



Ending Inequalities and Ending AIDS within a Human Rights Framework: The Global AIDS Strategy 2021-2026 and a human rights-based response to the pandemic

April 2021

The Global AIDS Strategy 2021-2026:

A welcome focus on inequalities and the need for a human rights framework

In March 2021, the UNAIDS Programme Coordinating Board adopted [End Inequalities, End AIDS: Global AIDS Strategy 2021-2026](#). The new strategy declares at the outset a welcome commitment to a human rights-based response. This is reflected in the strategy's focus on the inequalities, including gender inequality, that [decades of evidence](#) has shown drive the pandemic by increasing people's vulnerability to HIV infection and impeding their access to lifesaving, health-promoting care and treatment.

Tackling the intersecting inequalities that prevent people from benefiting from HIV services is rooted in the commitment to "leave no one behind" that underpins the 2030 Agenda for Sustainable Development. Achieving the interim targets set out in the Global AIDS Strategy will contribute to achieving the goal of ending AIDS as a public health threat by 2030 and numerous other Sustainable Development Goals. The Reference Group welcomes the strategy and stresses the urgency of addressing the wide range of inequalities, including structural and systemic inequalities, both within countries and between countries, that continue to fuel the pandemic and impede our collective efforts to overcome it.

A focus on inequalities is an essential component of a comprehensive human rights-based approach to HIV. The Strategy outlines "a comprehensive framework for transformative actions to confront these inequalities and, more broadly, respect, protect and fulfil human rights in the HIV response." In doing so, it makes it clear that the focus on inequalities forms part of a broader human-rights based response and that efforts to reduce inequalities must be guided by human rights principles, norms and standards. The Reference Group is of the view that it is critical to understand the ways in which a focus on inequalities informs, intersects with and forms part of a human rights-based response that is essential for ending AIDS. This statement attempts to provide some initial guidance on these issues.

Human rights and ending inequalities: essential to an effective response to HIV and other global health challenges

Over the past two decades, UN Member States have rightly declared in every [Political Declaration on HIV and AIDS](#) by the General Assembly that the full realization of human rights for all "is an essential element in the global response to the HIV epidemic, including in the areas of prevention, treatment, care and support."

Experience has taught us that protecting and promoting human rights is effective, practical, life-saving and economical. Preventing HIV, and ensuring universal access to comprehensive care and treatment for those living with HIV, is a necessary part of states' obligations to realize the [right to the highest attainable](#)

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[standard of health](#) for all without discrimination. Furthermore, this effort to realize the health of individuals and the public cannot be divorced from the protection and promotion of other rights, such as freedom of expression and association, freedom from discrimination and the equal benefit and protection of the law, freedom from arbitrary detention and cruel or degrading treatment, privacy, security of the person (including freedom from violence by state and non-state actors), safety at work, education, family, social security in event of loss of livelihood, the benefits of scientific advancement, and participation.

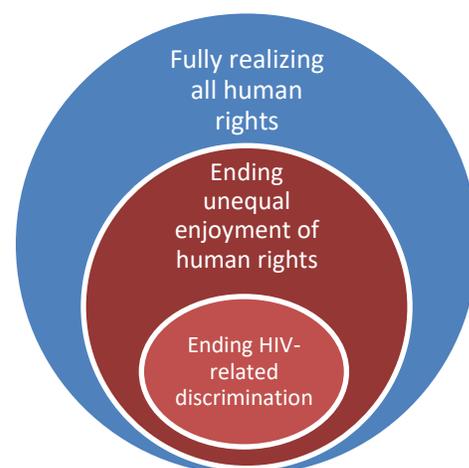
The COVID-19 pandemic has thrown up yet another [challenge in meeting interim global targets](#) in the ongoing effort to achieve the Sustainable Development Goal of ending AIDS as a public health by 2030. It has revealed starkly, yet again, the role of inequalities in driving the spread of disease, and the urgent necessity of a response that combines biomedical measures with adherence to human rights principles and standards if it is to be successful. As part of the global response to COVID-19, UNAIDS has contributed important [guidance drawing on the lessons from HIV](#), and research, health care and community systems built to respond to HIV have played essential roles in rising to this new pandemic challenge.

Ending inequalities: a fundamental element of a human rights-based response

A focus on inequalities is an essential component of a comprehensive human rights-based response to HIV. At its most basic level, action is needed to end the HIV-related stigma and discrimination that people encounter in a range of settings, be it based on HIV status, sex, race, age, sexual orientation, gender identity or expression, sex characteristics, use of drugs, sex work, or similar characteristics. At another, broader level, governments and other actors must address structural factors, including laws and policies, that discriminate or otherwise contribute to social, economic and political inequalities, frustrating the equal enjoyment of human rights.

In particular, the Reference Group underscores the importance of the Strategy's 2025 targets for the removal of societal and legal barriers that create and maintain inequalities impeding access to services and fuelling the pandemic:

- removing punitive laws and policies criminalizing sex work, simple possession of drugs and same-sex sexual activity, and ending overly broad HIV criminalization;
- reducing the stigma and discrimination, including prevalence of stigmatising and discriminatory attitudes and inequitable gender norms, experienced by people living with HIV and key populations ;
- reducing gender-based violence and violence against key populations;
- improving access to mechanisms for people living with HIV and key populations to report discrimination and human rights abuses and to seek redress, and legal services to support this; and
- improving access to gender-responsive HIV services.
- Ensuring access to justice, legal services and information on rights.



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A recent [UNAIDS analysis](#) of the available data suggests that failure to make any progress on HIV-related stigma and discrimination would undermine efforts to reach the HIV testing, treatment and viral suppression targets, resulting in an additional 440,000 AIDS-related deaths between 2020 and 2030, and that failure to make any progress across the other “societal enablers” would undermine efforts to reach HIV prevention targets, resulting in 2.6 million additional new HIV infections over the same period. Therefore, the Reference Group fully endorses the call in the Global AIDS Strategy “for all policies and future practice to be assessed to determine whether they do not further stigmatise HIV diagnosis, perpetuate discrimination and exacerbate health inequalities.” The [Global Partnership for Action to Eliminate All Forms of HIV-related Stigma and Discrimination](#) represents a key opportunity and roadmap for ending discrimination, in a range of settings, that undermines an effective HIV response. Strengthening this partnership, and following through on commitments, must be part of implementation of the global AIDS strategy and will help achieve several of its goals.

Ending HIV-related stigma and discrimination at the level of the individual clinic, workplace or school is key. Ending discrimination in the law and in its enforcement is essential, including the abolition of discriminatory laws and policies against people living with HIV, women and girls, sexual and gender minorities, sex workers, people who use drugs, people with disabilities, migrants and prisoners. Such measures indeed contribute to creating a more enabling environment for effective HIV prevention, testing and treatment, particularly for key populations and for women and girls. Ending discrimination in a given setting – healthcare, education, legal system, etc. – advances the fundamental right to equality. Furthermore, it contributes to the full realization of other human rights, such as those to health, privacy, bodily integrity, freedom of expression and association, freedom from arbitrary detention and torture, etc., by removing discriminatory barriers to their enjoyment.

A health care worker refusing to treat or harassing a patient because of their HIV-positive status, sexual orientation or gender identity is discrimination that must end. Denying social security, public housing or antiretrovirals to people living with HIV because they use drugs is discrimination that must end. Denying people in prison access to harm reduction services available in the community is discrimination that must end. Infringing women’s bodily integrity by conducting HIV testing during pregnancy without informed consent is gender-based discrimination that must end. Stigma and discrimination may underlie breaches of the right to privacy if health care workers or an employer discloses unlawfully a person’s HIV-positive status, drug dependence, sexual orientation or other personal information; it must end. Police targeting of poor people or key populations such as sex workers, gay men, trans people, people who use drugs or migrants for abusive treatment is discrimination and must end. Gender-based violence and harmful gender norms that deny the autonomy of women and girls in their sexual lives, or their access to sexual and reproductive health care, education or employment must end. User fees for hospital or clinic services, or medicines priced out of reach for most, particularly those without any public or private health coverage, entrenches inequality and must end.

All such manifestations of inequality contribute, directly and indirectly, to preventable HIV infections and AIDS-related deaths. **Ending inequalities certainly requires action on stigma and discrimination. But ending the inequalities that drive the HIV pandemic requires action on human rights more broadly.** Ending police abuses against key populations requires dislodging stigmatizing attitudes but also structural changes to end impunity for arbitrary detention and torture. Ending inequality in the health of prisoners requires not only access to care equivalent to that outside prison but an end to torture, overcrowding, inadequate nutrition and sanitation in places of detention. Ending girls’ inequality in access to education requires ending the underlying poverty that may lead families to prioritize education for boys. Adequate, enforceable protections in health care settings for privacy and requirements for informed consent for HIV

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testing are needed to protect against discriminatory disregard for bodily autonomy and confidentiality. Universal health coverage and quality assurance for medicines and other health technologies is needed to ensure equitable access. The HIV pandemic has illustrated in multiple ways the basic concepts of the interdependence and indivisibility of human rights – the full realization of each right depends on protecting and promoting the others.

Ending AIDS also requires that we have a broad understanding of the inequalities that are driving the pandemic, including the inequalities of wealth that ultimately undermine health and the global inequalities between countries – and that States act, individually and collectively, to remedy such inequalities. Under international treaties they have ratified, States are required to respect, protect and fulfill universally-agreed human rights; this includes obligations of immediate effect but also an obligation to take steps to fully realize human rights over time. Such obligations exist not only domestically but at the global level through the obligation of “international assistance and cooperation,” including economic and technical initiatives. In keeping with these obligation, in responding to the HIV pandemic, within their borders and beyond, States must refrain from adopting measures that would maintain or worsen inequalities in access to health goods, services and information; they must protect access against actions by others that would impede it; and they must take proactive measures to ensure the availability of, and access to, health goods, services and information that is of good quality and addresses the needs of beneficiaries.

Creating a truly enabling environment for an effective, global HIV response requires **a comprehensive human rights-based response to HIV** — a response that seeks to end discrimination in specific settings and the unequal enjoyment of specific human rights, and to advance the full realization of all relevant human rights that affect people’s vulnerability to HIV infection, their access to HIV treatment and care, and their health-related quality of life. The promise of the 2030 Agenda for Sustainable Development to “leave no one behind”, including in the task of ending AIDS, will not be realized without a comprehensive human rights response.

Guidance for ending inequalities and ending AIDS through a comprehensive human rights response

A human rights framework for the HIV response reflects the binding legal obligations agreed to by states, including non-discrimination and positive measures to achieve substantive equality. Human rights principles, norms and standards offer key guidance for designing, implementing and evaluating services as well as the legal and policy environment that will either enable, or impede, an effective response. They also mandate the participation of affected communities in the response.

International organizations have issued important guidance to operationalize a human rights-based response that can and should inform the implementation of the new Global AIDS Strategy. These include the [International Guidelines on HIV/AIDS and Human Rights](#) and the recommendations of the [Global Commission on HIV and the Law](#), and the [World Health Organization](#), as well as specific operational recommendations regarding [integrating human rights standards into HIV health services](#), implementing [programs in several key areas](#) to remove [human rights-related barriers to services](#) including on [stigma and discrimination](#), improving [equitable access to affordable medicines](#), and protecting the health and rights of [women and girls](#) and of key and vulnerable populations through [gender-transformative responses](#) and changing punitive and counterproductive laws and policies in the areas of [drugs](#) (including [here](#)), [sex work](#), [same-sex sexual activity](#), [HIV criminalization](#), [prisons](#), [migration](#) and more. Guidance and tools for a human rights-based response to HIV, in general and in relation to key populations, have also been

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produced for [lawmakers](#), [judges](#), [law enforcement](#), prosecutors, [national human rights institutions](#), [educators](#) and faith leaders, among others. In implementing the Global AIDS Strategy, the Reference Group urges attention to such guidance, and urges UNAIDS, governments, donors and others to take into account the following:

➤ ***Creating an enabling legal environment: ending inequalities through fulfilling human rights***

Laws and policies can undermine an effective HIV response but can also enable it. Laws can discriminate by unjustly singling out key populations for punishment, such as laws criminalizing consensual sexual activity or simple drug possession. Criminalizing key populations is of course an extreme manifestation of discrimination. Beyond this, laws and policies can create and reproduce inequalities by structuring social, political and economic power to benefit some and disadvantage others by, e.g., denying girls and women access to education or employment, blocking life-saving harm reduction measures or creating unsafe conditions of work for sex workers. However, different choices can be made – and not only to end inequalities in the enjoyment of human rights, but to realize human rights more fully and thereby strengthen the HIV response. Laws and policies can ensure prisoners receive health care equivalent to that in the community. But if HIV testing and treatment or sexual health care is inadequate in general, human rights are not fully realized and the HIV response continues to suffer. Protecting against discrimination at the level of the individual’s interaction with health services is essential, but without ending the global inequality of medicines priced out of reach for millions of those in need, ending AIDS is impossible. Abolishing the criminalization of sex work is essential to reduce the stigma and discrimination faced by sex workers, but sex workers’ health and safety, including in relation to HIV, is undermined as long as they are denied full labour rights. An enabling legal environment must address these structural determinants of health and well-being, including ending discrimination and inequality in the enjoyment of these other rights.

➤ ***Enabling participation to end inequalities: adequate funding and protecting civic space***

Communities, including those particularly affected by HIV and by discrimination and other human rights abuses, have a key role to play in challenging stigma, ending inequalities and protecting rights more broadly. Ensuring their meaningful involvement is a fundamental human rights principle; it is also a practical necessity. In keeping with human rights standards, including freedoms of association and expression, this means protecting civic space for communities to organize, deliver services and defend their rights. In addition, governments and donors must ensure adequate resourcing of community-based responses, both for the delivery of services but also for the defence and promotion of human rights, including [key programs identified by UNAIDS to reduce discrimination and increase access to justice](#), which are being funded to various degrees via the [Global Fund to fight AIDS, Tuberculosis and Malaria](#). A human rights-based response recognizes and strengthens the agency of people living with HIV and of key populations, including the use of human rights and legal advocacy as means of protecting and realizing rights by seeking remedies for violations, changing laws and holding governments to account for their commitments. In agreeing to “fast-track” the HIV response in the 2016 Political Declaration, Member States committed to ensuring that by 2030 at least 30% of services would be community-led in order to meet the 2030 SDG of ending AIDS. Enabling community-led responses to HIV also contributes to achieving the goal of inclusive societies (SDG 16); social exclusion of key populations and gender inequalities will frustrate sustainable progress in ending AIDS. Ending global inequalities in access to HIV prevention, care and treatment requires states to follow through on their human rights obligations of international cooperation and solidarity in funding the global response. Human rights standards require attention to the transparent allocation of financing, domestic and international, to ensure both an equitable distribution of resources as well as financing support for proactive measures that will protect

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human rights and thereby improve equitable access to services. This requires proper oversight and accountability, including community-led monitoring of programs, services and financing.

➤ ***Accountability and transparency: key aspects of a human rights-based response***

The implementation of the new Global AIDS Strategy must include accountability if it is to be effective in achieving the desired outcomes. A human rights framework provides tools for holding governments and others accountable, including mandating access to justice and remedies for violations of human rights. While communities have a key role, the strategy must also be endorsed by Member States, who carry obligations under international law to respect, protect and fulfil human rights (many of which are also reflected in national constitutions and other laws and policies). Governments have an essential role to play in achieving the targets in the new global strategy, including the “societal enablers” such as the removal of punitive laws and policies and the adoption of measures to reduce inequalities, which must include protecting people against, stigma and discrimination, violence and other human rights abuses. In keeping with a human rights approach, governments must ensure, at the country level, that there are mechanisms for holding various actors accountable for action or inaction within their areas of responsibility that affect progress toward the goal of ending AIDS. This must include access to justice, legal information and support, and remedies for violations of human rights and the ability to challenge laws and policies that violate international human rights obligations, including the right to health, non-discrimination and the equal enjoyment of all human rights. Finally, accountability requires transparency, including regarding governments’ decisions regarding legislation, policies, programs and funding as they implement their HIV response, guided by the Global AIDS Strategy.

As the new Global AIDS Strategy declares, despite significant progress, the 2020 global AIDS targets were not met, and most countries and communities are not on-track to end AIDS by 2030 while leaving no one behind. That goal will not be achieved without ending the inequalities that are driving, and will continue driving, the pandemic. We urge the Joint Programme, Member States, donors, multilateral funding entities and communities to take action, in keeping with the new Global AIDS Strategy, to end inequalities by realizing the full range of human rights recognized in law, international and domestic.

The UNAIDS Reference Group on HIV and Human Rights was established in 2002 to advise the Joint United Nations Programme on HIV/AIDS on all matters relating to HIV and human rights. The Reference Group speaks with an independent voice. Its views do not necessarily reflect the views of the UNAIDS Secretariat or any of the UNAIDS Cosponsors.