**UNAIDS Submission to Special Rapporteurs on the Human Rights Impact of COVID-19**

**Introduction**

1. The Joint United Nations Programme on HIV/AIDS (UNAIDS) welcomes the opportunity to make a submission to the group of UN Special Rapporteurs on the impact of COVID-19 on human rights. Drawing on the experience and learnings in applying a human rights-based and gender-transformative approach to the HIV epidemic, UNAIDS issued guidance early on in the COVID-19 pandemic*:* [*Human Rights in the time of COVID-19: Lessons from HIV for an Effective, Community-led Response*](https://www.unaids.org/en/resources/documents/2020/human-rights-and-covid-19.),and recently published guidance on women and girls during COVID-19: [*Six concrete measures to support women and girls in all their diversity in the context of the COVID-19 pandemic*](https://www.unaids.org/en/resources/documents/2020/women-girls-covid19)*.* The submission below should be considered in addition to the findings and recommendations made in these two publications.
2. State obligations to respect, protect and fulfil human rights are never more essential than in public health emergencies such as the COVID pandemic, where fear, misinformation and stigmatizing, punitive measures can result in violations of human rights guaranteed under international human rights law, exacerbate existing social and economic inequalities, and ultimately undermine effective responses to COVID-19. Indeed, the almost four decades of experience of UNAIDS and others UN entities and civil society actors in the HIV response illustrate that public health and human rights should ***not*** be in tension: rather, only a response based in human rights, which meaningfully engages civil society and communities most affected, will ultimately be effective in responding to COVID.

**Impact of COVID-19 on Human Rights: Statistical information and Protection of Vulnerable Groups**

1. Acute pandemics have the potential to cause significant violations of human rights, both in the direct effect of the outbreak, such as health services becoming inaccessible, as well as the ways in which such an outbreak is responded to, such as through use of force, restrictions on movement, loss of income and work. These impacts are not experienced equally, but follow the fault lines of inequality and existing marginalisation.
2. While there are examples of states taking public health measures which are consistent with human rights obligations and protecting the most vulnerable, there are likewise many cases of states using emergency powers and mobility restrictions such as isolation, quarantine, curfew and stay-at-home orders in ways that exacerbate existing inequalities, stigma, discrimination and violence.
3. UNAIDS and other UN agencies and civil society organizations have raised concerns about violence, discrimination, stigma and abuse faced by women and girls, including adolescent girls and young women (AGYM) and other populations that face pre-existing stigma and discrimination, including people living with HIV (PLHIV), key populations, (comprised of [lesbian gay, bisexual and transgender (LGBT) communities](https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2020/april/20200427_lgbti-covid), [sex workers](https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2020/april/20200408_sex-workers-covid-19), [people who use drugs (PUDs)](https://www.unodc.org/documents/hiv-aids/publications/People_who_use_drugs/Infographics_1.pdf), [people in prisons and other closed settings](https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2020/may/20200513_joint-statement-covid19-prisons)), and other vulnerable populations such as [migrants](https://www.euro.who.int/en/health-topics/health-determinants/migration-and-health/news/news/2020/4/covid-19-ensuring-refugees-and-migrants-are-not-left-behind).
4. Access to essential HIV services, including prevention interventions, diagnostic testing and access to antiretroviral therapies (ART) have been disrupted due to lockdowns, curfews and stringent stay-at-home orders. A recent [WHO/UNAIDS modelling study](https://www.who.int/news-room/detail/11-05-2020-the-cost-of-inaction-covid-19-related-service-disruptions-could-cause-hundreds-of-thousands-of-extra-deaths-from-hiv) of COVID-19-related service interruptions estimated that a six month disruption of ART could lead to more than 500,000 additional deaths from AIDS-related illnesses.Community-based HIV service delivery has been particularly affected by COVID-19 measures that do not take into account the critical nature of these services in many countries. [UNAIDS](https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2020/may/20200518_community-led-organizations-essential-service-providers-covid19) has called on governments to ensure HIV services delivered by community organizations are deemed essential health services to mitigate the impact on PLHIV and populations at a higher risk of HIV acquisition, and issued urgent [policy recommendations](https://www.unaids.org/sites/default/files/media_asset/covid19-supply-chain-availability-cost-generic-arv_en.pdf) to governments and pharmaceutical manufacturers to mitigate the impact of COVID-19 measures on the supply chain, availability and cost of generic antiretrovirals in low and middle-income countries.

*Women and Girls, including those living with HIV.*

1. Women and girls, including adolescent girls and young women (AGYM), transgender women and other gender diverse persons, have been [disproportionately impacted by COVID-19 containment measures](https://bf889554-6857-4cfe-8d55-8770007b8841.filesusr.com/ugd/6c192f_c5e1d5d3515e443dabde708e9221a3cb.pdf), with dramatic increases in gender-based violence [(GBV)](https://www.unwomen.org/en/digital-library/publications/2020/04/issue-brief-covid-19-and-ending-violence-against-women-and-girls) reported in the wake of lockdowns and curfews.The [UNAIDS report](https://www.unaids.org/en/resources/documents/2020/women-girls-covid19) on women and girls outlines six key rights-based measures that governments can take to mitigate the gendered and discriminatory impacts of COVID-19.Women and girls in all their diversity are at heightened risk of domestic violence, inadequate access to essential health care, economic insecurity, and the imposition of unpaid and unrecognized care work. The intersectional discrimination faced by sex workers, lesbians, transgender women, migrant women, women living with HIV and women living in conflict and humanitarian settings, amplifies the negative impacts of COVID-19 measures.
2. For women living with HIV, GBV and the fear of violence can impede access to HIV prevention and other essential health services and make it more difficult to negotiate safer sex. Addressing the neglected epidemic of GBV against women and girls and ensuring access to women’s shelters, domestic violence helplines and online services is vital. In [Thailand](https://www.unaids.org/en/resources/covid-blog), UNAIDS has worked with civil society organizations to develop an online tool and establish multidisciplinary crisis response teams to provide health and social support and volunteer lawyers to assist survivors in court.
3. Access to essential health services, including [sexual and reproductive health information and services](https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736(20)30801-1.pdf) (SRHS), including abortion, where legal, has been significantly curtailed by some governments, and demands for already under-resourced services such as hotlines and shelters for women and girls facing GBV have jumped significantly. The Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health has expressed concern over the [interruption of non-COVID-19 health services](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25945&LangID=E), including SHRS, antiretrovirals for PLHIV and childhood immunizations, underscoring the need for COVID-19 measures to take into account the broader social and economic context.

*Key populations*

1. [Preliminary results from a survey](https://blogs.unicef.org/east-asia-pacific/hiv-impact-on-mental-health-and-quality-of-life-in-time-of-covid-19/) launched by the Interagency Task Team (IATT) on young key populations and young people living with HIV in Asia and the Pacific indicate that the COVID-19 pandemic is having significant, negative socio-economic and health impacts, including loss of employment, income and reduced access to HIV services, including ART.Results from a recent [UNAIDS regional survey](https://www.unaids.org/en/resources/presscentre/featurestories/2020/june/20200624_hiv-treatment-latin-america) of people living with HIV in Latin America found that five in ten PLHIV are having difficulties in obtaining ART and 56% reported fears of physical, psychological or verbal violence due to living with HIV in the midst of the COVID-19 pandemic.
2. The double criminalization of sex work and breaches of COVID-related lockdowns and curfews has had a particularly devastating impact on sex workers, including transgender sex workers, who have lost income and are struggling to survive and maintain their health, housing and obtain food and other basic necessities for themselves and their families. Increased arrests and assaults by law enforcement officials enforcing curfews and other COVID-19 measures has been reported in several countries (see [here](https://www.nation.co.ke/counties/makueni/Covid-19%E2%80%9324-sex-workers-to-be-quarantined/1183294-5530086-9sjiquz/index.html) and [here](https://healthgap.org/press/ugandas-covid19-response-is-terrorizing-women-with-arbitrary-detention-blackmail-and-violence/)). Sex workers are struggling to obtain ART refills, pre-exposure prophylaxis, condoms and treatment for sexually transmitted infections to maintain their health and those of their clients. [UNAIDS and the Global Network of Sex Work Projects](https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2020/april/20200408_sex-workers-covid-19) (NSWP) have called on governments to ensure the respect, protection and fulfilment of sex workers’ human rights and ensure inclusion in social protection measures.
3. Prisoners and others detained or institutionalized in closed settings are uniquely [vulnerable to COVID-19](https://www.unodc.org/documents/Advocacy-Section/UNODC_Position_paper_COVID-19_in_prisons.pdf.), with many prison systems plagued by overcrowding and limited access to health services. Some governments, such as [Myanmar](https://www.unaids.org/en/resources/covid-blog#node-53902), have responded to civil society concerns regarding the unique risks of COVID transmission in overcrowded settings, such as prisons and detention centres, by releasing low-risk non-violent prisoners.However, many other governments have not. A [joint UN statement](https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2020/may/20200513_joint-statement-covid19-prisons.) called on all government to release non-violent offenders and to permanently close compulsory drug detention and rehabilitation centres given the elevated risk of COVID-19 transmission in closed settings and the lack of any evidence that they are effective in reducing drug dependency.
4. [LGBT populations](https://www.ohchr.org/Documents/Issues/LGBT/LGBTIpeople.pdf) have been subject to abuse, harassment and imprisonment for alleged breaches of social distancing measures, such as the 19 LGBT youth beaten, arrested and imprisoned without access to counsel who were living in a shelter near [Kampala, Uganda](https://www.hrw.org/news/2020/04/03/uganda-lgbt-shelter-residents-arrested-covid-19-pretext). In [Hungary](https://www.theguardian.com/world/2020/apr/02/hungary-to-end-legal-recognition-of-trans-people-amid-covid-19-crisis), the government used emergency legislation drafted in response to COVID-19 to statutorily define gender as biological sex based on sex characteristics and hormones, infringing the rights of transgender Hungarians. In a number of countries, [transgender women have faced harassment, abuse and arrest](https://www.unaids.org/en/resources/documents/2020/women-girls-covid19) for leaving the house on the “wrong” day in violation of the government’s gender-based quarantine. [UNAIDS and MPact](https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2020/april/20200427_lgbti-covid) have called on governments to ensure the human rights of LGBT people are protected and to challenge false claims by political and religious leaders blaming LGBT people for COVID-19, noting that gay men and other men who have sex with men account for almost 20% of all new HIV infections and are 22% more likely to acquire HIV than other men, while transgender women have a risk of acquiring HIV that is 12 times higher than the general population. The need for access to services for LGBT people experiencing intimate partner violence (IPV) is also urgent given the increases in domestic violence noted across regions in the wake of lockdowns.
5. Harm reduction services, such as needle and syringe programmes (NSP), opioid substitution therapy (OST), methadone maintenance therapy (MMT) and other interventions for people who use drugs should be classified as essential health services. [Viet Nam](https://www.unaids.org/en/resources/covid-blog#node-53902.), for example, has introduced takeaway doses for seven or 10-day dosages of Buprenorphine and Methadone at facilities for clients who are quarantined, supported by UNODC and UNAIDS.

**Social Protection**

1. Many governments have announced large-scale social protection measures, including providing income security benefits to mitigate the impact of COVID-19 and relaxing unemployment insurance rules for people who have lost jobs and income. However, many people working in the informal economy, which comprises almost [60 % of the global workforce](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_627189/lang--en/index.htm), have limited or no access to social protection. The [*UN Framework for the Immediate Response to the Socio-Economic response to COVID-19*](https://www.un.org/sites/un2.un.org/files/un_framework_report_on_covid-19.pdf) underscores the need to ensure that populations with the highest degree of socio-economic marginalization receive specific attention in the COVID-19 response, including, *inter alia*, women, migrants, people in detention, PLHIV and groups that are particularly vulnerable because laws, policies and practices do not protect them from discrimination and exclusion, including LGBT people, sex workers and people who use drugs.
2. Women in all their diversity are particularly vulnerable to the economic and social impacts of COVID-19: they are 22% more likely than men to live in [extreme poverty](https://elibrary.worldbank.org/doi/abs/10.1596/1813-9450-8360) and more often work in positions in both the formal and informal economies that lack basic [social or legal protection and benefits](https://www.unaids.org/sites/default/files/media_asset/women-girls-covid19_en.pdf). Increased unemployment due to COVID-19 is likely to significantly increase the imposition of [unpaid care and domestic work on women](https://news.un.org/en/story/2020/04/1061452), who already carry a disproportionate burden of caring for ill or elderly family members, retrenching traditional gender roles and inequality. UNAIDS recommends addressing the different needs of women and girls in COVID-19 social protection measures, paying attention to the most marginalized, including sex workers, transgender women, women living with HIV, migrant women and women who use drugs.
3. The lack of social protection for sex workers in most countries, due both to the criminalization of their occupation and government lockdowns, has been disastrous. Sex worker-led organizations are reporting [systematic exclusion from financial and social protection schemes](https://www.unaids.org/sites/default/files/media_asset/women-girls-covid19_en.pdf), particularly where sex work is criminalized. They face a grim decision between survival and compliance with lockdowns and other measures, and arrests for violating lockdown rules have been reported in several regions.
4. [UNAIDS and UNICEF](https://www.unaids.org/en/resources/covid-blog) have been supporting sex worker networks in countries such as Bangladesh to provide PPE and other commodities and to support income-generating entrepreneurships given the lack of social protection, but more comprehensive social protection benefits are required to ensure sex workers have an adequate income for themselves and their families, regardless of where they work, and protection from abusive law enforcement practices.
5. Communities that have come together in order to respond to the HIV epidemic, are responding with resilience and determination to COVID-19, using their pre-existing networks, knowledge and resources to provide support, services and advocacy, indicating the importance of investing in communities and community organisations for a resilient society. For example, [networks of transgender people](https://www.gnpplus.net/6th-edition-of-the-gnp-icw-y-global-positive-living-in-the-time-of-covid-19-newsletter/) living with HIV have organized to provide online community support, essential needs packages such as ART and other health services, advocating for trans rights to be respected in the COVID-19 response and documenting human rights violations against trans people.

**Participation and consultation**

1. [UNAIDS](https://www.unaids.org/en/resources/documents/2020/human-rights-and-covid-19.), [WHO](https://www.who.int/publications/i/item/overview-of-public-health-and-social-measures-in-the-context-of-covid-19) and other UN guidance has urged governments to engage communities in developing rights-based COVID-19 response measures that are proportional to local epidemiological conditions, build trust and transparency in decision-making, ensure accurate public health messaging and protect vulnerable populations. Unfortunately, there are reports that many governments have not engaged civil society in determining how to respond to COVID-19, and in many cases have imposed far more rights-restrictive and draconian measures than are either warranted or recommended by [WHO](https://gh.bmj.com/content/5/5/e002655.full).

**Accountability and Justice**

1. Government responses to the COVID-19 pandemic have including using a broad range of measures under existing emergency and public health statutes or by passing new COVID-related legislation. The potential for abuse and misuse of such powers is heightened in the context of an international public health crisis and underscores the need for a well-functioning, responsive and independent judiciary and other accountability mechanisms.
2. Some governments have passed laws [criminalizing exposure or transmission of COVID-19](http://opiniojuris.org/2020/04/03/covid-19-symposium-the-use-of-criminal-sanctions-in-covid-19-responses-exposure-and-transmission-part-i/). Other governments have used existing criminal legislation to arrest and charge individuals for, *inter alia*, endangering the lives of others as a result of breaching curfews, quarantines or other [public health measures imposed to contain COVID-19](https://opiniojuris.org/2020/04/03/covid-19-symposium-the-use-of-criminal-sanctions-in-covid-19-responses-enforcement-of-public-health-measures-part-ii/).
3. [UNAIDS](https://www.unaids.org/en/resources/documents/2020/human-rights-and-covid-19.) has underscored the requirement under international human rights law that any limitations on rights for the legitimate purpose of protecting public health must be necessary, proportionate (i.e., the least restrictive or rights-limiting measure possible in pursuing this aim) and non-discriminatory.
4. Imposing criminal liability in the response to infectious disease is an extreme, punitive measure that experience with HIV and other diseases has proven to be [ineffective, stigmatizing and counterproductive](https://hivlawcommission.org) as a public health measure. The use of criminal sanctions for HIV non-disclosure, exposure or transmission increased stigma and discrimination and [disincentivized HIV testing](https://files.unaids.org/en/media/unaids/contentassets/documents/document/2012/KeyScientificMedicalLegalIssuesCriminalisationHIV_final.pdf). [HIV-related travel restrictions](https://data.unaids.org/pub/report/2009/jc1715_report_inter_task_team_hiv_en.pdf) were likewise found to be both discriminatory and unsupported by any public health evidence of their efficacy. Criminalization is not an evidence-based approach to COVID-19 and, as with HIV, [experience to date indicates it has disproportionately been used against the most marginalized, stigmatized and already criminalized communities](https://www.unaids.org/sites/default/files/media_asset/20130530_Guidance_Ending_Criminalisation_0.pdf).
5. In the above Ugandan example of the arrest, beating and imprisonment of 19 LGBT youth, it took over a [month before they were released from prison](https://www.hrw.org/news/2020/05/11/uganda-drop-charges-against-19-homeless-youth), during which there was an extensive delay in their access to counsel. The example reflects the profound impact of the criminalization of COVID-19 public health measures on populations already facing stigma, discrimination and criminal sanctions in a context of fear and misinformation.
6. UNAIDS and many other UN and [civil society justice actors](https://www.hivjustice.net/news/hiv-justice-worldwide-steering-committee-statement-on-covid-19-criminalisation/) urge governments to end the use of criminal and other punitive laws, along with aggressive policing and punishments, as part of COVID-19 measures.

**Extreme Poverty & Human Rights**

1. The [World Bank](https://www.worldbank.org/en/topic/poverty/brief/projected-poverty-impacts-of-COVID-19) estimates that the COVID-19 pandemic could push between 71 million and 100 million people into extreme poverty in 2020, with the largest share of the extreme poor in South Asia and sub-Saharan Africa. Given the disproportionate impact of COVID-19 on women, girls and other populations which face pre-existing stigma, discrimination and exclusion, it is essential that emergency COVID-19 response measures include ensuring access to essential goods such as food, housing and essential health services. In [Angola](https://www.unaids.org/en/resources/presscentre/featurestories/2020/june/20200619_angola), for example, UNAIDS is working with local NGOs and professional associations to ensure food security for PLHIV during COVID-19.
2. People with economic security, housing, food and clean water can more easily comply with stay at home orders and other public health measures, many of which have been implemented without attention to local social, economic and epidemiological contexts. Investing now in resilient communities and community-based organizations and ensuring humanitarian and other financial aid packages address the most marginalized populations will ensure more effective responses to COVID-19 and facilitate economic recovery efforts.

**Conclusion**

1. From the HIV epidemic we have learned that restrictive, stigmatizing and punitive measures can lead to significant human rights abuses, with disproportionate effects on already vulnerable communities. They can often undermine epidemic responses, sending people with symptoms underground and failing to address the underlying barriers that people face in attempting to protect their own health and that of their community. International human rights obligations and laws provide a framework for ensuring that public health efforts are proportionate, necessary, reach the most vulnerable and do not unnecessarily limit other human rights—elements that will ultimately make the response more effective.