



Photograph of participants at a rally of sex workers in Bangladesh

United Nations Development Programme

HIV/AIDS



# ANALYSIS OF KEY HUMAN RIGHTS PROGRAMMES IN GLOBAL FUND-SUPPORTED HIV PROGRAMMES



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***[A] supportive social, legal, and policy environment is a prerequisite of a successful and sustainable response to HIV...[P]rogrammes to reduce discrimination and other human rights abuses and increase access to justice in national HIV responses...include, for example, legal services, law reform programmes, training of health care workers and law enforcement agents, and programmes to promote the rights of women."***

Michel Kazatchkine,

Report of the Executive Director to the Global Fund Twenty-first Board Meeting, April 2010

The promotion and protection of human rights is central to human development. It is also the cornerstone of effective and sustainable HIV responses – including in generalized and hyper epidemic settings to address issues such as sexual and gender-based violence, access to treatment, food and nutrition for people with HIV, gender inequality and the rights of orphans and vulnerable children. Stigma, discrimination and violence – including punitive legal environments – against people living with HIV and other key populations including men who have sex with men, transgender people, sex workers, and people who use drugs remain widespread<sup>1</sup>. Governments, civil society and other stakeholders at the country, regional and global levels increasingly acknowledge the negative effects of human rights violations on effective HIV responses<sup>2</sup>. In 2010, 91 percent of governments reported that they address stigma and discrimination as cross-cutting issues in their national AIDS strategy. However, countries do not routinely monitor or report on relevant aspects of the social and legal environment, or the details of the programmatic response to human rights in the context of HIV. In light of continued reports of high levels of stigma and discrimination blocking effective HIV responses, there is an urgent need for increased understanding of what is being done and what more can be done to implement key human rights programmes in national HIV responses.

The Global Fund to Fight AIDS, Tuberculosis and Malaria (“Global Fund”) is one of the major financers of national HIV responses. It is a partnership committed to supporting evidence-informed, rights-based responses to HIV, AIDS, tuberculosis and malaria. This study was carried out by UNDP, the UNAIDS Secretariat and the Global Fund to answer the following three overarching questions:

- (1) Are key human rights programmes included in successful Global Fund Round 6 and 7 HIV proposals and grants, and who are they intended to benefit?
- (2) Are these human rights programmes funded in approved grant budgets?
- (3) What progress has been made toward implementing these human rights programmes? i.e. Do performance frameworks include indicators for these programmes, and if so, what are the results reported against targets?

This study included all Global Fund HIV programmes from Round 6 and 7 – a total of 59 successful proposals, covering 74 countries and including three multi-country proposals across all regions. Within this sample,

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1 Joint United Nations Programme on HIV/AIDS (2010), *Report on the Global AIDS Epidemic 2010*. Available from <http://www.unaids.org/globalreport/default.htm>

2 Ibid.



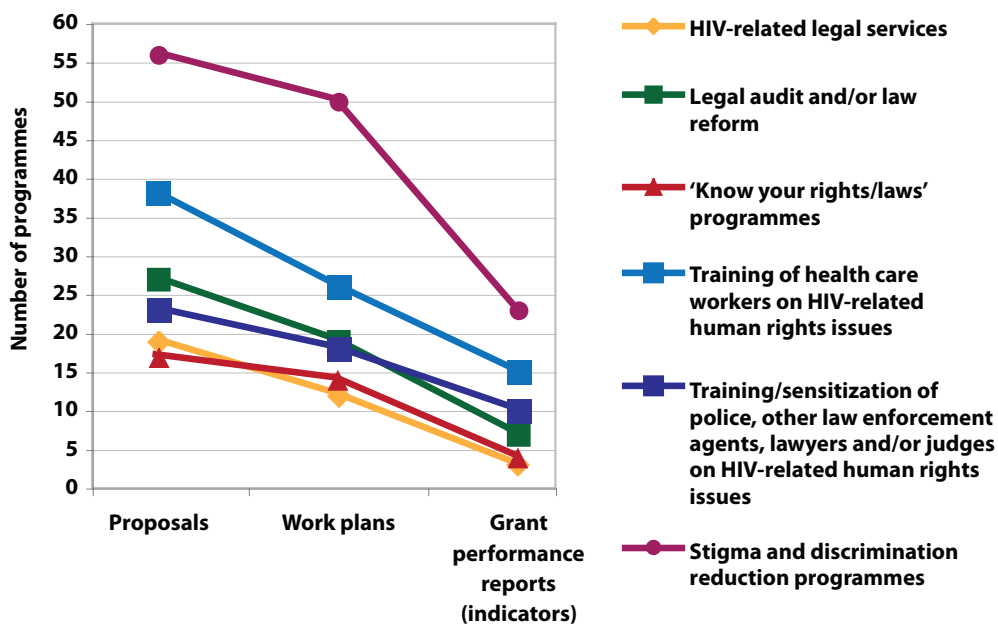
# EXECUTIVE SUMMARY

six key human rights programmes<sup>3</sup> were identified and analysed in proposals, grant agreements and other related documentation. Data including programme type, beneficiary populations, budget amount, indicators and performance against targets were collected from the source documents. Analyses of programmes and beneficiaries by region and epidemic type were also conducted of the individual country proposals. Data were triangulated with data on punitive laws for more in-depth analysis.

## SELECT KEY FINDINGS

Successful HIV proposals included an average of three of the key human rights programmes. The majority of key human rights programmes identified in successful proposals were included in work plans with budgets, but 23 percent did not make it into work plans. 'Stigma and discrimination reduction' programmes were the most common of the six programme types in proposals and work plans, and received the most funding overall.

### Key human rights programmes in Round 6 and 7 HIV proposals and work plans, and monitored with indicators in grant performance reports



Individual country proposals from countries with low or concentrated epidemics included more comprehensive human rights programming than those from countries with generalized epidemics. There were also differences in the types of human rights programmes planned and beneficiary populations

3 The six programmes included in the analytical framework of this study are: (1) HIV-related legal services; (2) legal audits and/or law reform; (3) legal literacy through 'Know your rights/laws' programmes; (4) training of health care workers on HIV-related human rights issues; (5) training and sensitization of police, other law enforcement agents, lawyers and/or judges on HIV-related human rights issues; and (6) stigma and discrimination reduction programmes. These are six of the seven human rights programmes recommended by the Joint United Nations Programme on HIV/AIDS for the inclusion in every national HIV response. The seventh programme type is programmes that seek to empower women by reducing harmful gender norms and gender-based violence and increasing equality in the economic, social and legal spheres. This was not included in the analytical framework of this study because these programmes (and other gender-related human rights programmes) were examined in a recent Global Fund gender portfolio analysis. In the Recommendations of this report, the term 'key human rights programmes' refers to all seven human rights programmes.





between the epidemic types. For example, the human rights programmes planned by countries classified as having generalized epidemics appeared to largely ignore men who have sex with men and transgender people, sex workers, people who use drugs, and prisoners.

Men who have sex with men, transgender people, sex workers, people who use drugs and prisoners, many of whom are more vulnerable to HIV due to the impact of the criminal law, were each named as beneficiaries in less than a quarter of the identified programmes. These populations were more likely to be beneficiaries of programmes that address stigma and discrimination in the community, health care and justice sectors, than of empowering programmes, such as law reform, legal services and 'know your rights' programmes.

Key human rights programmes, where monitored, show good performance against targets. However, more than one third of the indicators were too broadly framed to meaningfully monitor programme implementation. 'Training and sensitization of police, other law enforcement agents, lawyers and/or judges on HIV-related human rights issues' and 'stigma and discrimination reduction' programmes were the most likely programmes to be followed up by an indicator.

## CONCLUSIONS

This study makes clear that the Global Fund plays a vital role in supporting key human rights programmes – an essential part of effective, rights-based national HIV responses. It also revealed missed opportunities to support the planning and implementation of key human rights programmes through Global Fund proposals and grants. This is of concern to the Global Fund and its partners, who recognize that “a supportive social, legal and policy environment is a prerequisite for a successful and sustained response to HIV.”<sup>4</sup>

The generally weak demand from Global Fund applicants for key human rights programmes highlights the need for increased support for the inclusion of these programmes in proposals and national HIV responses. The attrition of 23 percent of the key human rights programmes included in successful proposals has significant implications for countries, the Global Fund, and its technical and development partners. This means that, unless alternative sources of funding were subsequently identified, almost a quarter of the human rights programmes identified by Country Coordinating Mechanisms<sup>5</sup> (CCMs) as necessary for an effective HIV response were not implemented. Due to the cross-cutting and often catalytic benefits of human rights programmes, this loss is likely to have a negative impact on the other programmes implemented under the Global Fund grant, and indeed on the national HIV response. Further research is required to determine the specific cause of the attrition of key human rights programmes included in successful proposals.

Also concerning was the finding that typically marginalised populations – men who have sex with men, transgender people, sex workers, people who use drugs, and prisoners<sup>6</sup> – were each explicitly named as beneficiaries in less than a quarter of the proposed human rights programmes. These low figures are partly skewed by the fact that the key human rights programmes planned by countries characterised as having generalized epidemics largely ignored these populations. Triangulation of data from this study with data on

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4 Global Fund to Fight AIDS, Tuberculosis and Malaria (2010), *Report of the Executive Director to the Global Fund 21<sup>st</sup> Board Meeting*, Available from <http://www.theglobalfund.org/documents/board/21/GF-B21-03-Revision1-%20Report%20of%20Executive%20Director.pdf>

5 In this report, references to CCMs should be read as also including reference to Regional Coordinating Mechanisms (RCMs).

6 Many key populations are more vulnerable to HIV as a result of the negative impacts of stigma and marginalisation on access to HIV prevention, treatment, care and support. Men who have sex with men, transgender people, sex workers, people who use drugs and prisoners are often even more vulnerable to HIV due to the impact of criminal laws and/or incarceration. On this basis, programmes for these five populations (referred to in this report as 'typically criminalised' populations) are analysed in more depth in this report.



countries known to criminalise certain populations or practices further illustrates that in their HIV funding proposals, CCMs did not include key human rights programmes that benefit the populations most in need.

Without a human rights analysis of national HIV responses, including the implementation of key human rights programmes, it is not possible to adequately assess the sufficiency of the human rights programmes included in Global Fund proposals and grants. A human rights analysis of the national HIV response would not only provide essential information for the Global Fund to improve the efficiency and effectiveness of its investments, it would also provide valuable information for other key stakeholders at the country level. This would in turn enable more targeted support for key human rights programmes in national HIV responses from the Joint United Nations Programme on HIV/AIDS, other development and technical partners, and the Global Fund.

## RECOMMENDATIONS

The following recommendations are based upon the opportunities for strengthening key human rights programmes in national responses identified through the analysis of study findings. The recommendations also complement findings from the International HIV/AIDS Alliance/UNAIDS study (2009)<sup>7</sup>, the Global Fund's gender study (2009)<sup>8</sup> and SOGI study (2010)<sup>9</sup>, and the OSI/CHLN study (2010)<sup>10</sup>. Reports from these studies include recommendations for governments, civil society, the Global Fund and its development and technical partners to do more on human rights, including human rights programmes. The specific, strategic actions proposed in this study for the Global Fund and its development and technical partners give emphasis to the Global Fund's commitment to addressing human rights in the context of HIV responses and lay the foundations for the policies, processes, technical support and advocacy that could contribute to increasing demand for key human rights programmes as well as ensuring that such programmes are implemented and monitored. This study could also contribute to highlighting the importance of human rights-based responses to tuberculosis, and the benefit of key human rights programmes to broader health and development goals.

### **Recommendations for countries:**

#### **1. Support human rights analysis of national HIV responses**

- a. Countries should ensure that national HIV responses (including Global Fund HIV proposals) are based on a human rights analysis, and include appropriate human rights programmes to address issues identified therein.
- b. Countries should ensure a multi-sectoral response at the country level, which includes the meaningful participation of key populations as well as the justice sector, law enforcement, parliamentarians and other sectors necessary to address human rights in the context of HIV.

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7 International HIV/AIDS Alliance/UNAIDS (2009), *Report: Exercise to Map HIV Related Human Rights Issues as Obstacles, Priorities, Programmes and Activities within Selected Data Sources Relating to the National Response to HIV in 56 Countries*.

8 The Global Fund (2009), *Gender Portfolio Review & Analysis of Rounds 1–7*. Available on request from the Global Fund.

9 Global Fund (2010), *Analysis of Sexual Orientation and Gender Identity Related Activities in Round 8 and 9 Global Fund Proposals*. Available from [www.theglobalfund.org/documents/rounds/9/Rnd8-9\\_Analysis\\_SOGI.pdf](http://www.theglobalfund.org/documents/rounds/9/Rnd8-9_Analysis_SOGI.pdf)

10 Open Society Institute (OSI) and the Canadian HIV/AIDS Legal Network (CHLN) (2010), *Commitments and Conundrums: Human Rights and the Global Fund on HIV/AIDS, Tuberculosis and Malaria (Working Paper)*. Available on request from Jonathan Cohen, Open Society Institute, Director Law and Health Initiative.



- c. In developing Global Fund proposals, CCMs should request technical support for key human rights programmes.

### ***Recommendations for the Global Fund and its development and technical partners:***

#### **2. Support systematic human rights analysis of national HIV responses**

- a. The Joint United Nations Programme on HIV/AIDS and other development and technical partners of the Global Fund should provide technical assistance to national stakeholders including CCMs to carry out a human rights analysis of the national HIV response, including key human rights programmes. CCMs should include such human rights analysis as an essential part of the Global Fund proposal development process.
- b. The Global Fund should encourage all applicants to submit a human rights analysis of the national HIV response, including key human rights programmes, as a part of HIV proposals<sup>11</sup>.
- c. The Global Fund should ensure adequate human rights capacity on its Technical Review Panel (TRP) and consider recommending that the TRP review criteria include a human rights analysis of national HIV responses, including attention to key human rights programmes in national responses.

#### **3. Enhanced guidance for key human rights programmes**

- a. The Joint United Nations Programme on HIV/AIDS and other development and technical partners should increase support to countries through the dissemination of good practice and South-South learning on the design and implementation of key human rights programmes in the context of HIV.
- b. The Global Fund Secretariat in collaboration with key technical partners, should develop guidance to support countries applying for Global Fund financing on how to conduct a human rights analysis of the national HIV response and key human rights programmes. This should include clarifying which of the key human rights programmes fall within each of the Service Delivery Areas and within specific funding windows such as *Community Systems Strengthening*, *Health Systems Strengthening* and National Strategy Applications.

#### **4. Enhance technical assistance in order to improve the implementation of planned human rights programmes**

- a. Technical partners of the Global Fund should support CCMs to ensure that during the grant-signing process, programme outcomes remain in line with rights-related objectives and programmes in the original proposal. The Global Fund and its technical partners should support CCMs to ensure that Global Fund commitments to supporting programmes that contribute to the elimination of stigma and discrimination against people living with HIV and marginalised and criminalised populations (referred to in the revised CCM Guidelines) are maximized throughout the grant cycle.
- b. The Global Fund Secretariat should respond to the attrition of key human rights programmes from the time of Global Fund Board approval of HIV proposals to grant signing.

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11 The OSI/CHLN study (Ibid.) lists a number of key issues that such a report should include.



- c. The Joint United Nations Programme on HIV/AIDS and other technical partners of the Global Fund should ensure that technical support is available to CCMs for the inclusion of key human rights programmes in Global Fund proposals and oversight of the implementation of those programmes. The Global Fund should encourage applicants to include a comprehensive technical support plan for the development, implementation and monitoring of key human rights programmes in the overarching technical support plan included in the proposal. Assessment of technical support needs in relation to human rights programmes should also become part of the regular technical support needs assessments conducted at the country level.
- d. The Joint United Nations Programme on HIV/AIDS and other technical partners of the Global Fund should ensure that civil society (particularly those working with key populations) and key sectors such as the justice and law enforcement sectors have sufficient technical assistance and capacity to participate effectively in Global Fund governance bodies and decision making processes and implement human rights programming.

### **5. Improve monitoring and evaluation of key human rights programmes**

- a. The Joint United Nations Programme on HIV/AIDS and other technical partners of the Global Fund should provide technical assistance to national stakeholders, including CCMs, on appropriate indicators for monitoring and evaluating key human rights programmes in the context of HIV responses.
- b. The Global Fund should facilitate the inclusion of relevant and specific indicators for key human rights programmes in the Performance Monitoring Framework; and/or ensure that such meaningful indicators for key human rights programmes are included in agreed work plans, tracked by CCMs and reported back to the Global Fund on a regular and appropriate basis.
- c. Technical partners of the Global Fund at the country level should work with Principal Recipients and CCMs to include in HIV proposals activities for the development of monitoring and evaluation systems for key human rights programmes and ensure that these are costed and included in budgets.

### **6. Strengthen evidence-informed advocacy on the importance of key human rights programmes as a part of rights-based HIV responses**

- a. The Joint United Nations Programme on HIV/AIDS should increase support to national stakeholders to conduct population surveillance, collect data on access to services for key populations and carry out a human rights analysis of HIV responses which includes specific attention to key human rights programmes.
- b. The Joint United Nations Programme on HIV/AIDS should increase evidence-informed advocacy on the importance of key human rights programmes in the context of HIV, the interrelationship between the different human rights programmes, and their impact on HIV and broader health and development goals. This would contribute to efforts in supporting national stakeholders to remove punitive and discriminatory laws, policies and practices that block effective HIV responses (a priority under the "*Joint Action for Results: UNAIDS Outcome Framework*") and to achieve the Millennium Development Goals.



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