

UNAIDS' SUBMISSION TO THE HIGH COMMISSIONER ON THE CREATION AND MAINTENANCE OF SAFE AND ENABLING ENVIRONMENTS FOR CIVIL SOCIETY

September 2015

CONTEXT

The international community has long recognized civil society as integral to the development agenda. Today, as civil society organizations in many countries face legal and regulatory threats,¹ it is more important than ever to recognize and to strengthen the critical role that civil society plays in supporting human rights and in fostering public health.

The AIDS response has made progress largely because of civil society's significant contributions. Throughout the AIDS epidemic, civil society organizations have been essential in ensuring that community stakeholders are meaningfully engaged in the development and implementation of public health programmes and policies at the local, regional and international levels. In particular, civil society participation has helped establish more successful implementation of quality HIV services, more significant stakeholder input into HIV policy-making and an increased focus on the human rights of key populations and people living with HIV.

Since UNAIDS was established in 1996, civil society actors have been crucial to UNAIDS' principles and to the achievement of its purpose. This document serves to highlight some of UNAIDS' successful practices for engaging civil society and for supporting safe and enabling environments that allow for civil society work.

EXAMPLES OF UNAIDS' ENGAGEMENT WITH CIVIL SOCIETY AND HOW CIVIL SOCIETY HAS ADVANCED THE AIDS AGENDA

A. Conducive political and public environments: UNAIDS and the *Greater Involvement of People living with HIV (GIPA) Principle's* role in fostering civil society engagement in the AIDS response

UNAIDS has been outspoken on key issues surrounding civil society engagement to end AIDS by 2030. In particular, UNAIDS has worked with governments to foster supportive legal and policy environments that can protect the rights of people living with HIV and ensure meaningful and effective engagement of key populations in public health policymaking and programmatic development.

Engagement of key populations, including people living with HIV, has always been of critical importance in actualizing an effective AIDS response. In 2001, there was a widespread political call for a unifying set of principles that would foster this civil society engagement, protect the rights of people living with HIV and help to reverse the epidemic. This call led to the Greater Involvement of People Living with HIV, known as the GIPA Principle. In 2001, the GIPA Principle was endorsed by 189 United Nations member countries as part of the Declaration of Commitment on HIV/AIDS.² Since then, the 2006 Political Declaration on HIV/AIDS was

¹ See e.g., INT'L CTR. FOR NOT-FOR-PROFIT LAW & WORLD MOVEMENT FOR DEMOCRACY SECRETARIAT AT THE NAT'L ENDOWMENT FOR DEMOCRACY, DEFENDING CIVIL SOCIETY REPORT (2nd ed. 2012), *available at* http://www.icnl.org/research/resources/dcs/DCS_Report_Second_Edition_English.pdf.

² UNAIDS, *Policy Brief: The Greater Involvement of People Living with HIV (GIPA)* (Mar. 2007), http://data.unaids.org/pub/BriefingNote/2007/jc1299_policy_brief_gipa.pdf.

unanimously adopted by 192 Member States; the Political Declaration also emphasized the need for greater engagement of people living with HIV in the AIDS response.³

The GIPA Principle embodies the importance of providing supporting environments for civil society engagement in realizing the goals of the AIDS response. In particular, the GIPA Principle emphasizes the rights of people living with HIV to “self-determination and participation” in decision-making processes that affect their lives.⁴ By supporting civil society engagement, the GIPA Principle will ensure that people living with HIV “have the space and the practical support for their greater and more meaningful involvement,” strengthening the basic rights of key stakeholders and ultimately improving the “quality and effectiveness of the AIDS response”.⁵

B. Right to information: Engaging civil society actors in data collection processes to inform the AIDS response

In ensuring that HIV programmes, policies and advocacy are evidence-informed, civil society engagement in and access to information is essential. To this end, the GIPA Principle was put into practice with the development of a new measurement tool, the People Living with HIV Stigma Index (Stigma Index). Created in a partnership between the International Planned Parenthood Federation, the Global Network of People Living with HIV (GNP+), the International Community of Women Living with HIV and UNAIDS, the Stigma Index seeks to resolve the evidence gap on HIV-related stigma and discrimination.⁶ In particular, the Stigma Index aims to engage key stakeholders (people living with HIV) in the data collection process, including by training people living with HIV as interviewers, engaging people living with HIV as interviewees and using this evidence to inform HIV programming at the local, state and regional levels. For the first time, people living with HIV were the researchers and not only the objects of research.

Throughout the development and implementation of the Stigma Index, UNAIDS, together with GNP+, has worked with governments to support networks of people living with HIV to conduct the Stigma Index, to ensure that the legal and regulatory environments are conducive to this project and to ensure that implementation is led by people living with HIV. To date, more than 50 countries have completed the study and more than 63,000 people living with HIV have been engaged in the process in their communities.⁷

C. Inclusion in public decision-making processes: Providing for meaningful participation of civil society actors in UNAIDS’ governance

In 1995, UNAIDS became the first United Nations programme to formally include civil society as part of its governing board,⁸ paving the way for further civil society engagement in other initiatives. UNAIDS’ groundbreaking decision also set a precedent for other international institutions to follow. For example, in 2002, the Global Fund to Fight AIDS, Tuberculosis and Malaria (the Global Fund) made the decision to include civil society actors as voting members of

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Feature Story: People Living with HIV Stigma Index*, UNAIDS PRESS CENTRE (Aug. 26, 2008), <http://www.unaids.org/en/resources/presscentre/featurestories/2008/august/20080826stigmaindex>.

⁷ PEOPLE LIVING WITH HIV STIGMA INDEX, <http://www.stigmaindex.org> (last visited Sept. 24, 2015).

⁸ *Review of Current Practices of Stakeholder Engagement in Multilateral Organisations*, UNEP (July 30, 2013), http://www.unep.org/civil-society/Portals/24105/documents/resources/stakeholder_engagement/Review_of_current_practices_of_stakeholder_engagement_in_multilateral_organisations_30July_2013.pdf, at 25.

its board.⁹ Other international organizations are now also including civil society in public decision-making processes. For example, in 2013, the United Nations Office on Drugs and Crime engaged civil society networks of people who use drugs to inform its initiatives on HIV and drug use.¹⁰

With each of these initiatives, civil society actors play a more established role in overseeing the development and implementation of HIV programmes, policies and services, and this civil society input is critical not only in fostering meaningful engagement, but also in establishing more effective, rights-based programming.

D. Long-term support and resources: The Robert Carr civil society Networks Fund

Ensuring an effective AIDS response requires long-term, sustainable support for civil society actors and organizations. To this end, UNAIDS has played a critical role in the establishment and ongoing work of the Robert Carr civil society Networks Fund. Established in 2012, the Robert Carr Networks Fund provides funding and other resources to support global and regional civil society networks, supporting national impact through global and regional action. The Fund focuses on supporting advocacy for underserved populations, in particular people living with HIV, people who use drugs, sex workers, gay men and other men who have sex with men, transgender people and young people and women in sub-Saharan Africa. UNAIDS has long been involved in the Robert Carr Networks Fund, having played a key role in its founding and continuing as a part of the International Steering Committee today. In so doing, UNAIDS helps to ensure that there is continued support for civil society network engagement in the AIDS response.

E. Supportive regulatory frameworks: UNAIDS' partnership with other stakeholders in to express concerns about the impact of punitive legislation on civil society

In order to ensure the continuation of civil society spaces, UNAIDS serves as a strong advocate for safe and enabling legal environments that allow for civil society engagement in the AIDS response. The example below describes how UNAIDS has raised concerns civil society restrictions and fostered the continued support of civil society as critical to the AIDS response.

In January 2014, the Global Fund and UNAIDS called on Nigeria to reconsider its anti-homosexuality legislation.¹¹ Among its provisions, the legislation imposes a jail sentence of up to 14 years for those who enter into a same-sex union.¹² The legislation also restricts the freedom of association and assembly by gay and lesbian Nigerians,¹³ rights that are critical to effective civil society engagement in public health policy-making and programming.

⁹ See JENNIFER CHAN, *POLITICS IN THE CORRIDOR OF DYING: AIDS ACTIVISM AND GLOBAL HEALTH GOVERNANCE* 150, (Johns Hopkins University Press, 2015); see also generally The Global Fund, *An Evolving Partnership: The Global Fund and Civil Society in the Fight Against AIDS, Tuberculosis and Malaria*, <http://www.ft.dk/samling/20061/almdel/uru/bilag/198/383297.pdf>, (last visited Sept. 24, 2015).

¹⁰ *UNAIDS Cosponsor: United Nations Office on Drugs and Crime* (2015), http://www.unaids.org/sites/default/files/media_asset/UNODC_en.pdf.

¹¹ *Press Statement: UNAIDS and the Global Fund Express Deep Concern About the Impact of a New Law Affecting the AIDS Response and Human Rights of LGBT People in Nigeria*, UNAIDS PRESS CENTRE (Jan. 14, 2014), <http://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2014/january/20140114nigeria>.

¹² *Nigerian President Signs Anti-Gay Bill into Law*, REUTERS (Jan. 13, 2014, 11:18 AM), <http://www.reuters.com/article/2014/01/13/nigeria-gay-idUSL6N0KN2PP20140113>.

¹³ *Id.*

In a joint statement, the Global Fund and UNAIDS expressed concern that the punitive legislation may hinder access to essential HIV programmes and services for populations at high risk of HIV infection.¹⁴ The Global Fund and UNAIDS noted that the legislation will impede the AIDS response in Nigeria, curtailing human rights, restricting civil society engagement and putting many lives at risk.¹⁵ A recent study published in the *Lancet* later confirmed these fears, stating that the criminalization of same-sex relations is correlated with an increased stigma associated with HIV prevention and treatment and an increased avoidance and fear of accessing healthcare services among men who have sex with men.¹⁶

Following the Global Fund and UNAIDS' call to action, governments – including the United States and the United Kingdom – voiced their concerns, echoing the urgent appeal for Nigerian leaders to re-examine the constitutionality of the law. Despite continued international pressure, the Nigerian law – which directly challenges the role of civil society in the AIDS response assembly – is still in-place today.

CONCLUSION

UNAIDS has long recognized the critical importance of engaging civil society and the value of civil society's inputs to ensure that UNAIDS' work is culturally-relevant, supportive of basic human rights and effective. UNAIDS has therefore played an ongoing role in fostering supportive environments within which civil society can operate, in providing the resources necessary to facilitate civil society engagement and in incorporating civil society actors in its governance and its programmatic work.

¹⁴ *Press Statement, supra* note 11.

¹⁵ Karanja Kinyanjui, *Global Fund and UNAIDS Urge Nigeria to Reconsider New Anti-Gay Law* (Jan 20, 2014), http://www.aidspace.org/gfo_article/global-fund-and-unaid-urge-nigeria-reconsider-new-anti-gay-law.

¹⁶ Sheree R. Schwartz et al., *The Immediate Effect of the Same-Sex Marriage Prohibition Act on Stigma, Discrimination, and Engagement on HIV Prevention and Treatment Services in Men Who Have Sex with Men in Nigeria: Analysis of Prospective Data from the TRUST Cohort*. 2 LANCET HIV e299 (2015).