional Dialogues held in 2011 focussing on the most challenging legal and human rights issues in the context of HIV.

In July 2012, the Commission released its flagship report, *HIV and the Law: Risks, Rights and Health*. The report found that punitive laws and human rights abuses are costing lives, wasting money and stifling the global AIDS response. However, it also concluded that effective evidence-based laws grounded in human rights do exist and can be replicated.

Although every country is guided by its own legislative and HIV contexts, the Commission's recommendations focus on the need for country-level action in six recognized areas within the overall global context:

- HIV-related discrimination;
- criminalization of HIV transmission, exposure and non-disclosure of HIV status;
- key populations at increased risk of HIV (people who use drugs, sex workers, men who have sex with men, transgender people, prisoners and migrants);
- gender-based violence and disempowerment of women;
- children and youth; and
- intellectual property law and access to treatment.

UNDP, as Secretariat of the Global Commission on HIV and the Law, is leading on assisting countries to act on the Global Commission's recommendations.

Key references

[*HIV and the Law, Risks, Rights and Health, Global Commission on HIV and the Law, July 2012*](#)

All additional materials relating to the Global Commission on HIV and the Law may be found on the Commission website at www.hivlawcommission.org

4. Turning political commitment into action

In 2001 and 2006, UN Member States committed to strengthening laws to eliminate discrimination against people living with HIV and vulnerable groups, and to ensure their full enjoyment of human rights and access to health care and legal protection. In the 2011 Political Declaration on HIV/AIDS, Member States reiterated their commitment to creating legal, regulatory and social environments that advance and safeguard dignity, health and justice in the context of HIV.⁶ Member States also committed to reviewing laws and policies that adversely affect the successful, effective and equitable delivery of HIV programmes.

While the last decade has seen some progress, criminalization, discrimination, punitive law enforcement practices, human rights abuses and failure to enforce protective laws continue to undermine the response to the HIV epidemics in many countries.

Engaging political leaders and parliamentarians to conduct legal and policy reviews, pursue legal reform and ensure robust implementation through direct and continuous oversight is, therefore, a critical component of turning these political commitments into action. Improving the effectiveness of national HIV responses through the creation of enabling legal environments is particularly important in light of ongoing concerns about resource shortfalls and instability in the global economy.

Key references

- [Declaration of Commitment, UN General Assembly Special Session on HIV/AIDS, A/RES/S-26/2, 2001, paragraphs 58-61](#)
- [Political Declaration on HIV/AIDS, UN General Assembly A/RES/60/262, June 2006](#)
- [Political Declaration on HIV/AIDS: Intensifying our Efforts to Eliminate HIV/AIDS, A/RES/65/277, July 2011](#)
- [International Guidelines on HIV and Human Rights, 2006 Consolidated Version, OHCHR and UNAIDS, 2006](#)

5. The role of parliamentarians

Effective engagement with parliamentarians begins with understanding their roles and responsibilities within parliament and their constituency. As the IPU notes, parliamentarians exercise representative, leadership, legislative, resource-mobilizing and oversight roles as part of their duties.⁷ They may be motivated to fulfil these roles on behalf of their constituents, the public, their political party, the government, their family or friends, religious or social values, their own interests or moral obligations, or a mix of some or all of these factors. Successful efforts at parliamentary engagement recognize the various factors that shape and constrain the behaviour of parliamentarians, and understand that achieving results may require pulling different levers or emphasizing different values during the course of advocacy.

Advancing legal reform through parliament is often a lengthy process that necessitates building relationships with members of parliament and their staff over several years. Furthermore, politics is often cyclical, and the opposition may regularly replace the party in power. Accordingly, it is critical to engage with parliamentarians across political parties, both to build broad consensus for the passage of legislation, and to ensure continuous and sustained government attention to issues related to HIV, human rights and the law.

Understanding parliament

It is critical to understand the structure of the parliament one is working with. This entails understanding the legislative process governing the introduction, debate and passage of legislation, including during consideration of a national budget and in overseeing activities of the executive. Because structures and processes vary among countries, this manual is intended only as a brief primer; it should be supplemented with additional country-specific research.

Legislative process: Both in parliamentary and in presidential systems of government, the principal function of legislative assemblies is to pass legislation to enable the nation to secure the health and well-being of its people.

In many countries, realization of the Global Commission on HIV and the Law's recommendations will require new legislation to prohibit discrimination, protect human rights, and remove criminal and punitive laws and sanctions. In this context, it is crucial to understand:

- how legislation is developed and introduced;
- the rules and processes governing the consideration of legislation in committees and in the full legislative body;
- who can offer amendments, and how;
- how debate is structured;
- how parliamentary motions may be tabled; and
- the rules governing the passage of legislation and its enactment into law.

For example, in some countries, only certain members of parliament may introduce legislation, and only at set times of the year. In some cases, initial consideration of a bill requires the assent of the chairperson of the relevant committee or committees. In other cases, the head of the legislative body must allow the bill to be considered. Where the amendment process is open ended, care must be taken to structure legislation to minimize the opportunities for problematic amendments.

An understanding of each step in the legislative process can inform the development of an initial legal reform strategy, and facilitate planning specific advocacy activities. Furthermore, knowing which members of parliament to target, when to target them, and how to engage them, is essential to supporting the passage of legislation.

Budget debates and allocation: Another key function of most parliaments and legislative assemblies is to participate in the development and allocation of national budgets to fund government activities.

When money is attached to particular policies or government proposals, it tends to facilitate the implementation of related government activities. In some parliaments, expenditures are broadly categorized across sectors and the executive determines which projects receive funding. In these cases, it is difficult for parliament to directly tinker with the budget. But in other cases, parliament may provide specific and detailed direction on which projects should be funded, how much money they should receive, what their goals should be, and how the administration should report on progress towards their achievement. Again, because budget processes may differ from the regular legislative process in each country, UNDP teams should ensure that they are aware of the key points of influence during the development, introduction and finalization of national budgets.

Encouraging parliamentarians to designate funding for specific projects—for example, to expand legal aid services or to support legal redress mechanism for human rights violations—can help to prioritize such projects within the national budget and further the recommendations of the Global Commission.

Direct oversight: Beyond enacting legislation and approving national budgets, most legislative bodies in parliamentary and presidential systems play an ongoing role in overseeing executive branch activities. In some cases, opportunities for direct oversight may arise during the normal legislative process, such as when executive officials are summoned to provide annual reports of government activities and plans for the coming year. Frequently, oversight may occur at the prompting of members of parliament who wish to follow up on issues raised in a briefing, meeting or event. Members of parliament may also be inspired to exercise their oversight authority in response to a media story or at the request of a constituent or advocacy group.



Photo: Jonathan Ernst/World Bank, Lawmakers meet during a session of Parliament in Accra, Ghana, June 16, 2006.
www.flickr.com/photos/worldbank/5094763376/

Typical direct oversight actions may include:

- questioning during committee hearings;
- meeting with government officials, in public or in private, to call their attention to a specific problem or suggest areas of focus;
- sending individual or group letters to government officials raising particular concerns or asking for information about compliance with existing laws;
- tabling parliamentary questions to raise specific issues with government ministers; and
- facilitating meetings, site visits, or panel events to encourage dialogue and interaction between government officials and civil society.

For example, if a youth is discriminated against or attacked for being gay and the police fail to pursue the offenders, a member of parliament may raise the issue directly with the executive branch of government through a variety of oversight channels, both to reassure the community that violence and bigotry will not be tolerated, and to provide opportunities for legal redress and reconciliation.

Setting clear and achievable goals for each oversight activity helps create a simple to-do list that is easy to follow and enables members of parliament to exercise their full range of public responsibilities. In many cases, these oversight actions can be precursors to the development of legislation and the pursuit of legal reform.

Parliamentarian networks: Beyond party or regional affiliations, many parliamentarians join or form cross-party networks, coalitions or committees out of a shared interest in particular issues. In many cases, these networks have dedicated staff and resources, and can facilitate dialogue and exchange between parliamentarians, advocates and civil society organizations, and within parliament itself. In some countries, dedicated HIV parliamentarian networks provide a critical point of engagement for pursuing legal reform and can be a resource for understanding parliamentary procedures, structures and internal politics.

Understanding the constituency

Building support for legal and policy reform often requires a long-term strategic effort and sustained advocacy with parliamentarians. Effective advocacy requires an understanding of the parliamentarian's home constituency. This involves understanding how the parliamentarian wields leadership in the community, and identifying key influential supporters as well as potential impediments to action. Civil society allies living in these communities can often provide nuanced information regarding the best approach to engaging with parliamentarians.



Photo: Tajikistan Parliament, Tajikistan. Gennadiy Ratushenko/World Bank
<https://www.flickr.com/photos/worldbank/2074154122/>

Leadership: As elected (or in some cases, appointed) public officials, members of parliament are prominent in their community and can often mobilize support and influence public opinion. Understanding how they exercise this leadership, and the extent to which they are willing to do so, can be useful in addressing harmful social and cultural norms, and in building consensus towards the integration of human rights in the national HIV response. When instances of stigma and discrimination occur, encouraging a parliamentarian to speak out forcefully can also help combat intolerance within the community.

Representation: In much the same way that parliamentarians can influence their constituents, so too can the constituency influence the actions of a parliamentarian. Enlisting private, religious and civil society organizations and individuals within a community to help engage a parliamentarian is part of an effective advocacy strategy. It is necessary, therefore, to identify the key actors and opinion leaders within each constituency and determine who may be able to spur the parliamentarian to action.

Identifying challenges: Identifying likely sources of opposition and conflict within a constituency, and determining whether they can be converted to allies or overcome, should be part of a legal reform and advocacy strategy. In some cases, the challenges posed by the constituency may make it difficult for a parliamentarian to consider legal reform or oversight proposals. In these situations, it may make sense to focus on other potential allies.

Reaching out to parliamentarians

A range of tactics common across most countries may be used to reach out and engage with parliamentarians on HIV and human rights-related advocacy and legal reform. While requests for meetings from UNDP and other UN agencies may be usually granted, most parliamentarians are also eager to engage with constituents. It is generally advisable to ensure that advocates from a parliamentarian's constituency are involved in planning for, and participate in, most outreach efforts.

Apart from arranging standard office visits and briefings for parliamentarians and their networks, UNDP Country Office staff can work with civil society partners to arrange a variety of activities and help to cultivate more sustained parliamentary engagement.

6. Making the case for parliamentary action

Understanding how to effectively communicate with parliamentarians is as important as understanding the context in which they act. This requires knowing how to interact with parliamentarians, which information is most relevant to them, what to ask of them, and how to support them.

Ideas for outreach activities include:

- Invite parliamentarians to visit a local clinic, health centre, community social service organization or school to talk directly with constituents affected by HIV.
- Organize HIV testing and awareness days and encourage parliamentarians to publicly get tested as an example to their constituents.
- Invite parliamentarians to speak on a panel or press conference organized by community groups to launch a new report or study on health access, stigma, or discrimination in the community.
- Invite parliamentarians or their staff to attend community events—including conferences, town hall meetings, theatrical productions and sporting events—that feature HIV-awareness activities or discussions.
- Organize award presentations for parliamentarians who have spoken or taken positive steps to advance HIV and human rights issues in their community, and ensure that they are recognized publicly for their efforts.
- Engage local media outlets and editorial boards to prompt and encourage them to write stories and commentary on the local HIV response, and facilitate quotes and interviews from parliamentarians.
- Write opinion editorials or letters to the editor encouraging parliamentarians to act on a particular HIV-related issue in the constituency.
- Offer opportunities to parliamentarians to submit articles, commentary or pre-recorded remarks to community or organizational newsletters, publications or websites.
- Use social media, including Twitter, Facebook and others, to lobby parliamentarians directly, share stories of interest on HIV-related issues, and ask for action and feedback.

Parliamentarians often face a multitude of responsibilities and must devote time and attention to a range of issues. Some parliaments do not operate year round; in these countries, parliamentarians often hold a second job. Successful advocacy and legal reform campaigns acknowledge the limited time, attention and expertise of parliamentarians, and develop lobbying strategies that maximize the impact of the time spent with parliamentarians and their staff.

How to talk to parliamentarians: The importance of real world examples

Often, the key to motivating parliamentarians to press for legal reform in integrating human rights principles into the national HIV response is to make the issue relevant to them and their constituents. Merely citing statistics or speaking in abstract terms about a country's human rights obligations and the gaps in its HIV programme will not usually motivate action. Constituents' stories about experiences with discrimination, stigma, or abuse, tied to the policies and practices that perpetuate them and the laws that permit or prohibit them, can be a more powerful motivator for reform.

Presentations to parliamentarians should generally be short and to the point. They should:

- begin with an introduction to the issue;
- offer an opportunity for vulnerable and key populations to share their stories;
- provide a brief summary of the law or policy and how it shapes the national HIV response;
- suggest changes to improve the law; and
- share experiences and data supporting legal and policy change from other jurisdictions.

Each presentation should end with a request or set of requests for specific, achievable and measurable action.

Parliamentarians and data presentation: Less is more

For many parliamentarians, data presentations can be confusing or overwhelming. In some cases, parliamentarians are unfamiliar with the metrics for evaluating national HIV programmes, and may struggle to attribute or translate those metrics into policy. It is important, therefore, to be direct and precise in presenting data. Presentations should focus on key data points and draw clear connections to the legal and policy implications. In general, clear visual presentations of data are easier to understand and digest than statistical charts. Trend lines are also important to show progress or regression on key indicators, and to demonstrate why legal or policy reform may be necessary.

Often, parliamentarians will not have a nuanced understanding of the HIV epidemic in their communities. Contrasting HIV prevalence and incidence rates between the general population and key populations such as men who have sex with men, sex workers, people who use drugs and prisoners can help illustrate how and why key populations are at increased risk. Tying differential HIV prevalence rates to access and utilization rates for HIV prevention and treatment programmes, sex education, confidentiality laws, and criminalization and other punitive measures can help draw the link between the data and law.

Other indicators that are particularly useful include surveys examining:

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