

ACTIVISM AND AIDS: PROTECT CIVIL SOCIETY'S SPACE TO END THE EPIDEMIC

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Justin Sullivan/Getty Images





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ABOUT

INTRODUCTION

As of 2018, 37.9 million people globally were living with HIV. 74.9 million people had become infected with HIV since the start of the epidemic and 32 million people had died from AIDS-related illnesses. In 2018 alone, 770,000 people died from AIDS-related illnesses, while 1.7 million people became newly infected with HIV. Reductions in new infections are stalling and progress is significantly off track from the goal of only 500,000 people newly infected with HIV by 2020.¹

Civil society efforts have been critical to overcoming many of the major challenges in the AIDS response. Networks of people living with HIV and AIDS deliver life-changing services to those most affected and provide support for adherence to treatment, prevention and other essential health services.

The involvement of civil society has also been crucial in successfully advocating for sustainable financial resources, improving HIV and AIDS programming, and advancing human rights, as seen in countries such as Kenya, Ethiopia and Uganda, according to the International Centre for Not-for-Profit Law.²

But these achievements are at risk. Globally, we are witnessing the harmful effects of rising populism and ultra-conservatism on civil society space, especially for organisations and networks led by stigmatised and marginalised communities.

The CIVICUS Monitor,³ a cutting-edge research tool developed within civil society, which provides reliable, current data on the state of civil society freedoms in all countries, shows a precipitous decline in civic space, with only three per cent of the world’s population living in countries with open civic space⁴. As noted by the United Nations Office of the High Commissioner for Human Rights, civil society actors are facing opposition across the world,⁵ and the space for marginalised groups is increasingly shrinking.⁶

Despite the protection of rights guaranteed by international and regional laws, a 2019 CIVICUS report⁷ indicated that freedom of expression is



Pacha, social worker from LIGA, with Dima, a member of the support group.
Photo: Chris de Bode for Aidsfonds.



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commonly targeted by repressive regimes, while violations of peaceful assembly occur where state agents routinely use excessive force, detain protesters and ban protests. Other common abuses include harassment, intimidation and the use of restrictive laws. Groups advocating for women’s rights and women human rights defenders are most commonly mentioned in reports by the CIVICUS Monitor, followed by, LGBTQI+ people, labour rights groups and environmental activists.

A look at civic freedoms ratings for the 10 countries with the highest HIV and AIDS prevalence rates in 2018,⁸ according to the CIVICUS Monitor and its **civic space rating scale**:⁹



Civil society has an essential role in ending the AIDS epidemic and promoting human rights. The diminishing space for civil society and an increasingly hostile political and social landscape herald an urgent international and regional call for action.

In response, CIVICUS, Aidsfonds and Frontline AIDS are collaborating in the **Partnership to Inspire, Transform and Connect the HIV response (PITCH)** with three distinct aims:

- To examine the dynamics around the space for civil society
- To understand the impact of these developments on the AIDS response at national and global levels

- To propose recommendations to actors and influencers, policy and decision makers on broadening the space for CSOs and communities in the context of SDG3¹⁰ and its targets on ending AIDS and universal health coverage in particular.

This report is not the first exploration of this subject. However, it is unique in its rounded approach to the topic, and the scope and breadth of the research, which illustrates the impact of the restrictions on civic freedoms

and identifies the architects and driving forces behind the closing of civic space.

We examine this impact at international and regional levels, as well as in four spotlight countries – Zimbabwe, Ukraine, Indonesia and Vietnam – geographically spread and at different stages of economic, political and social development.

Our analysis of the international-level civic space restrictions on HIV and AIDS advocacy by key populations and their CSOs focuses on formal and informal closing of space for individuals and organisations attempting

to influence processes internationally and regionally. It examines current trends related to accreditation, speaking opportunities, the influence of anti-rights groups and the activities of states to close space for rights-based advocacy on HIV and AIDS in multilateral fora like the UN General Assembly, and the Commission on Narcotic Drugs, as well regional bodies including the African Union (AU) and the European Union (EU).

At country level, our research analyses the full range of restrictions on HIV and AIDS advocacy by civil society actors, particularly by key populations and their CSOs. The spotlight country case studies clearly show how such

“CIVIL SOCIETY EFFORTS HAVE BEEN CRITICAL TO OVERCOMING MANY OF THE MAJOR CHALLENGES IN THE AIDS RESPONSE.”



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restrictions affect the ability of these groups to carry out advocacy for increasing access to HIV and AIDS and sexual and reproductive health and rights (SRHR) services.

Based on the findings of this research, we present recommendations aimed at governments, international bodies and civil society on making space for advocacy by key populations and their CSOs.

OUR RESEARCH

This study was conducted in four countries – Ukraine, Zimbabwe, Indonesia and Vietnam – and with agencies and CSOs operating globally and regionally. The spotlight countries were chosen from among the nine PITCH countries to represent diverse sample of geography, income status and civic space rating according to the CIVICUS Monitor.¹¹

Research took place between November 2018 and May 2019. The qualitative study used semi-structured questionnaires for individual interviews, and an interview guide for the focus group discussions (FGD). Researchers conducted interviews with members of key population groups and their organisations, leaders of CSOs and community-based organisations (CBOs) working on HIV and AIDS and broader human development issues, representatives of international organisations as well as government officials from relevant departments. Most country-level interviews were done in person, while some of them were done remotely via Skype, WhatsApp, Zoom or phone call. All interviews by representatives of international organisations were done remotely. Informed consent was obtained from all respondents.

FGDs were conducted with local communities and individuals from CBOs involved in HIV and AIDS programmes in the four countries. Comprehensive desk research, including a review of legislation in each country, was done to identify and synthesise relevant research evidence.

The study did not seek to have national surveys or speak to a representative sample within key populations and their organisations, all relevant government bodies or CSOs in the health and human rights sectors in the four countries. The views represented are from purposive, or targeted, samples in each country.



Marches on World AIDS Day in Johannesburg
Photo: Foto 24/Getty Images



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This report highlights the widening gap between political commitments to engage with and include civil society, and the reality confronting CSOs and key populations as they advocate around HIV and AIDS and SRHR at critical global and regional platforms.

In 2015, the SDGs committed the world to end AIDS by 2030 and leave no one behind. But in June 2016, at least 22 LGBTQI+ and key population CSOs were denied accreditation to attend the UN High-Level Meeting on HIV and AIDS.

The ban was spearheaded by Russia, Cameroon, Tanzania and 51 countries of the Organization of Islamic Cooperation (OIC). The UN Secretary-General Ban Ki-moon expressed his disappointment at the ban, and the broader restriction of CSO rights within the UN, an organisation that actively seeks to promote and defend these rights.¹² Key population groups expressed concern about the ban and the inadequacy of the political declaration that came out of the meeting, for failing to meaningfully address the HIV and AIDS epidemic among key populations.¹³

A few weeks earlier at the UN General Assembly Special Session (UNGASS) on drugs (April 2016), CSOs had also faced significant challenges in participating due to continued push back from governments still firmly opposed to the engagement of civil society and affected communities in debates related to drug policy reform.

The UNGASS Outcome Document was wholly negotiated in Vienna in a rushed series of closed meetings which excluded civil society observers.¹⁴ Hundreds of civil society delegates were unable to attend, as the UN

security office only issued a limited number of entrance passes, due to the accreditation system.

Some delegates were denied access into side events they had either helped to coordinate or at which they were speaking.¹⁵ Civil society also faced restrictions and censorship, with reports of materials being arbitrarily confiscated and some delegates being turned away because of advocacy messages on their t-shirts (such as 'Marijuana is Safer than Alcohol', or



A performance campaign called Witch Hunt opposite the building of Cabinet of Ministers of Ukraine
Photo: Alliance for Public Health 2018



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anything with a cannabis leaf on). Only a small number of UN member states¹⁶ included civil society representatives in their official UNGASS delegation, leading by example on increasing transparency and inclusivity.¹⁷

In October 2018, the International Parliamentary Union (IPU) in Geneva, voted to permanently ban debates on LGBTQI+ agenda from the forum. Delegates from Uganda strongly opposed¹⁸ a proposal by pro-LGBTQI+ delegates to amend rules of the IPU to have debates on LGBTQI+ rights. The proposal would have allowed the standing Committee on Democracy and Human Rights to hold a panel debate leading to a resolution titled *The Role of Parliaments in Ending Discrimination based on Sexual Orientation and Gender Identity and Ensuring Respect for the Human Rights of LGBT Persons*. Delegates from China, Russia, African and Arabic nations supported Uganda’s vote.¹⁹

Governments are also restricting CSO access to wider human rights mechanisms, which often provide the only route to justice when domestic legal systems fail.

In July 2018, at the AU Summit, the executive council adopted a binding decision²⁰ that weakens the African Commission on Human and People’s Rights (ACHPR) and severely restricts access for civil society to the ACHPR. The AU directed the Commission to withdraw observer status of the Coalition of African Lesbians (CAL)²¹, a South African-based network which works to advance the freedom, justice and bodily autonomy of African women. The AU argued the work of CAL goes against African values and norms.

These examples do not demonstrate a new phenomenon, nor are they restricted to the political arena. Religious conservatives have acted beyond

their national and faith borders to create alliances and pursue a common global goal opposing SRHR and LGBTQI+ rights. They have developed specific tactics to exclude particular key population groups from participating at the global level.

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In 2013, a joint action to oppose LGBTQI+ rights was seen in France when the Bishops’ Conference of France, the Great Rabbi and the French Council of the Muslim Faith wrote a joint letter when the country began having discussions around same-sex marriage.²² The OIC and the Russian Federation, acting together with the Russian Orthodox Church, have mobilised behind an ultra-conservative agenda at international level.²³ The OIC is the world’s second largest intergovernmental organisation, after the UN, with 57 member states, while Russia’s collaboration with the Russian Orthodox Church means there are significant forces opposing LGBTQI+ rights.

Religious conservatives have set up NGOs to advance the anti-SRHR and anti-LGBTQI+ agenda. These NGOs enable ultra-conservative groups to access national and international legal, political and human rights spaces and institutions to shape the global narrative on these issues and to oppose and resist progressive forces.²⁴

However, despite these challenges, in 2016, the UN won an important battle by establishing an Independent Expert Group (IEG), to help nations develop policies and actions to protect people from discrimination and violence based on sexual orientation and gender identity. The IEG oversees the implementation of international human rights law, raises awareness, engages in dialogue with stakeholders and provides advice and technical



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assistance. This could be an important avenue through which the rights of the LGBTQI+ community are protected within the HIV and AIDS framework.

Despite recent threats to multilateralism and regional integration, decisions that impact on the daily lives of people are increasingly taken at the regional and international levels, by organisations such as the EU and the AU, UN agencies and forums, as well as multilateral financing institutions.

Such decisions have profound impacts on national legislation, policies and programmes, so it is important they are made in a transparent and accountable manner, with the full participation of people and groups who will be directly affected.



22nd International AIDS Conference (AIDS 2018) Amsterdam, Netherlands
Photo: Matthijs Immink/IAS



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THE COMMITMENT TO END AIDS

The response to HIV and AIDS is an unparalleled example of formalised engagement of and leadership from civil society. Since the beginning of the epidemic, CSOs including networks of people living with HIV and AIDS and key populations, have played a vital role as advocates, as watchdogs and in the provision of services.

Since the creation of the Joint UN Programme on HIV and AIDS (UNAIDS) in 1996, the AIDS response has pioneered meaningful civil society and community representation in the governance mechanisms of multilateral and regional institutions, sometimes in stark contrast with other sectors. A Lancet Commission report stated: “The greater integration of affected communities in global health governance, should it occur, will be one of the lasting legacies of HIV and AIDS activism.”²⁵



Civil society actors have been instrumental in raising awareness of the rights of key populations and in empowering and giving them a voice. Such participation has challenged social norms and the organisational culture of regional and international organisations. Due to advocacy and community mobilisation led by CSOs, the meaningful involvement of civil society has become a fundamental principle in policies and strategies of many organisations, institutions and AIDS programmes.

This mobilisation led to a specific Millennium Development Goal (MDG) adopted in 2000 focused on combating HIV and AIDS, tuberculosis and malaria. It also resulted in the 2001 UNGASS putting AIDS high on the political agenda and recognising the key role of civil society in the global response and in holding governments to account, affirmed in subsequent declarations in 2006, 2011 and 2016. This political momentum triggered the adoption of AIDS-specific strategies among governments and donors as well as a record mobilisation of financial resources through dedicated mechanisms such as the Global Fund to Fight AIDS, Tuberculosis and Malaria in 2002 and the US President’s Emergency Plan for AIDS Relief (PEPFAR) in 2003.

In 2015, the SDGs replaced the MDGs and HIV and AIDS lost its dedicated goal. Ending the AIDS epidemic by 2030 is a target included under an overarching health goal (SDG3). The SDGs call for a whole-of-society approach – the involvement of civil society in decision-making is now more crucial to achieving these goals than ever before.

The United Nations promoting the connections between HIV and sexual health
Photo: UNFPA Nordic Office



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Two UN initiatives adopted in 2016 – the UN’s Political Declaration on Ending AIDS and the Outcome Document of the UNGASS on drugs – are fully aligned with the SDGs vision to leave no one behind and end AIDS by 2030. The Political Declaration recognises the central role of civil society, calling for community-led initiatives to be scaled-up so they deliver at least 30% of AIDS services by 2030.²⁶ The Outcome Document commits member states to enable civil society to play “a participatory role in the formulation, implementation, and the providing of relevant scientific evidence in support of, as appropriate, the evaluation of drug control policies and programmes”.²⁷

The AU has adopted a Catalytic Framework to End AIDS, TB and Eliminate Malaria in Africa by 2030.²⁸ The EU’s *Communication on next steps for a sustainable European future: European action for sustainability* committing the EC to help member states reach SDG health targets, in particular, ending HIV and AIDS and tuberculosis and reducing hepatitis.²⁹ However, since a Communication on its role in global health in 2010, the EU has failed to develop any policy framework on global health or HIV and AIDS to update its expired plans and strategies.

INTERNATIONAL INSTRUMENTS AND PLATFORMS

The Universal Declaration of Human Rights (1948), although not binding on states, was the first international declaration to *recognise* the rights and freedoms to which every human being is equally and inalienably entitled. It expressly guarantees every person the right to freedom of expression, peaceful assembly and association in Articles 19 and 20, respectively.

The Covenant on Civil and Political Rights (ICCPR),³⁰ *the Convention on the Rights of the Child*,³¹ *the International Convention on the Elimination of*



The Human Rights Council

Photo: Elma Okic

Racial Discrimination,³² and the *Convention on the Rights of People with Disability*³³ seek to further guarantee these freedoms.

Civil society is broadly represented within institutions working on the global AIDS response and is actively involved in agenda-setting and decision-making about policies, strategies and funding allocations. The UNAIDS Programme Coordinating Board includes five NGOs, three from developing countries and two from developed countries or countries with economies in transition.³⁴ On the Global Fund’s board, three of the 20 voting seats are held by community and civil society representatives, representing



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NGOs from developed countries, NGOs from developing countries, and communities living with or affected by the three diseases, respectively.³⁵ Global health initiative *Unitaid* includes one representative of NGOs and one representative of communities affected by diseases.³⁶ The PEPFAR Scientific Advisory Board includes several CSOs among its members.³⁷

REGIONAL INSTRUMENTS AND PLATFORMS

The rights to freedom of expression, association and peaceful assembly are also guaranteed in regional human rights instruments. These include the *African Charter on Human and People's Rights* (articles 9 – 11), the *European Convention on Human Rights and Fundamental Freedoms* (articles 10 and 11), the *American Convention on Human Rights* (articles 13, 15 and 16) and the *Arab Charter on Human rights* (articles 27 and 28).

The EU and the AU have well-established platforms for structured dialogue with civil society to support advocacy, policy formulation and evidence-based implementation.

In 2005, the European Commission established the HIV and AIDS Civil Society Forum as an informal advisory body to facilitate the participation of NGOs and networks, including those representing people living with HIV and AIDS, in European policy development and implementation.³⁸ A year later, it set up a *Civil Society in Drugs Policy* as a platform for informal exchanges of views and information with civil society organisations, notably those working on HIV and AIDS and harm reduction, on EU drug policies.³⁹ Since 2010, the EC has also been organising a Global Health Policy Forum four times a year to exchange information with representatives from different institutions, including UN agencies, civil society organisations, private sector and academia.⁴⁰



Know your HIV status sign in village in Zambia
Photo: Jon Rawlinson

The AU Commission has developed similar advisory bodies and has regularly convened since 2001 an AIDS Watch Africa (AWA) consultative experts committee and since 2006 an Inter-Agency Meeting on Coordination and Harmonisation of AIDS, TB and Malaria Strategies. The latter has now transitioned to a more formal Africa Partnership and Coordination Forum on AIDS, TB and Malaria. These groups bring together the AU, its member states, Regional Economic Communities, regional health organisations, development partners, civil society, communities affected by the diseases and the private sector to develop joint actions to support countries to end AIDS, tuberculosis and malaria by 2030.



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CIVIL SOCIETY ADVOCACY TO END HIV AND AIDS

The AIDS response would not have achieved landmark successes without the involvement of civil society, people living with HIV and affected communities in decision-making, implementation, design and evaluation processes at global, regional and country levels.

The response has been guided by the GIPA principles⁴¹ and the principle of ‘nothing about us without us’ or ‘meaningful involvement’, meaning that no HIV and AIDS policy or plan should be decided without the full and direct participation of those directly affected by the epidemic. This has led to civil society participation in the governing bodies of international institutions and the country coordination mechanisms of the Global Fund.

While these mechanisms could be improved and are not always entirely inclusive and adequately supported, civil society engagement in HIV and AIDS decision-making processes remains exceptional within the global health field.⁴²

Across international and regional processes and institutions, the role of the civil society is threefold:

Advocacy: Through formal participation in international and regional institutions, civil society has been able to ensure that issues relevant to communities receive proper attention. An excellent example of CSOs’ capacity to influence global governance and keep HIV and AIDS on

“THE AIDS RESPONSE WOULD NOT HAVE ACHIEVED LANDMARK SUCCESSES WITHOUT THE INVOLVEMENT OF CIVIL SOCIETY, PEOPLE LIVING WITH HIV AND AFFECTED COMMUNITIES...”

the international agenda was the NGO delegation to the 2014 UNAIDS programme coordinating board influencing member states to consider a UN High-Level Meeting on AIDS in 2016, which ultimately led to an ambitious Political Declaration on ending the AIDS epidemic by 2030.

Expertise and knowledge: Civil society informs debates and injects knowledge, including from communities, into decision-making processes

and programmes. Through their formal involvement, CSOs can shape the strategic, administrative and accountability frameworks of the international institutions, as well as influence board-level decisions, ensuring that they are human rights-based, evidence-informed and respond to the needs of civil society and communities.

Planning, implementation, monitoring and evaluation:

Civil society’s close links with communities help to shape strategic aspects at international level and increase the effectiveness of local interventions, acting as providers of HIV and AIDS prevention, treatment, care and support services. Civil society has also played a key role in monitoring and reporting on countries’ progress towards achieving global AIDS targets.

These three roles are crucial within the Global Fund and PEPFAR, where civil society participation has become a central element of the funding cycle, from advocacy to service delivery and monitoring and evaluation, and is critical to the success and sustainability of these two initiatives.



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Community health care worker Josephine visits pregnant Nyasha who has HIV
Photo: Chris de Bode for Aidsfonds 2018

BARRIERS TO EFFECTIVE ADVOCACY

The SDG commitments to end AIDS by 2030 and to leave no one behind, and related frameworks since adopted by international and regional organisations, call for efficient and inclusive governance based on participatory approaches, transparency, accountability and engagement of all parts of society, particularly communities most affected by the disease.

However, as highlighted recently by the Human Rights Council, civil society is increasingly encountering obstacles to meaningful engagement. These include:

- (a) The lack of access to timely and clear information about channels of engagement and about specific themes and topics to be addressed
- (b) Opaque and cumbersome accreditation processes without impartial review mechanisms in cases where accreditation is denied
- (c) Complex and inconsistent rules governing attendance and speaking rights at meetings and forums
- (d) Prohibitive costs and visa barriers in gaining access to certain locations
- (e) A lack of accountability for decisions that restrict access
- (f) Under-representation of some segments of civil society. Particularly disturbing are reprisals against civil society for cooperation with international and regional organisations, not only because of the individual human rights violations they generally constitute, but also because they risk undermining the effectiveness of the system as a whole.”⁴³

The experiences of CSOs at the UN High-Level Meeting on HIV and AIDS in June 2016⁴⁴ and the UNGASS on drugs in April 2016 confirm the findings above.

Although there are no known cases of direct threats and reprisals at these meetings, in his report to the Human Rights Council, the UN Secretary-General named 29 countries that had committed such acts, noting that some states pursue strategies to prevent people from cooperating with the UN.⁴⁵



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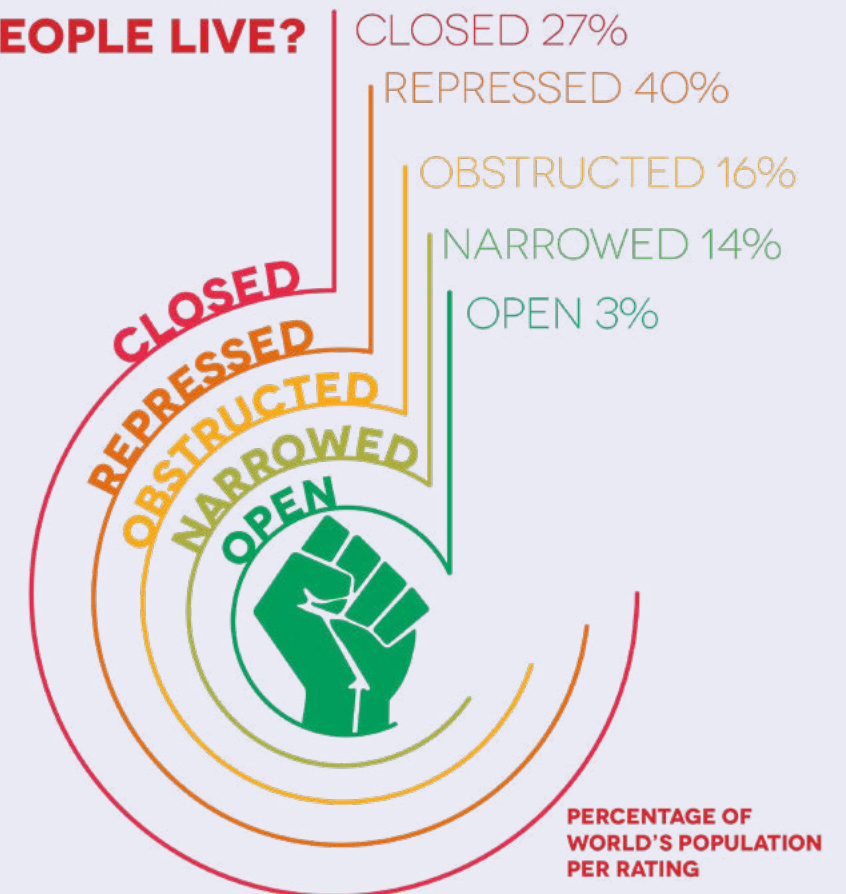
This section presents findings from the four study countries: Ukraine, Zimbabwe, Indonesia and Vietnam. Key emerging themes include the legal context, focusing on legal protections available for key populations and legal restrictions, such as criminal and punitive laws, as well as policies and practices against key populations.

The country reports introduce the key findings of the research interviews, noting the main types of civic space violations experienced by key populations (with a focus on the freedom of association, peaceful assembly and expression). We also highlight the most vulnerable groups within key populations, the primary violators of rights, the driving forces behind shrinking civic spaces and the effect of these restrictions on the work of CSOs working with key populations.

The country reports also provide a rating of civic space using data from the CIVICUS Monitor. The CIVICUS Monitor is a research tool that provides close to real-time data on the state of civil society and civic freedoms in 196 countries. Collaboration with more than 20 civil society research partners and input from independent human rights evaluations generates the data.

Each country is given a civic space rating of closed, repressed, obstructed, narrowed or open. The data streams also feed into individual country pages and updates, which provide verified and up-to-date information on the state of freedom of association, peaceful assembly and expression. The CIVICUS Monitor also includes a regularly updated Watch List – countries where, based on research and local analysis of the situation, there is a serious, immediate or emerging threat to civic space.⁴⁶

WHERE DO PEOPLE LIVE?



⁴⁷“Where do people live by civic space rating category” from the *CIVICUS Monitor*. December 2019



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According to the CIVICUS Monitor, civic space violations span a range of actions. Our country reports show some of the actions contributing to the closing of civic space.



Top 10 violations to civic freedoms reported between 1 October 2018 to 11 November 2019⁴⁸ (Photo: Spanish Gag Law. Photo by Marcos del Mazo/Pacific Press)



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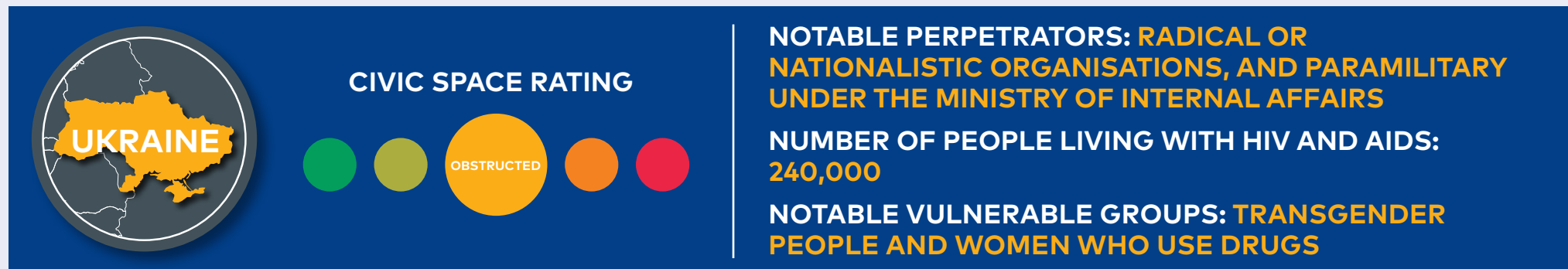
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UKRAINE

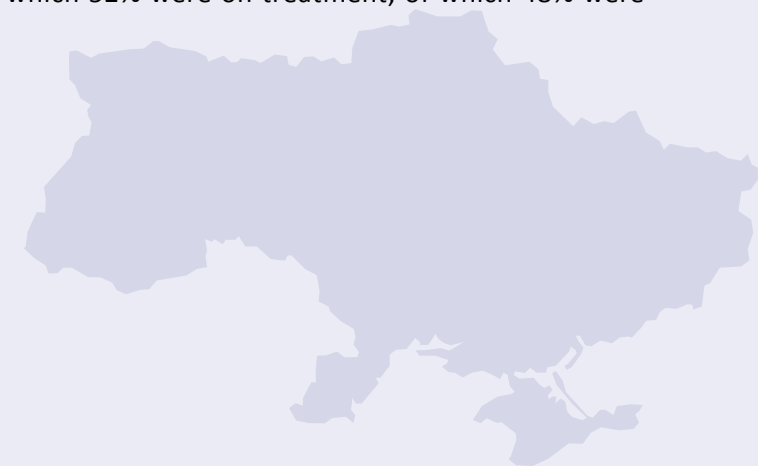
Civic space in Ukraine is rated as obstructed by the CIVICUS Monitor⁴⁹, meaning it is heavily contested by power-holders, who impose a combination of legal and practical constraints on the full enjoyment of fundamental rights.

Although CSOs exist, state authorities undermine them through the use of illegal surveillance, bureaucratic harassment and demeaning public statements. Citizens can organise and assemble peacefully, but they are vulnerable to the frequent use of excessive force by law enforcement agencies.

In Ukraine, authorities have increased pressure on civil society since 2017, primarily targeting anti-corruption activists and organisations. CSOs working with key populations (especially those focusing on people who use drugs and LGBTQI+ people) have experienced increasing pressure from radical groups and religious organisations. However, strong civil society advocacy towards the Global Fund and national authorities has led to the inclusion of all key populations in the Country Coordinating Mechanism, which now includes people who use drugs, sex workers, men who have sex with men, transgender people, prisoners, young people and people living with HIV.

HIV AND AIDS RESPONSE

According to UNAIDS, Ukraine has a concentrated HIV epidemic which affects key populations including people who inject drugs, sex workers, men who have sex with men (MSM), transgender people and prisoners. The prevalence of HIV in people aged 15-49 is about 1%. In 2018, the estimated number of people living with HIV was 240,000 people – 120,000 more than in 2010. The number of AIDS-related deaths is comparatively stable and was 6,100 in 2018.⁵⁰ In 2017, Ukraine joined the UNAIDS 90-90-90 Fast-Track goals⁵¹. By the end of 2018, 71% of people living with HIV were aware of their status, among which 52% were on treatment, of which 48% were virally suppressed.⁵²





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Table 1. Key populations in Ukraine⁵³

Key population	Year	Estimated number	Estimated HIV prevalence
People who inject drugs	2018	350,300	22.6%
Sex workers	2018	86,600	5.2%
Men who have sex with men	2018	179,400	7.5%
Prisoners	2018	Unavailable	8%
Transgender people	2018	Unavailable	Unavailable

There were no estimates of the number of transgender people living with HIV. However, in a study conducted among MSM⁵⁴, 2.5% of participants identified themselves as transgender. Estimates of HIV prevalence among transgender people range from 6% to 21%.⁵⁵

Injecting drug use had been the leading cause of HIV transmission until 2008. Currently, sexual transmission of HIV is rising in Ukraine, putting the sexual partners of people within key populations at risk. Sexual transmission accounts for almost 74% of new HIV transmissions.⁵⁶

LEGAL CONTEXT

The Constitution of Ukraine guarantees equal rights and freedoms to all citizens. Several laws provide people living with HIV equal legal protection in public and private life. Over the past few years, several pieces of legislation have been amended to take into account the standards and recommendations of international organisations and the international commitments made by Ukraine.

The Association Agreement between Ukraine and the EU requires Ukrainian legislation to conform to European standards and EU requirements, with particular emphasis on relations between the state and the public, mechanisms for the protection of equal rights and freedoms, and non-discrimination. The agreement also commits Ukraine and the EU to cooperate on the prevention and control of communicable diseases such as HIV and AIDS and tuberculosis.

PRINCIPAL CHALLENGES IN LAW AND PRACTICE

Our study shows that CSOs working with key populations (especially those focused on LGBTQI+ people and people who use drugs) experience increasing pressure from radical groups and religious organisations.

Also, rejection and stigma by society and a high level of competition for financial resources (mainly donor funding) do not allow organisations working in HIV and AIDS, especially new ones, to develop at the same pace as those working on other human rights or development issues.





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ZIMBABWE

The CIVICUS Monitor rates civic space in Zimbabwe as repressed,⁵⁷ meaning it is significantly constrained. Although some CSOs exist, their advocacy work is regularly hindered, and they face threats of de-registration and closure by the authorities.

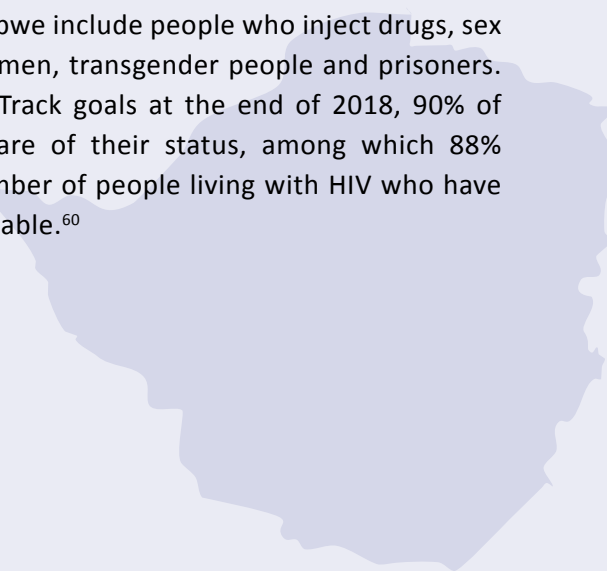
People who organise or take part in peaceful protests are likely to be targeted by the authorities through the use of excessive force, including the use of live ammunition, and risk mass arrests and detention. The media typically reflects the position of the state, which routinely targets independent voices through raids, physical attacks or protracted legal harassment. There is heavy monitoring of websites and internet activism, and social media platforms are blocked.⁵⁸

In Zimbabwe, state authorities have continued to harass, and arbitrarily arrest those exercising their rights to assemble and voice dissent. Human rights defenders have been subject to assaults, arbitrary arrest and enforced disappearance.

HIV AND AIDS RESPONSE

Zimbabwe has a high HIV prevalence, with unprotected heterosexual sex being the main transmission route for new infections. The prevalence of HIV in people aged 15-49 is about 12.7%. In 2018, the estimated number of people living with HIV was 1,300,000 people, while the number of AIDS-related deaths was about 22,000.⁵⁹

Key affected populations in Zimbabwe include people who inject drugs, sex workers, men who have sex with men, transgender people and prisoners. Using the 90-90-90 UNAIDS Fast-Track goals at the end of 2018, 90% of people living with HIV were aware of their status, among which 88% were on treatment, while the number of people living with HIV who have suppressed viral loads was unavailable.⁶⁰





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Table 2. Key populations in Zimbabwe⁶¹

Key population	Year	Estimated number	Estimated HIV prevalence
People who inject drugs	2018	Unavailable	Unavailable
Sex workers	2018	45,000	41.4%
Men who have sex with men	2018	Unavailable	31%
Prisoners	2018	19,900	28%
Transgender people	2018	Unavailable	Unavailable

Despite achieving commendable progress in sub-Saharan Africa, Zimbabwe's response to the HIV and AIDS epidemic is still falling short in addressing the rights and needs of key populations.

The Extended Zimbabwe National HIV and AIDS Strategic Plan III (ZNASP3) 2015-2020⁶² omitted advocacy for decriminalisation, de-penalisation or harm reduction for key populations. The National AIDS Council, mandated with coordinating the national HIV and AIDS response, does not recognise some of the key population groups and so does not provide them with funding or technical assistance. The criminalisation of marginalised groups and key populations impedes access to HIV and AIDS services. Systematic exclusion dilutes or reverses any gains the country has made in the fight against HIV and AIDS.

LEGAL CONTEXT

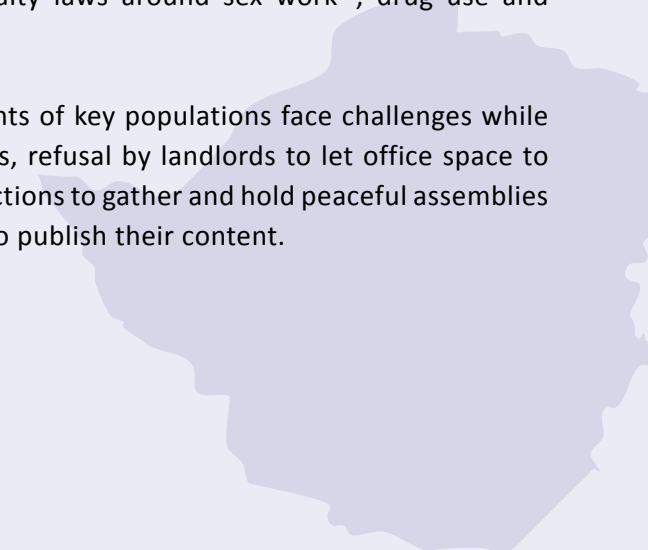
Zimbabwe is a signatory to the UN Universal Declaration of Human Rights, the African Charter on Human and People's Rights and the International Covenant on Civil and Political Rights. The country's own Declaration of Rights (Bill of Rights) is legally binding and sets out rights and freedoms granted to the people of Zimbabwe: civil, political, environmental, economic, social and cultural.

Zimbabwe's Constitution guarantees the rights to freedom of association, peaceful assembly and expression. It also contains a provision, which provides equal protection for all people under the law and prohibits discrimination based on nationality, race, colour, tribe, sex, place of birth, ethnic or social origin and language.

PRINCIPAL CHALLENGES IN LAW AND IN PRACTICE

Despite the legal protections, same-sex marriages are prohibited by Section 73 of the Criminal Code and Reform Act (2006), meaning that same-sex activity even between consenting adults is subject to criminal sanctions. Zimbabwe also has high penalty laws around sex work⁶³, drug use and possession.

Groups advocating for the rights of key populations face challenges while trying to register organisations, refusal by landlords to let office space to them, public vilification, restrictions to gather and hold peaceful assemblies and refusal by media outlets to publish their content.





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INDONESIA

Civic space in Indonesia is rated as obstructed by the CIVICUS Monitor.⁶⁴ While individuals and CSOs are free to organise and campaign relatively freely throughout most of the country (except in the Papuan region where civic space is highly repressed), Indonesian civil society faces a range of restrictions because of growing tensions and violence, as authorities struggle to strike a balance between religious philosophy and civil rights.

A person's right to freedom of opinion is protected by law. But people expressing themselves must do it in a manner that obeys the norm: namely religious norms, morality and politeness that apply in Indonesian society. This is difficult to measure.

In general, Indonesian legislation may be considered "good enough". However, laws and norms are not always aligned, which creates some legal barriers for key populations.

NOTABLE PERPETRATOR: NON STATE ACTORS
NUMBER OF PEOPLE LIVING WITH HIV AND AIDS: 640,000
NOTABLE VULNERABLE GROUP: TRANSGENDER PEOPLE

HIV AND AIDS RESPONSE

Despite a decline in new infections by 27% since 2010, HIV prevalence among key populations is still high in Indonesia. The overall prevalence of HIV in people aged 15-49 is about 0.4%. In 2018, the estimated number of people living with HIV was 640,000 people, while the number of AIDS-related deaths was about 38,000.⁶⁵

In 2018, in terms of UNAIDS' 90-90-90 goal, 51% of people living with HIV were aware of their status, among which 17% were on treatment, while the number of those virally suppressed was unavailable.⁶⁶





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Table 3. Key populations in Indonesia⁶⁷

Key population	Year	Estimated number	Estimated HIV prevalence
People who inject drugs	2018	33,500	28.8%
Sex workers	2018	226,800	5.3%
Men who have sex with men	2018	754,300	25.8%
Prisoners	2018	Unavailable	1%
Transgender people	2018	38,900	24.8%

The government does not yet have adequate HIV and AIDS programme funding allocations. Although government funding for HIV and AIDS is increasing each year, it is still below the level of funds provided by international partners.

LEGAL CONTEXT

In Indonesia, international law and standards not inconsistent with Pancasila (the Indonesian state philosophy) and the 1945 Constitution of the Republic of Indonesia, are adopted for local application. In the 1945 Constitution, there are several articles that guarantee and regulate citizens' civil rights, including Article 28: Freedom of association and assembly, and issuing thoughts orally and in writing. Article 28F also states: Everyone has the right to communicate and obtain information to develop their personal and social environment, and has the right to seek, obtain, possess, store, process and convey information using all available channels.

Law No.9 (1998) includes regulations relating to the freedom of expression in public, while Law No.39 (1999) concerns human rights. These laws cover

citizens' civil rights relating to freedom of association, peaceful assembly and expression.

PRINCIPAL CHALLENGES IN LAW AND PRACTICE

Article 28j of the Indonesian Constitution limits civil rights by providing that:

- (1) Every person must respect the human rights of others in orderly life in the community, nation, and state.
- (2) In exercising their rights and freedoms, each person must submit to the restrictions set by law with the sole purpose of guaranteeing recognition and respect for the rights and freedoms of others and fulfilling just demands in accordance with moral considerations, religious values, security and public order in a democratic society.

Possession of drug use for personal use is criminalised. Some regions such as Aceh Province, in northern Sumatra, criminalise sex work⁶⁸. Selling sex is criminalised nationally, and some provincial and local governments have laws against all forms of sex work. Many regional regulations prohibit selling sex, and sex workers are penalised under public order offences⁶⁹.





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VIETNAM

Civic space in Vietnam is rated as closed, the lowest rating given by the CIVICUS Monitor.⁷⁰ The Communist Party of Vietnam exercises strong control of public freedoms. At the same time, some NGOs are able to operate effectively and collaborate successfully with the national and provincial governments in order to address HIV and AIDS in the country, including among people who use drugs and sex workers. The government is taking an increasing pragmatic and progressive approach to addressing HIV and AIDS among the key populations. Alternative action on compulsory detention have been put in place by the government: compulsory detention centres for sex workers have been closed and the number of compulsory residential centres for people who use drugs have declined.

Independent associations are discouraged through significant legal and administrative barriers, and the state exerts power over the activities of civil society groups. A highly restrictive regulatory regime drastically diminishes freedom of association. However, in the national AIDS response, civil society is sometimes consulted and listened to by the government in developing and implementing new policies⁷¹.

The legal framework governing civil society is Decree 45 (2010) on the Organisation, Activities and Management of Associations. According to Articles 33 and 34 of the law, only “associations with special characteristics” are permitted to conduct advocacy work, and comment on the formulation of policy. Despite this, some CBOs are able to work within this context through establishing themselves as social enterprises or collaborating with registered CSOs, and their ability to influence policy is increasing as they gain experience and confidence.

HIV AND AIDS RESPONSE

The total number of people in Vietnam living with HIV in 2018 was 230,000, including 74,000 women. There were 5,700 new infections in 2018, but between 2010 and 2017, there has been a 64% decline in new infections. The number of patients receiving ARV treatment was 149,949 in 2018, or 65% of people living with HIV were on treatment. The number of people living with HIV who have suppressed viral loads was unavailable.⁷²



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Table 4. Key populations in Vietnam⁷³

Key population	Year	Estimated Numbers	Estimated HIV prevalence nationally (UNAIDS)
Sex workers	2018	71,900	3.6%
People who inject drugs	2018	189,400	11%
Men who have sex with men	2018	200,000	10.8%
Transgender people	2018	No data	HCMC data only: 18%
Prisoners	2018	No data	No data

Much of Vietnam’s HIV and AIDS prevention and control policy during the 1990s and early 2000s was based on mandatory HIV testing and the prolonged and indeterminate detention of people who use drugs and sex workers in residential facilities. There were also information campaigns linking HIV to these heavily stigmatised behaviours.

In 2006, the Vietnam government, with the active participation of CSOs, passed a law promoting a more rights-based approach to HIV prevention and care, legalising harm reduction activities like needle and syringe exchange programmes, and providing medical insurance for people living with HIV. In 10 years, Vietnam went from being a country with one of the most punitive HIV policies to having a rights-based policy with measures many higher-income countries were still struggling to accept.

LEGAL CONTEXT

“In doing anything, consult the government. Do a coordination meeting. Especially on tag lines, do a coordination first. Do not ever use a controversial tag line.”

A government representative

Vietnam’s Constitution (2013) guarantees civic freedoms. Article 14 recognises human rights and citizens’ rights in the political, civic, economic, cultural and social fields, while Articles 16 and 25 guarantee equality before the law, non-discrimination, right to freedom of opinion and speech, freedom of the press, access to information, to assemble, form associations and hold demonstrations.

Same-sex relationships are not criminalised in Vietnam, and the wider community is increasingly tolerant of same-sex partnerships. In 2013, Vietnam abolished compulsory detention for sex workers and subsequently sex workers are now fined instead when apprehended. A more progressive law on sex work is being drafted. A law on ‘gender affirmation’ is under consideration by the authorities but has not yet been submitted to the National Assembly by the Ministry of Health.

PRINCIPAL CHALLENGES IN LAW AND PRACTICE

Though the government took legislative initiatives to combat stigma and discrimination against people living with HIV and key populations, laws and regulations around HIV and AIDS treatment and care have not always been implemented as directed. There are still inconsistencies between public





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security measures and public health approaches, so there are difficulties in fully enforcing the HIV law.

Following the abolition of detention centres for sex workers, the government regularly ordered crackdowns, prompting hundreds of arrests every year and placing a heavy financial burden on sex workers.

Although drug use in Vietnam is seen as a lower level administrative rather than a criminal offence, people who use drugs are still subject to numerous restrictions and legislative anomalies under the law. While the Law on Marriage and Family (2014) allows same-sex weddings, it will not offer legal recognition or protection to unions between people of the same sex.



Sex workers at sex education workshop in Ho Chi Minh City, Vietnam
 Photo: Ehrin Macksey for Aidsfonds 2015



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CIVIC FREEDOMS



FREEDOM OF PEACEFUL ASSEMBLY

UKRAINE



The most commonly reported freedom of peaceful assembly challenge was attacks on protests, demonstrations and marches by other members of the public or counter-demonstrators. Respondents noted the LGBTQI+ community mainly experienced incidents involving physical abuse, which have otherwise become rare.

Examples of attacks on peaceful assembly were:

- The disruption of a rally of transgender people by ultra-right groups in Kyiv in November 2018
- An incident in 2018 where the organiser of the LGBTQI+ march in Kryvyi Rih was beaten twice
- In 2018, equality marches passed off peacefully in Kyiv, Odessa and Kryvyi Rih only thanks to significant measures taken by police to prevent the attacks.

Confinement to a particular location or route while undertaking peaceful marches was also reported as a common occurrence, although CSOs viewed this as a normal constraint associated with safety factors.

All respondents said the LGBTQI+ community faced more challenges to peaceful assembly than other key populations, mainly because of the rejection of the LGBTQI+ community by society and because its activities attract widespread media attention providing PR opportunities for its detractors.

ZIMBABWE



The most commonly reported freedom of peaceful assembly challenge was restrictive and punitive laws such as the Public Order and Security Act 2002, under which CSOs or citizens have to seek clearance, at the discretion of the local police, to hold public gatherings. CSOs working with children and women tend to have their meetings cleared fast by the Zimbabwe Republic Police, compared to groups working in human rights and governance.

Key populations, particularly LGBTQI+ groups, have had peaceful gatherings forcefully broken up before they have even started. This is common in Zimbabwe with human rights and governance groups.

In 2013, GALZ (Gays and Lesbians of Zimbabwe) organised peaceful events for the International Day Against Homophobia and Transphobia in Harare, but the gathering was forcefully broken up by the police and led to days of hunting down of GALZ members.



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There is no enabling environment in Zimbabwe for citizens, CSOs and key populations to freely assemble.

The GALZ report highlights:

“The highest number of police harassment and detention cases were recorded in the 2012-13 violations reports, totalling 25. Police harassment generally resulted from LGBTQI+ persons having participated in a public event and subsequently identified by either law enforcement agents or being familiar members of the public. Police harassment experienced by most LGBTQI+ persons ranged from being denied service on the basis of sexual orientation to (illegal) detention, interrogation and assault.”

INDONESIA



The most commonly reported freedom of peaceful assembly challenge was forced dispersion before peaceful assembly could begin. Respondents also reported that sometimes protests and demonstrations were attacked by counter-protesters.

To avoid these situations, many organisations reported having to devise ways to present their public advocacy messages in a manner more acceptable to the public and seek to collaborate with other related institutions. They also ensure they acquire administrative requirements and licensing letters from the police in advance.

VIETNAM



The most commonly reported freedom of peaceful assembly challenge is unexpected visits by police to see what they are doing, although this occurs more infrequently once a CBO is established and known.

While key populations are able to gather and conduct peaceful assemblies, such as the big Gay Pride celebration in Hanoi in March 2019, the CIVICUS Monitor reports that assemblies and meetings relating to sensitive topics are often restricted through a requirement for prior authorisation, and when they go ahead, through harassment, excessive force and the detention of organisers and participants.



Sex workers at sex education workshop in Ho Chi Minh City, Vietnam
Photo: Ehrin Macksey for Aidsfonds 2015



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FREEDOM OF ASSOCIATION

UKRAINE



The most commonly reported freedom of association challenge experienced by key populations and those working on the HIV and AIDS response is office raids or attacks on employees. Respondents reported attacks on the work of organisations representing the interests of people who use drugs and LGBTQI+ people. But there were no reported cases for organisations who work with sex workers, which respondents suggested could be down to limited public activity.

Examples of violations reported were:

- An attack on the office linked to the LGBTQI+ community in Kharkiv, by unknown people in July 2018
- The office of Drop-In Centre, a CSO working with people who use drugs in Kyiv, was attacked twice in 2018
- A CSO providing medical services for PWUD in Kharkiv was forced to close the site because residents threatened the staff and clients and set fire to the office doors. Eventually, members of the National Corps far-right political party demolished the office.

The second common violation reported was raids on activities by key populations and their CSOs. Raids were more common for activities by LGBTQI+ groups, while people who use drugs and sex worker groups were mainly left alone. Again, this could be because the LGBTQI+ community holds large-scale events which attract extensive media coverage, presenting a public relations opportunity for key violators, mostly right-wing radical groups. In 2016, representatives of a militaristic organisation disrupted a film being made about LGBTQI+ people living in Chernivtsi.

CSOs reported that they generally do not face funding restrictions, financial reporting restrictions or bureaucratic barriers because of their work with key populations. However, respondents noted other funding challenges, such as when Sweden stopped sponsoring AIDS programmes in Ukraine because they did not see effective involvement and continuity from the government.

ZIMBABWE



The most commonly reported freedom of association challenge experienced by key populations and those working on the HIV and AIDS response was the refusal to register them as private voluntary organisations. Restrictions and stringent measures imposed on some CSOs working with key populations have resulted in many of them having to register as trusts, which creates problems for CSOs in Zimbabwe, with the government threatening to shut down all perceived “illegal” entities. By law, trusts must have limited objectives benefitting a defined constituency, which puts a further restriction on their activities.

Secondly, donor support for civil society has been shrinking since 2009 after the global financial crisis and the refugee crisis of 2013. Limited funding options have seen several institutions in the health sector, either closing



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or significantly scaling down. Without funding, consistent, evidence-based advocacy, agenda-setting and consensus-building programmes that support a community of key populations, are not possible.

Some CSOs experience refusal by real estate companies to provide offices spaces, making it difficult for them to operate effectively.

The criminalisation of some key populations has also resulted in most CSOs shying away from working with key populations due to the fear of reprisals, especially for those working on LGBTQI+ issues. Unregistered CSOs also face challenges in opening bank accounts, which requires an organisation to submit their registration documents.

CSOs working with key populations also face public vilification, sometimes being labelled as opportunists or “cash-vists”, implying that CSOs would champion any cause where donor money is involved.

INDONESIA



The most commonly reported freedom of association challenge experienced by key populations and those working on the HIV and AIDS response was the restriction on permissible names for the registration of organisations. To deal with this challenge, most CSOs prefer to adjust the name of their organisation to overcome administrative barriers and be recognised by the state. Most respondents indicated that they did not see a problem with naming restrictions, as long as an organisation’s vision and mission could be carried out.

Various restrictions on CSO activities were reported, such as how activities were titled and promoted. Many organisations reported adopting cautious communication strategies for their programmes.

Office raids and unannounced visits by local government officials or nearby community groups were reported several times in cities across the country. Raids or visits were usually carried out to find out about the operations of key population organisations. The general public often reported to authorities about people who look “unusual”, and who are not locals, going in and out of CSO offices.

In 2015, the Indonesian government launched an anti-sex work strategy called Indonesia Free of Prostitutes by the Year 2019. This launch was followed by the closure of a red-light district in East Sentani, Papua, by the Social Affairs Minister Khofifah Indar who called for sex workers to “get decent jobs”.

“Once our accounts were blocked for discussing LGBTQI+ issues on social media.”

CSO representative

VIETNAM



The most commonly reported freedom of association challenge experienced by key populations and those working on the HIV and AIDS response is the difficulty in legally establishing an organisation and legally registering. CBOs find it challenging to meet the requirements (educational qualification, financial competence and capital) for registration set by the government. This inability to become a recognised legal entity inhibits their work. They are not autonomous bodies and cannot entirely run their affairs, mobilise resources on their own and are dependent on funds being channelled to them by local or international NGOs. Some CBOs get around registration restrictions by establishing the CBO as a social enterprise and collaborating with existing registered CSOs.



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Another challenge was constant complaints to police made by members of the public about key population CBO activities. Members of the public rank high in the list of those that challenge key population rights.



UKRAINE



The most commonly reported freedom of expression challenge was online attacks, mostly targeted at the LGBTQI+ community.

Respondents also noted prosecution of members of key populations and employees of their CSOs for exercising their right to expression (speech, writing, media etc) and the refusal of media outlets to highlight or publish content about key population issues.

“The media in Ukraine serves the interests of political groups, and each of these groups has its own attitude to the problems of key populations and shows it through the media (it especially refers to LGBTQI+ people). Media often uses incorrect terminology and presents information in a scandalous way.”

CSO representative

ZIMBABWE



The most commonly reported freedom of expression challenge was online attacks of members of key populations or their CSOs by the public. This was in the form of verbal abuse, and use of derogatory names, mostly on social media and online news articles. Gay men are the most targeted group.

Respondents also noted reports of state-sponsored media, like The Herald and the Zimbabwe Broadcasting Corporation, refusing to accept content deemed to be supporting same-sex ideas, drug use or sex work. Where they accept content, there is often ruthless editing of material to make it “public friendly”. Some organisations such as GALZ, which have access to privately-owned media, however, have to pay for adverts, which are very expensive.

GALZ and other active members of the LGBTQI+ community said they could not freely express their views in the face of constant surveillance, bureaucratic harassment, and intimidation through demeaning public statements by public officials including the former president, imprisonment, injury and having had their offices and homes raided in the past. So, while they are allowed to exist by law, their advocacy work is regularly impeded and undermined by state authorities and threats of de-registration and closure.

LGBTQI+ and sex worker respondents also indicated how the combination of criminalisation of same-sex conduct, sex work and social stigma has had an insidious effect on their self-expression, forcing them to adopt self-censoring behaviour because any suspicion of non-conformity may lead to violence or arrest.



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INDONESIA



The most commonly reported freedom of expression challenge was online attacks on key populations through negative responses or moral criticism for expressing opinions on specific issues on social media. Themes relating to LGBTQI+ people attracted the most responses from the public or politicians.

Respondents also reported censorship and surveillance of social media content by authorities. One CBO representative noted:

“Our national network had warned us not to post content (on social media) explicitly about gay (issues). Recently, the content is not so obvious compared to the past, because there are cyber teams from the police watching over social media contents.”

VIETNAM



The most commonly reported freedom of expression challenge is the fear of speaking out against the policies and action of state and non-state actors. Although, not explicitly prohibited, civil society members and organisations expressed serious misgivings about doing so, particularly where their rights have been infringed, fearing retribution from local authorities and the police. Our research showed sex workers concerned about police harassment, arrests and fines or the lack of official concern about abuse and rape by clients, were generally both unable and unwilling to make official complaints. Respondents also noted the freedom of expression of key populations was sometimes challenged by the national regulations on censorship. A CBO was preparing for a session on amphetamine-type stimulants and overdose prevention when the authorities requested a very detailed plan before approving the project.



Sam, project coordinator at Gays and Lesbians of Zimbabwe (GALZ) raises the rainbow flag
Photo: Ton Koene for Aidsfonds 2017

However, this type of close supervision varies in different places and depends on the trust built between CBOs and the authorities.

CBOs also reported occasional misrepresentation of their situation and objectives by the media. But there were no reports of widespread attacks or concerted negative efforts by the media.



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NOTABLE VULNERABLE GROUPS

UKRAINE.....



Transgender people and women who use drugs – Were identified by respondents as being particularly vulnerable to violations of their civic freedoms.

Transgender people and men who have sex with men –

Traditional social values in Ukraine are largely responsible for challenges experienced by MSM and transgender people. Problems are especially acute for transgender people, who face both legislative restrictions and intolerant attitudes from society and authorities. They are also a lot more vulnerable because of a lack of dedicated gender identity-sensitive health services and are stigmatised more than other members of the LGBTQI+ community.

Women who use drugs – People who use drugs are often viewed by the general public as criminals engaged in illegal activities. It is also increasingly well documented that women who use drugs are even more vulnerable, facing a double discrimination due to perceptions that they have failed to meet accepted gender norms on top of the widespread vilification of people who use drugs. Women who use drugs often face a lack of gender-sensitive harm reduction services, as well as very limited access to sexual and reproductive health care.

ZIMBABWE



Sex workers – Punitive laws and policies present huge barriers for sex workers in accessing HIV and AIDS services and also leads to violation of their civic freedoms and human rights. In some healthcare settings, stigma translates into judgmental attitudes, hostility, and discrimination, including denial of services.

Many sex workers do not disclose their sexual practices and behaviours, leading to delay, or avoid seeking care for sexuality-related issues. To avoid this mistreatment and discrimination, some sex workers said they ended up treating themselves or visiting prophets or traditional healers, where there is a possibility of sexual abuse.

Men who have sex with men – Men having sex with other men is illegal and remains highly stigmatised within conservative Zimbabwe society. This drives this vulnerable group away from HIV and AIDS services, so many do not know their HIV status, let alone access treatment. The few organisations, such as GALZ, that support the rights and promote the health of MSM and their access to HIV services are routinely punished, shut down or have their members arrested.

Young people – The Zimbabwe government does not allow sex education and condom distribution in schools, reducing young people’s access in school to information and guidelines on their sexual and reproductive health and rights. Lack of adequate sexual education and life-skills, coupled with an increase in unemployment and poverty among young people in Zimbabwe, has increased their vulnerability to HIV infection. Often, they are in relationships with older partners, where it is difficult to negotiate for safe sex.



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LGBTQI+ communities, particularly transgender people – these groups were reported to be most vulnerable to violations of their civil rights due to prejudices influenced by religion and culture. According to the 2016 national survey ‘A Measure of the Extent of Socio-Religious Intolerance and Radicalism within Muslim Society in Indonesia’ conducted by the Wahid Foundation and UN Women, LGBTQI+ was the least tolerated minority group (26.1%).

VIETNAM



Transgender people – they experience considerable stigma and discrimination in their day-to-day lives in the community, in terms of employment, education, housing and healthcare, largely as they are not recognised in their correct gender until they have had gender affirming surgery to transition.



Three sex workers who are part of the sex worker project Bandungwangi
 Photo: Marieke van der Velden for Aidsfonds 2016



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NOTABLE PERPETRATORS

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Radical or nationalistic organisations and paramilitary or militaristic organisations working under the jurisdiction of the Ministry of Internal Affairs were responsible for many of the violations.

Law enforcement agencies affiliated with political forces and local authorities in some regions were also identified as key violators.

Lastly, religious groups and rehabilitation centres run by religious organisations for people who use drugs were listed as violators.

Respondents also pointed to the state as the primary violator for its inaction, or its unofficial connection, to other violators.

“I personally saw how supporters of religious organisations disrupted protests of key populations.”

CSO representative

ZIMBABWE.....



Our research pointed to the Zimbabwe Republic Police as the leading perpetrators of abuse and harassment related to people’s sexual orientation. The police have been accused of physically assaulting, arbitrarily arresting and detaining LGBTQI+ people, sex workers and people who use drugs often without due process or any legal basis.

Members of the public were described by respondents as “quick to judge and intolerant of different sexual orientations”.

Zimbabwe is predominantly a Christian nation and religious leaders were ranked third among violators of the freedom of association of key populations.

INDONESIA.....



The most frequent violators of the right to freedom of association are members of the public, non-state actors (including CSOs outside HIV and AIDS sector), religious groups, national and municipal police (Satpol PP) and local government officials. Civil police and non-state actors most frequently violate the right of freedom of peaceful assembly, while the most common violators of the right to freedom of expression are civil police, members of the public, community groups, religious groups and mass media. The majority of the respondents concluded that the government played a major role in the violation of civil rights.



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The general public and local authorities were the most common violators of their rights of association. The situation is worse in rural communities than urban areas. Data from the CIVICUS Monitor reveals that state agencies such as law enforcement agencies are also key violators of the rights to freedom of peaceful assembly. In addition, media outlets are heavily censored, and dissenting journalists and bloggers are routinely arrested and imprisoned under vague criminal laws, generally restricting freedom of expression in the country.

DRIVING FORCES AND DYNAMICS

UKRAINE



The 2014 revolution against Viktor Yanukovich’s pro-Russian regime gave Ukraine the impetus to move towards European values. Due to increasing awareness, society has become more tolerant of people living with HIV and AIDS. However, attitudes towards key populations depend very much on where someone comes from and their age. Residents of large cities and young people tend to be more liberal, while Western Ukraine is very conservative.

Both state and non-state actors are motivated to violate the civic freedoms of key populations and their CSOs for a range of reasons. Traditional values and religion underpin these violations. Personal attitudes of state and non-state actors, coupled with a general lack of awareness of the nature of the problems of key populations also drive violations. State actors violate civic freedoms as it lessens the pressure from civil society on the authorities. Beliefs, prejudices and myths about key populations drive violations by non-state actors (particularly right-wing groups) who think their actions against key populations will bring them more support and influence in society.

ZIMBABWE



Conservative religion, culture and restrictive laws play a crucial role in violations against key populations in Zimbabwe. Religious attitudes to homosexuality, sex work and drug use in Zimbabwe largely stem from the interpretation of the Shona and Ndebele cultures and the Bible on matters of sex and sexuality.

This leads to the stigmatisation of sex workers, MSM and people who use drugs and sees them miss out on many socio-economic benefits.

Perpetrators often perceive sex workers, people who use drugs, lesbian, gay and bisexual people as “social misfits” or “sick” people who need to be corrected or disciplined. This provides an implicit licence for crimes committed against key populations, as perpetrators feel justified.



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Gathering of the men who have sex with men living with HIV support group at LIGA
Photo: Chris de Bode for Aidsfonds 2017

INDONESIA



The general public’s lack of acceptance is the primary driver of violations against key populations and their CSOs. One representative of a legal aid organisation said there was a “public mindset of stigma and discrimination which drives the policies”.

People who inject drugs are treated differently because Indonesian society sees drug use and addiction as a health, not a moral, problem.

Generally, the government tends to side with the majority perspective to reduce internal conflict, and local government officials and police, according to our research, are more concerned with preventing friction in society.

A lack of coordination between government agencies has also led to violations, such as raids by Satpol PP on mobile clinics for sex workers managed by local health offices.

VIETNAM



HIV and AIDS is considered a “social evil” in Vietnam, a term that is also used for sex workers and people who use drugs. HIV and AIDS is seen as a by-product of unacceptable behaviour and life choices. Drug use is associated with violent crime, and sex workers, MSM and transgender people are seen as breaking the Vietnamese norms of traditional family life.

However, coupled with law changes, drug use is increasingly understood as a health concern. Sex workers are no longer treated as a “social evil” to be sent away for prolonged periods for rehabilitation in residential centres, although they are still frequently arrested and fined.

MSM reported very few restrictions and found more difficulties with their families’ refusal to accept them. Transgender people experience many challenges because of society’s lack of understanding and have noted that their rights are most often violated by healthcare professionals and law enforcement agencies.



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INTERNATIONAL RESTRICTIONS

Individuals, key populations and organisations attempting to influence HIV and AIDS processes at international and regional levels are seeing their civic space closed off, both formally and informally.

CSOs working at the international level have the same challenges as those working at the national level, though less directly intrusive, and with fewer consequences.

A key issue is the lack of funding, particularly for advocacy. Getting funds can be even more difficult for global CSOs than for national ones. Indeed, national CSOs can provide faster outcomes which are measurable and tangible, and which donors find easier to fund. Few donors are willing to invest in global networks.

There is also a lack of technical capacity and expertise on how to work in regional and international spaces, leading to a situation where a significant proportion of work depends on very few people with the required specific expertise.

One CSO representative said: “To work at the regional level, you need people who have done it before and understand the process and will be able to guide this particular process.”

CSOs also report experiencing stigma and discrimination during multilateral events and processes.

“We are living in a constant justification process. Sometimes you are in the spaces where your future is discussed (whether the medicine should go to transgender people or not), and you still have to explain to them who a transgender person is,” said another CSO respondent.

CHALLENGES WITH INTERNATIONAL ADVOCACY PLATFORMS

Only a small number of CSOs know and use international mechanisms for advocacy, due largely to a lack of capacity. Also, some CSOs are disillusioned and do not treat international mechanisms as a real solution, because they often fail to see the results of recommendations come through at local level. Others see the procedures as unnecessarily slow and complicated.

The requirement for CSOs to be officially registered to attend multilateral meetings is a significant challenge. Official registration is not always possible because of criminalisation or discrimination. If a person wants to speak in the UN Human Rights Council, they have to do it in the name of NGO accredited by its ECOSOC (Economic and Social Council). However, accreditation is a state-led process and is very non-transparent, while two seats on the ECOSOC committee belong to conservative states.

Stigma and discrimination of key populations and their CSOs at high-level international meetings sometimes leads to hostilities from participants in those forums, including member states. As highlighted in section 7, there have been frequent cases where organisations of key populations have been denied accreditation to high-level UN meetings.

Some CSOs advancing the rights of key populations are publicly vilified and labelled as being agents of foreign interests who promote ideas that go against tradition and culture.



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The high costs of participation for national and global CSOs is a major obstacle too, as they are often too hefty for CSOs working with key populations.

Lastly, problems with acquiring visas to attend international events is sometimes a challenge, as this is at the discretion of the issuing authorities, who sometimes reject applications for administrative reasons. Many experts interviewed during this study mention that international mechanisms are somewhat outdated and currently do not function effectively.

Accreditation is needed to speak at the UN Human Rights Council, but CSOs can freely approach special procedures (Special Rapporteurs on freedom of association and peaceful assembly, human rights defenders or freedom of opinion and expression) or file a complaint to UN treaty bodies without being accredited. CSOs can also address complaints to treaty bodies where countries have ratified the treaty, but the process of treaty bodies engaging with a government takes a long time.

However, some experts have quite a positive opinion about OHCHR.

“Openness and inclusion of the United Nations Council on Human Rights matter. We don’t always get what we want, but this is a negotiation process,” one CSO representative said.

The World Health Organization (WHO) is considered to be a very closed space for civil society involvement, according to our research. It is complicated to

get status as a registered WHO partner because CSOs have to collaborate with WHO for at least ten years in order to obtain it, a condition which automatically excludes the majority of key population organisations.

Most experts however view the mechanisms of the Global Fund to meaningfully engage CSOs as very good. The Global Fund has the flexibility to support the work done by community groups through sub-granting to unregistered organisations and safeguards to protect the participation of communities and civil society in influencing programming. Communities and NGOs from developing and developed countries have a total of three seats on the board of the Global Fund in Geneva.

A CSO representative said: “There is a possibility to submit complaints in different countries. There was a special Global Fund campaign aimed to stimulate key populations to submit complaints. In addition, there is a country coordinating mechanism oversight committee in countries where the Global Fund works.”

TRENDS AND TENSIONS

The latest trends regarding challenges facing key population organisations globally are mixed or negative due to several factors. First, ultra-conservative or radical political movements are gaining ground in many parts of the world, threatening liberal values and civil society space. Secondly, the influence of religious leaders and organisations on the political discourse and decision-making processes in countries is increasing in different parts of the world.

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There are also tensions and lack of coordination within civil society, in particular among LGBTQI+ and women's movements. An example is where feminist groups decline to collaborate with sex workers and transgender women in international and regional spaces. Lastly, respondents said there was no accountability for countries' obligations to the SDGs and other international frameworks.

CHALLENGES AND GAPS

Opposition to civic space and the key population agenda is strengthening at international and regional levels, primarily where heads of oppressive states (such as Egypt in the AU) lead regional blocks.

"Voices are not heard at the UN. The UN itself is hijacked by the same repressive governments," one CSO representative told us.

The organisation of some multilateral processes renders them ineffectual. For example, some respondents indicated that the language of political declarations or policy documents from the Commission on Narcotic Drugs in Vienna is not strong enough to propel change. The current process demands consensus-seeking for declarations and policies amid deeply polarised views of different countries.

Respondents also noted that multilateral organisations, as well as global CSOs, do not have an effective coordinating mechanism for emergencies that enables consensual, timely and efficient action in the event of a crisis. Each organisation often responds to similar issues separately.

The language barrier is also a key challenge as not enough translation is provided for people to come and fully express themselves and articulate their ideas and views.



Lloyd, member of the support group for LGBTQI+ people living with HIV support group in Zimbabwe, part of the Gays and Lesbians of Zimbabwe (GALZ), with antiretroviral medication in his hand
Photo: Ton Koene, 2014



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The role of civil society is widely recognised as essential in ending the AIDS epidemic and promoting human rights. Civil society ensures the provision of life-changing HIV and AIDS and SRHR services, acts to improve HIV and AIDS governance and accountability and advocates for progressive policies and laws to advance human rights.

However, the closing space for civil society is increasingly preventing communities and CSOs from fulfilling their roles in reaching people most affected by HIV and AIDS.

At country level, urgent action is required to remove legal, political, social, and cultural restrictions to the rights to association, peaceful assembly and freedom of expression faced by civil society actors involved in the field of HIV and AIDS and SRHR, particularly those representing key populations.

At international level, barriers to the meaningful involvement and participation of CSOs in relevant governance and decision-making processes also need to be overhauled as a matter of priority by state, regional and international actors.

These include:

- Bureaucratic barriers to participation
- Stigma and discrimination by state parties
- States which discourage and sometimes even ban key populations and their CSOs from accessing and effectively participating in international fora

- A lack of technical and financial capacity to use international mechanisms effectively.

Based on the findings of our research, we propose policy recommendations for governments, international bodies and CSOs to reclaim and to expand space for civil society. The recommendations have a particular focus on enabling key populations and their organisations to actively and fully contribute to an effective global AIDS response, achieve the SDG commitments to achieve universal health coverage and, ultimately, eradicate AIDS.



RECOMMENDATION 1

States, regional and international bodies and CSOs should strengthen collaboration and scale up joint initiatives to ensure a conducive operating environment for civil society, particularly for organisations working with key populations and/or on SRHR.

Priority areas needing urgent action are:

- Repealing punitive laws, policies and practices that criminalise or otherwise restrict homosexuality, gender non-conforming identity and expression, sex work and drug use as well as legal restrictions which prevent young people under the age of 18 from receiving comprehensive sexuality education or accessing HIV and SRHR services.
- Adopting, implementing and enforcing anti-discrimination laws by all state agencies, private institutions and the public, with a particular



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Khensani Mavasa, a representative of the Treatment Action Campaign, who is HIV positive, addresses the United Nations General Assembly in 2006
Photo: AP Photo/Stuart Ramson

focus on ensuring adherence by principal violators such as law enforcers, fundamentalist religious organisations and other radical groups.

- In line with the UN Political Declaration on HIV and AIDS, 2016, ensuring at least 30% of all HIV service delivery is community-led and targets key populations. In the context of donor transitions, focus should be put on developing financing mechanisms for local civil society, including granting and social contracting to ensure sustainability of the national responses.



RECOMMENDATION 2

States, regional and international bodies and global CSOs should leverage the extensive knowledge and expertise within local civil society and communities for policy formulation and responsive programming grounded in human rights and evidence.

This includes addressing these priorities:

- Developing programmes to increase the capacity of government officials in relevant departments to address stigma, discrimination and violence towards key populations.
- Ensuring that clear guidelines based on GIPA principles are adopted and implemented to ensure the meaningful involvement of key populations and community organisations in national, regional and international platforms, agencies and mechanisms. The international community should build on existing best practice and agree on fundamental principles to ensure the meaningful engagement of communities, particularly those who are marginalised, in the context of the SDGs and implementation of universal health coverage.
- Supporting initiatives aimed at increasing the advocacy and research capacity of CSOs and community-based organisations to evidence realities at country level, particularly in documenting and submitting cases of violations of key populations' rights and engaging with policy fora and other relevant mechanisms at national, regional and international levels.



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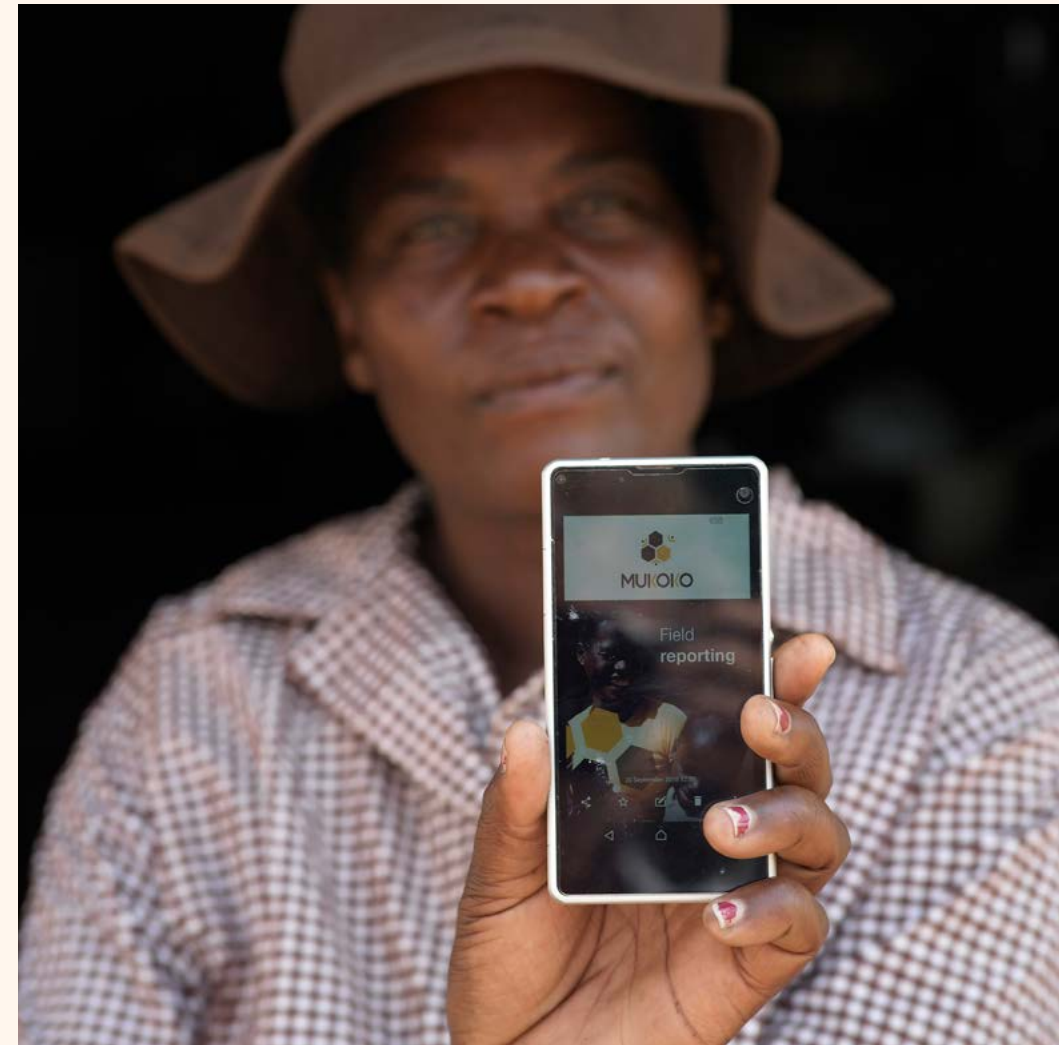
RECOMMENDATION 3

States, regional and international bodies should support (including financially), and recognise the benefits of, strong civil society and community-based organisations that can effectively advocate for social change and the needs of communities.

These priorities must be addressed to build enabling civic spaces:

- Developing, implementing and funding joint strategies with national and international CSOs to understand and respond to the consequences of ultra-conservatism and rising populism on space for civil society and key populations at state, regional and global levels, incorporating both long term initiatives and rapid response in the case of crack downs and human rights emergencies.
- Building progressive coalitions with national and international CSOs, to advance a rights-based approach through multilateral mechanisms.
- Enforcing international treaties and agreements by supporting stronger accountability mechanisms and literacy of community based and national CSOs to make effective use of those treaties and agreements. This means accreditation conditions to international fora must become more flexible and transparent. States discriminating against key populations should be publicly condemned and banned from hosting international events or functions.
- In line with the UN Political Declaration on HIV and AIDS, regional and international bodies must ensure 6% of global HIV and AIDS resources are allocated to social enablers, with a focus on advocacy, to ensure

accountability and the protection and promotion of the rights of all, particularly key populations and marginalised groups.



Community health care worker Josephine showing the Mukoko app, used in Zimbabwe to take HIV tests and share information on HIV
Photo: Chris de Bode for Aidsfonds 2018



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THE COMMITMENT TO END AIDS

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- Civil society advocacy
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SPOTLIGHT COUNTRIES

- Ukraine
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CIVIC FREEDOMS

- Freedom of peaceful assembly
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- Notable vulnerable groups
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CONCLUSION: CIVIC SPACE IS KEY TO LEAVING NO ONE BEHIND

The role of communities and civil society in the HIV and AIDS response cannot be overstated. Globally, CSOs and community groups have proved to be critical in advancing the HIV and AIDS agenda by improving access to services, supporting prevention and treatment services and programmes, advocating for financial resources, improving HIV and AIDS governance and programming, and moving forward on human rights issues.

Despite this vital role, evidence shows that key populations, and the CSOs that represent them, face structural, institutional and social challenges, restrictions and violations which negatively affect their rights to assemble, associate and express themselves while responding to HIV and AIDS.

At country level, key populations face degrees of criminalisation, which challenges their ability to form organisations and participate in HIV and AIDS processes that affect them. Outright attacks on their activities and staff by radical groups, members of the public and law enforcement agencies also block their efforts to carry out HIV and AIDS-related work.

In Ukraine, organisations have been forced to close down their offices due to attacks, and have suffered threats against staff by radical groups and members of the public. In Zimbabwe, men who have sex with men live in fear of having their sexuality exposed, failing to disclose this even when receiving treatment, hindering the collection of data essential in the development of effective targeted programmes.

WITHOUT A GREATER FOCUS ON PROTECTING AND PROMOTING THE HUMAN RIGHTS OF KEY POPULATIONS ... THE CENTRAL PLEDGE OF THE SDGS, TO LEAVE NO ONE BEHIND, WILL NOT BE REALISED.

The restrictions experienced beyond national level also obstruct the participation of key populations and their CSOs in regional and international fora where issues that affect them are discussed. The denial and restriction of access of key populations and their CSOs to these fora excludes the voices of those most affected by HIV and AIDS in decision making.

This was starkly demonstrated when representatives of key population groups expressed concern⁷⁴ about the inadequacy of the political declaration coming out of the UN High-Level Meeting on HIV and AIDS in 2016, for failing to meaningfully address the HIV and AIDS epidemic among key populations, after their groups were denied accreditation to participate.

It is vital to appreciate the impact such civic space restrictions have on HIV and AIDS responses, both nationally and globally, as they have the alarming effect of impeding and handicapping HIV and AIDS prevention and reduction efforts by CSOs and community groups.

State and non-state actors at all levels have essential roles in enabling key populations to exercise their civic freedoms and access health and other social services. Scaling up human rights programmes to reduce inequalities and exclusion is also vital.

Without a greater focus on protecting and promoting the human rights of key populations, including people living with HIV and AIDS and those most affected, the central pledge of the SDGs to leave no one behind will not be realised.



ACRONYMS

ACHPR	African Commission on Human and People's Rights
AIDS	Acquired Immune Deficiency Syndrome
ART	Antiretroviral therapy
AU	African Union
CBO	Community-based organisation
CAL	Coalition of African Lesbians
CSO	Civil society organisation
EC	European Commission
ECOSOC	Economic and Social Council
EU	European Union
FGD	Focus group discussion
GALZ	Gays and Lesbians of Zimbabwe
GIPA	Greater Involvement of People Living with HIV and AIDS
HIV	Human Immunodeficiency Virus
ICCPR	International Covenant on Civil and Political Rights
IDAHOT	International Day Against Homophobia and Transphobia
INGO	International non-governmental organisation
IPU	International Parliamentary Union
LGBTQI+	Lesbian, gay, bisexual, transgender, queer and intersex
MDG	Millennium Development Goals
MSM	Men who have sex with men
NAC	National AIDS Council
NGO	Non-governmental organisation
OHCHR	Office of the High Commissioner on Human Rights
OIC	Organisation of Islamic Cooperation
PEPFAR	Presidential Emergency Plan for AIDS Relief
SDG	Sustainable Development Goals
SRH	Sexual and reproductive health
SRHR	Sexual and reproductive health and rights

GLOSSARY OF KEY TERMS

Civil society In this report, the term civil society includes key population-led organisations and networks, and people living with HIV and AIDS.

Civil society organisation (CSO) Non-state, not-for-profit, voluntary entities formed by people not working for, or formally connected to, governments or representing any business interest. CSOs represent a wide range of interests and issues. They can include community-based organisations (CBOs) and non-governmental organisations (NGOs). As per the UN Guiding Principles Reporting Framework, CSOs do not include business or for-profit associations.

Civic freedoms In this report, this refers to the rights to freedom of association, freedom of peaceful assembly and freedom of expression.

Key populations UNAIDS considers gay men and other men who have sex with men, sex workers and their clients, transgender people, people who use and inject drugs and prisoners and other incarcerated people as the main key population groups. These populations often suffer from punitive laws or stigmatising policies and are among the most likely to be exposed to HIV and AIDS.

Freedom of association The right to the freedom of association is the right of any person to join a formal or informal group to take collective action. This right includes the right to form a new group and join an existing group.

Freedom of expression The right to the freedom of expression includes the right to access information, critically evaluate and speak out against the policies and actions of state and non-state actors, and publicly draw attention to and carry out advocacy actions to promote shared concerns, without fear of retribution from any quarter.

Freedom of peaceful assembly The right to the freedom of peaceful assembly is the right of every person to gather publicly or privately and collectively express, promote, pursue and defend common interests.

Civic space (or civil society space) The set of conditions that allow civil society and individuals to organise, participate and communicate freely and without discrimination, and in doing so, influence the political and social structures around them. Core civic space rights – the rights to freedom of association, freedom of peaceful assembly and freedom of expression – are guaranteed by law in most national constitutions and international and regional human rights instruments. A state's obligations under international law are brought about by ratification of these conventions.

Non-state actors Organisations and individuals not affiliated with directed by or funded through the government. These include corporations, private financial institutions and NGOs, as well as paramilitary and armed resistance groups.



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Sylvia Mbataru (**CIVICUS**), Arben Fetaj and David Ruiz (**Aidsfonds**), and Sebastian Rowlands (**Frontline AIDS**) managed the project and synthesised the research findings. Matthew Reading-Smith (**CIVICUS**) and Nina Hoeve (**Aidsfonds**) edited and designed the report. Robin Yule did the design and layout of the report.

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