



ADDRESSING SEX WORK, MSM AND TRANSGENDER PEOPLE IN THE CONTEXT OF THE HIV EPIDEMIC

INFORMATION NOTE

Introduction

The appropriate targeting of HIV investment is crucial to the success of HIV responses. Taking the appropriate targeting of certain populations and interventions to the appropriate scale can be challenging. Marginalized populations including sex workers, men who have sex with men (MSM), transgender people and people who use drugs have often been overlooked in national strategies and programs – denying countries the opportunity to get ahead of their epidemics. Moreover, certain legal and policy environments that criminalize behaviors of these key populations and/or create barriers to delivering services that can reduce vulnerability to HIV, not only impact the trajectory of the epidemic in countries but violate human rights.

The Global Fund's [Sexual Orientation and Gender Identities \(SOGI\) Strategy](#) (2009), as well as [Gender Equality Strategy](#) (2008), encourages all partners, especially government, technical and civil society partners at country level, to strengthen their focus on the HIV-related vulnerabilities of people who are marginalized due to real or perceived sexual orientation, gender identity, or consensual sexual behaviors.

Key focus populations of this work include:

- Sex workers, including men, women, or transgender people who sell sex and their clients;
- Men who have sex with men (MSM);
- The female sexual partners of MSM;
- Transgender people, including transwomen and transmen, transsexual, and intersex people;
- Other sexual minorities, including women who have sex with women.

Useful terminology and acronyms are included in the final section of this information note.

Why increased targeting of HIV funding requests is important

HIV disproportionately impacts sex workers, MSM, transgender people and other lesbian, gay, bisexual, transgender and intersex (LGBTI) groups in all countries. They often face significant vulnerability to HIV as a result of high risk behavior, poor coverage by HIV and health services, criminalization, punitive environments, social marginalization and continuing stigma and discrimination. And when living with HIV, access to prevention, treatment, care and support is even more difficult because of membership to an already marginalized and socially excluded population group.

Among the most vulnerable risk groups are MSM and transgender people. Sexual minorities who are also sex workers and/or who also inject drugs are at even higher risk. There are particular

risks for those who live in settings such as military facilities and prisons where violence and sexual coercion may be common (See *SOGI Strategy* for references.).

HIV prevalence among MSM has been found to be as high as: 25% in Ghana; 30% in Jamaica; 43% in coastal Kenya; and, 25% in Thailand. Recent data shows that MSM are 19 times more likely to acquire HIV than all other men.¹ Among transgender people, HIV prevalence is even higher. Studies showed HIV prevalence of more than 25% among transgender people in three Latin American countries and between 10% and 42% in five Asian countries². HIV prevalence in excess of 60% have also been reported for transgender people. Studies in Buenos Aires³ and Rio de Janeiro show rates of 62% and 64% respectively and a study of transgender people in prison in Sao Paulo reported 78% HIV prevalence⁴.

Sex workers continue to have high rates of HIV. Recent data shows that female sex workers are 14 times more likely to acquire HIV than all other women aged 15-49 including in high burden countries.⁵ In Benin, Burundi, Cameroon, Ghana, Guinea-Bissau, Guyana, Kenya, Mali, and Nigeria more than 30% of all sex workers are living with HIV. In Myanmar, more than 18% of sex workers are living with HIV. In some parts of India, sex workers have HIV prevalence of more than 40%⁶. In Swaziland, over 69% of sex workers surveyed are living with HIV.⁷

Poor coverage of services and populations

According to UNAIDS, more than 70% of countries did not report on levels of access to HIV services for MSM and transgender people in 2008. Where information was reported, access to HIV services varied from 12% in parts of Africa to 43% in parts of Latin America.

According to UNAIDS access to HIV prevention programs and services for MSM and transgender people has increased somewhat in the past two years but remains inadequate overall. Data from 78 countries show that condom use by MSM was less than 50% in 24 countries, between 50% to 60% in 16 countries, 60% to 80% in 28 countries, and more than 80% in only seven countries: Andorra, Cambodia, Guyana, Myanmar, Panama, Suriname, and Uzbekistan. Among countries reporting to UNGASS in 2010, a global median of 42% of MSM reported receiving an HIV test and the result in the past 12 months.

A recent survey by *the Global Forum on MSM & HIV* assessed the availability of and access to testing and prevention services for sexually transmitted infections and HIV among MSM in eight regions. Of the 17 services assessed (including sexually transmitted infection and HIV testing and counseling, HIV treatment, free condoms, mental health services, circumcision, and mass-media campaigns to reduce HIV and to reduce homophobia), only in two areas (sexually transmitted infection testing and circumcision) did a majority of respondents (51% in both cases) report that the services were easily accessible. Respondents also noted the many barriers to their access to services, including homophobia, stigma, criminalization of same-sex acts, policy barriers, and insensitivity or lack of awareness among health care providers.

HIV prevention programs among sex workers have achieved major progress both in increasing condom use in sex work and in reducing HIV infections – yet more work is needed. Countries are beginning to increase programming among sex workers and clients. However, sex work organizations and networks report significant lack of access to condoms in many high prevalence

¹ World Bank, JHSPH, UNDP (2011) *The Global HIV Epidemics among Men who have Sex with Men*

² [UNAIDS Action Framework: Universal Access for Men who have Sex with Men and Transgender People](#)

³ Berkins, Lohana y Fernández, Josefina (2005) *La gesta del nombre propio: Informe sobre la situación de la comunidad travesti en la Argentina*. Buenos Aires: Ed. Madres de Plaza de Mayo.

⁴ <http://www.transetvih.org/blog/2009/11/seroprevalence-amongst-trans-women/>

⁵ World Bank, JHSPH, UNFPA (2012) *The Global HIV Epidemics among Sex Workers*

⁶ [UNAIDS, AIDS EPIDEMIC UPDATE 33 \(2009\)](#)

⁷ Swaziland Country Report on Monitoring the Political Declaration on HIV and AIDS (March 2012).

settings and continued client demand for unprotected paid sex.⁸ In countries with concentrated epidemics, HIV prevalence trends among recent initiates into sex work provide insight into the trajectory of the HIV epidemic and are a proxy measure of HIV incidence.

While sex between women does not present a high risk of HIV transmission, women who have sex with women do face HIV risks due to the factors that increase women's risk generally and also because they can be targets for sexual violence *because* of their sexual orientation.

Despite high prevalence and incidence, program reach and coverage remains low and governments have historically allocated inadequate resources to MSM, transgender people, other LGBTI groups and sex workers. Fear of violence, stigma and discrimination can also prevent many members of marginalized groups from accessing health care and other services.

The impact of criminalization

Countries that do not recognize and protect groups from discrimination are likely to find that those communities have less access to prevention and treatment services. In countries that criminalize MSM, sex workers, or people who use drugs, and where those laws are applied, the negative impact on access to services is even greater.

For this reason, WHO, UNFPA, UNAIDS and the Network of Sex Work Projects recommends that "All countries...work toward decriminalization of sex work and elimination of the unjust application of non-criminal laws and regulations against sex workers."⁹ The Global Commission on HIV and the Law recommends that countries repeal laws that prohibit consenting adults to buy or sell sex, and "ensure that enforcement of anti-human-trafficking laws is carefully targeted to punish those who use force, dishonesty or coercion...Anti-human-trafficking laws must not be used against adults involved in consensual sex work."¹⁰

Similarly, The Global Commission on HIV and the Law notes that "to ensure an effective, sustainable response to HIV that is consistent with human rights obligations...Countries must repeal all laws that criminalize consensual sex between adults of the same sex and/or laws that punish homosexual identity." It also recommends that countries "amend anti-discrimination laws expressly to prohibit discrimination based on sexual orientation (as well as gender identity)."¹¹ These recommendations are reinforced by guidance issued by UN human rights treaty bodies¹² and by the United Nations High Commissioner for Human Rights.¹³

How to address sex work, MSM and transgender people in concept notes

National AIDS programs, Country Coordinating Mechanisms (CCMs) and other applicants need to work in close consultation and with robust participation of networks and representatives of key affected populations, and with technical partners to ensure that comprehensive programs are developed based on the best available local intelligence and to ensure that community needs are adequately addressed in funding requests and programs.

⁸ UNAIDS Guidance Note on HIV and Sex Work (2012)

http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2009/JC2306_UNAIDS-guidance-note-HIV-sex-work_en.pdf

⁹ WHO, UNFPA, UNAIDS, NSWP. Prevention and treatment of HIV and other sexually transmitted infections for sex workers in low- and middle-income countries (2012).

¹⁰ Global Commission on HIV and the Law. *Risks, Rights and Health* (2012).

¹¹ Ibid.

¹² See, for example, Human Rights Committee, *Toonen v. Australia* (CCPR/C/50/D/488/1992); Committee on Economic, Social and Cultural Rights concluding observations on Cyprus (E/C.12/1/Add.28), para 7; Committee on the Elimination of Discrimination against Women concluding observations on Uganda (CEDAW/C/UGA/CO/7) paras 43-44.

¹³ Report of the High Commissioner for Human Rights on Discriminatory Laws and Practices and Acts of Violence against Individuals Based on their Sexual Orientation and Gender Identity, 17 November 2011 (A/HRC/19/41) paras 14, 41-42 and 84(d)

To achieve this, key affected population representatives should be provided with proper training or capacity development support to effectively participate in national proposal making processes.

Involvement in CCMs and Country Dialogue

The Global Fund requires the participation of people living with HIV and affected communities in CCMs and resources are available from the Global Fund Secretariat to support strengthened participation and outreach. The 2010 CCM Funding Policy¹⁴ is available on the Global Fund website. If they are not already members of the CCM, community-led networks and organizations of MSM, transgender persons and sex workers should participate in the Country Dialogue and have meaningful input into the development of the Concept Note. In many contexts their security needs to be assured if they are to effectively participate and contribute to such process. For example, initiating a separate national process, in the form of smaller country dialogues focusing on key populations that will feed into the broader Country Dialogue process, should be considered. Country partners of the Global Fund, such as UN agencies, could host and coordinate this dialogue, providing a safer space for key population representatives to participate and engage in the Country Dialogue process. In cases where national consultations would not be feasible, resource countries could be identified for each region or sub-region to host such dialogues.

Community systems strengthening

Many of the most effective responses to HIV for key affected populations are delivered in community-based settings, often by peers. However, these communities often lack the resources they need to be effective partners in national HIV responses. Funding activities that strengthen community responses are likely to have a positive result. In addition to services and programs, applicants are also encouraged to focus on system weaknesses that affect access to services by key affected populations and apply for resources for community systems strengthening. Such interventions may include capacity building, core funding for networks and organizations of key affected populations, supplies and infrastructure, and partnership building for organizations that represent or work with sexual minority groups, as well as partnership building between networks of PLHIV and networks of key affected populations. Further information is included in the [Community Systems Strengthening Framework](#), on the Global Fund's website.

Improving the evidence base

Global Fund grants can be used to help strengthen the evidence base around marginalized and key affected populations. This can be done for example through:

- The strengthening of epidemiological surveillance systems to understand epidemics among sexual minorities in relation to overall national HIV epidemics
- Defining a basic, minimum package of services which is agreed upon and clearly defined at the national level
- Improving the evidence base for effective interventions for marginalized populations, including through baseline assessments, sentinel surveillance, national behavioral surveillance surveys, and operational research
- Calculating population size estimates, establishing a system to avoid double counting, and introducing indicators to measure coverage of target populations being reached
- Improved tracking of resource flows to target populations

¹⁴ 2010 CCM Funding policy <http://www.theglobalfund.org/en/ccm/support/funding/>

- M&E strengthening to challenge or expand existing evidence and prevailing hypotheses within national surveillance, program data collection, and national information management systems

The Global Fund Monitoring and Evaluation Toolkit (HIV module, Section 3.1.1) provides more information on improving the evidence base for key populations.

Human rights programming

Applicants are strongly encouraged to identify priority areas for human rights intervention as part of their funding requests to the Global Fund. Human rights interventions may include, but are not limited to, the following four activity areas:¹⁵

1. *Laws and policies:* Including consultations on law reform, legal research, drafting proposed laws and policies, and policy advocacy, among others.
2. *Training and capacity-building:* Including training in the laws and how to implement them for police, criminal justice officials, health workers, women's organizations, key affected populations, and others. While training and capacity-building are important, applicants should note that training is likely to be more effective if combined with sound laws and policies, and systematic enforcement.
3. *Enforcement activities:* Including legal aid hotlines and services for MSM, transgender people, sex workers and PLHIV (in particular key populations living with HIV), filing complaints and petitions with national human rights commissions, establishing independent ombudsmen and complaint mechanisms at hospitals, or other mechanisms that create access to redress.
4. *Monitoring:* Including monitoring and public reporting by ombudsmen or tribunals; human rights investigations done by community-based organizations; and submission of reports and shadow reports to UN human rights mechanisms such as the Committee on Economic, Social and Cultural Rights. Monitoring activities should also include assessment and mitigation of risks for whistle-blowers.

In addition, applicants may request support for community systems strengthening activities that help to combat stigma, including support groups for MSM, transgender people and sex workers.

Comprehensive programs

Comprehensive programs targeting sex work and MSM/transgender communities are described in several tools developed by both civil society and UN technical partners.

Extracts from tools developed by UNAIDS follow as an example of the kind of information available.

The following information is summarized from: **UNAIDS Guidance Note on HIV and Sex Work**

¹⁵ The four areas outlined here incorporate the seven key programs that UNAIDS recommends national HIV responses include, appropriately tailored to the national and local epidemic:

1. programs to reduce stigma and discrimination
2. programs to sensitize law enforcement agents and law and policy makers
3. HIV-related legal services
4. programs to train health care workers in non-discrimination, confidentiality and informed consent
5. programs to monitor and reform laws, regulations and policies relating to HIV
6. legal literacy programs (such as "know your rights/laws" campaigns)
7. programs to reduce harmful gender norms and violence against women and increase their legal, social and economic empowerment in the context of HIV

which addresses female, male and transgender sex workers, 2012^{16, 17} Three pillars can be used to guide effective, evidence-informed responses to HIV and sex work:

Pillar 1: Assure universal access to comprehensive HIV prevention, treatment, care and support

Pillar 2: Build supportive environments, strengthen partnerships and expand choices

Pillar 3: Reduce vulnerability and address structural issues

Comprehensive, accessible, acceptable, sustainable, high-quality, user-friendly HIV prevention, treatment, care and support adapted to local contexts and individual needs should include:

- Actions to address structural barriers, including policies, legislation, and customary practices including stigma-reduction efforts, that prevent access and utilization of appropriate HIV prevention, treatment, and care and support
- Policies and programs to ensure freedom from violence, abuse, and discrimination
- Information for sex workers and their clients and others involved in the sex industry
- Reliable and affordable access to commodities, including high-quality male and female condoms, lubricants and contraceptives, and other requirements for health, such as food, sanitation and clean water
- Access to voluntary HIV testing and counseling, with treatment, effective social support and care for sex workers who test positive for HIV
- Access to high-quality primary health care, TB management, sexual and reproductive health services, especially sexually transmitted infection management and prevention of mother-to-child transmission of HIV
- Access to alcohol and drug-related harm reduction programs, including sterile needles/syringes and opiate-substitution therapy
- Integration of HIV services with all relevant welfare services, including social support mechanisms for sex workers and their families.

The following information is summarized from: **UNAIDS Action Framework: Universal Access for Men who have Sex with Men and Transgender People, 2009¹⁸**

A conducive legal, policy and social environment is needed to support programming to address HIV-related issues among MSM and transgender people and can be strengthened through:

- The promotion and guarantee of the human rights of MSM and transgender people, including protection from discrimination and the removal of legal barriers to access to appropriate HIV-related services including laws that criminalize sex between males, and public awareness campaigns to promote the inclusion of sexual minorities and decrease homophobia
- An assessment and understanding of the numbers, characteristics and needs of MSM and transgender people including risks associated with injecting drug use, sex work and prison confinement

As with all target populations interventions targeting MSM and transgender people should be designed around the needs of the target population and include their direct input, while it is important to remember that MSM and transgender people are separate populations. The conflation between MSM and transgender people has negatively impacted service provision. Service providers should have demonstrated competency and experience in working with the target populations.¹⁹ Services may include all or some of the following:

¹⁶ [UNAIDS Guidance Note on HIV and Sex Work](#)

¹⁷ WHO, UNFPA, UNAIDS, NSWP. Prevention and treatment of HIV and other sexually transmitted infections for sex workers in low- and middle-income countries (2012) provides evidence to support sex worker interventions

¹⁸ [UNAIDS Action Framework: Universal Access for Men who have Sex with Men and Transgender People](#)

¹⁹ WHO, UNDP, GFMSM, GIZ : Prevention and Treatment of HIV and Other Sexually Transmitted Infections among Men Who Have Sex With Men and Transgender People: Recommendations for a public health approach.

- Information and education about HIV and other sexually transmitted infections, and sustained individual and group-level support for safer sex and safer drug use to reduce risk of exposure to HIV
- Provision of, and education about the use of, condoms and water-based lubricants
- Confidential, voluntary HIV counseling and testing
- Detection and management of sexually transmitted infections
- Referral systems for legal, welfare and health services
- Safer drug-use commodities and services
- Appropriate antiretroviral and related treatments, HIV care and support
- Services to prevent and treat viral hepatitis
- Access to mental health services
- Referrals between prevention, care and treatment services
- Services that address the HIV-related risks and needs of the female sexual partners of MSM and transgender people
- For transgender people, in addition to the interventions described above, access to appropriate information, counseling and support on gender identity and, where appropriate, specific issues related to gender reassignment

The importance of partnerships²⁰

The Global Fund acknowledges that work in this area is sometimes challenging and can be controversial in many parts of the world. Civil society organizations and in-country technical partners can help advise which approaches will work best depending on the context.

The Global Fund offers considerable potential for targeted programming informed by the meaningful participation of sex workers, lesbian, gay, bisexual and transgender individuals, MSM, and women who have sex with women in country-level decision-making. Partners in country face an unprecedented opportunity to increase resources for HIV services that meet community needs and break some of the taboos around funding HIV programs that deal with the “controversial” issue of sex and sexuality.

Moving on this agenda it is important to ensure care during planning and implementation in order to secure a “do no harm” approach, so that the communities, particularly in countries where they are criminalized, are able to engage in any new spaces safely and with confidence. It is also vital that investment reinforces community efforts and strives to achieve the partnership challenges of ensuring that communities are at the heart of decisions and impact from concept note development through to program implementation.

Technical support resources

In addition to international civil society organizations, technical assistance can also be provided through a number of United Nations organizations including UNDP, UNAIDS Secretariat and WHO country and regional offices. The following resources might be useful:

- UNAIDS Action Framework: Universal Access for Men who have Sex with Men and Transgender People, 2009
http://data.unaids.org/pub/report/2009/jc1720_action_framework_msm_en.pdf
- WHO, UNAIDS, GIZ, MSMGF, UNDP: Prevention and treatment of HIV and other sexually transmitted infections among men who have sex with men and transgender people, 2011 http://www.who.int/hiv/pub/guidelines/msm_guidelines2011/en/index.html

²⁰ An article in Health and Human Rights: [Partnership, sex, and marginalization: Moving the global fund sexual orientation and gender identities agenda](#) emphasizes the importance of partners in supporting Global Fund grants

- WHO, UNFPA, UNAIDS, NSWP: Prevention and treatment of HIV and other sexually transmitted infections for sex workers in low- and middle-income countries, 2012
http://apps.who.int/iris/bitstream/10665/77745/1/9789241504744_eng.pdf
- UNAIDS Practical Guidelines for Intensifying HIV Prevention, 2007
http://www.unaids.org/en/KnowledgeCentre/Resources/PolicyGuidance/OperationGuidelines/HIV_prev_operational_guidelines.asp
- UNAIDS Framework for Monitoring and Evaluating HIV Prevention Programs for Most-At-Risk Populations, 2008
<http://www.unaids.org/en/dataanalysis/tools/monitoringandevaluationguidanceandtools/>
- UNAIDS Guidance Note on HIV and Sex Work, 2012
http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2009/JC2306_UNAIDS-guidance-note-HIV-sex-work_en.pdf
- UNDP Global Commission on HIV and the Law: Risks, Rights and Health, 2012
<http://www.hivlawcommission.org/resources/report/FinalReport-Risks,Rights&Health-EN.pdf>
- UNICEF Guidance Note on HIV Interventions for Most-At-Risk Young People, 2008
www.unfpa.org/hiv/iatt/docs/mostatrisk.pdf
- WHO Report of a technical consultation: Prevention and treatment of HIV and other sexually transmitted infections among men who have sex with men and transgender populations, 2008
http://www.who.int/hiv/pub/populations/msm_mreport_2008/en/index.html
- WHO Rapid Assessment and Response: Adaptation guide on HIV and men who have sex with men, 2004
www.who.int/hiv/pub/prev_care/rar/en/index.html
- World Bank, JHSPH, UNDP: The Global HIV Epidemics among Men Who Have Sex with Men (MSM), 2012
http://publications.worldbank.org/index.php?main_page=product_info&products_id=24048
- PEPFAR Technical Guidance on Combination HIV Prevention, 2011
<http://www.pepfar.gov/documents/organization/164010.pdf>

Examples of networks

- Global Forum on MSM & HIV (MSMGF) - www.msmandhiv.org
- APCOM – the Asia-Pacific Coalition on Male Sexual Health – www.msmasia.org
- ASICAL – a Latin American MSM-focused coalition - www.asical.org
- Behind the Mask - African LGBTI communication initiative - www.mask.org.za
- CVC – Caribbean Vulnerable Communities Coalition - www.cvccoalition.org
- Network of Sex Work Projects (NSWP) with presence in 40 countries – www.nswp.org
- The African Men’s Sexual Health and Rights Network - <http://www.amsher.net>
- Global Network of People Living with HIV (GNP+) - <http://www.gnpplus.net/>

Terminology

In the absence of internationally-agreed upon language to describe the key focus populations mentioned in this information sheet, and covered by the SOGI Strategy, the Global Fund uses language from a 2006 meeting of human rights experts. These experts, from diverse regions and backgrounds, including judges, academics, UN officials, NGOs and others, developed and adopted the [Yogyakarta Principles](#) – a set of principles on the application of international human rights law in relation to sexual orientation and gender identity (SOGI).

The following terms may also be useful in developing Concept Note:

Sexuality: Sexuality is a central aspect of being human throughout life and encompasses sex, gender identities and roles, sexual orientation, eroticism, pleasure, intimacy and reproduction. Sexuality is experienced and expressed in thoughts, fantasies, desires, beliefs, attitudes, values, behaviors, practices, roles and relationships. While sexuality can include all of these dimensions, not all of them are always experienced or expressed. Sexuality is influenced by the interaction of biological, psychological, social, economic, political, cultural, ethical, legal, historical, religious and spiritual factors. (*World Health Organization: Defining Sexual Health, 2006*).

Gender identity: Gender identity refers to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body. This may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means and other expressions of gender, including dress, speech and mannerisms.

Sexual orientation: Sexual orientation refers to each person's capacity for profound emotional and sexual attraction to, and intimate and sexual relations with, individuals of a different sex (heterosexual) or the same sex (homosexual) or more than one sex (bisexual).

LGBTI (lesbian, gay, bisexual, transgender and intersex): LGBTI is an acronym commonly used in English speaking countries as a more inclusive descriptor of the "gay community" – often viewed as a useful way to refer to people who are not heterosexual.

Sex work and sex workers: It should be noted that "sex workers" are not usually considered as a key group in the context of sexual orientation and gender identities. Sex workers are however identified as a critical group to the Global Fund's SOGI Strategy alongside LGBTI communities. It is important to recognize that the strategic focus on sex work is just as important to the Gender Equality Strategy of the Global Fund as it is to the SOGI Strategy.