

UNAIDS Global Strategic Initiative on Decriminalisation

Terms of reference, consultant to support developing the GSI on HIV decriminalisation to catalyze action on law reforms

BACKGROUND

Since the beginning of the HIV epidemic, it has been recognised that human rights are key to ending the epidemic and ensuring the wellbeing of people living with, vulnerable to and affected by HIV. Global evidence has established that a punitive legal environment, including criminalisation, drives people away from HIV services, in addition to being human rights violations including overrepresentation of key populations in prison settings.¹ A key element in removing human rights barriers and creating an enabling legal environment is law reform and the removal of laws that criminalise, or have the effect of criminalising, people living with HIV and key populations. This includes laws that criminalise consensual same-sex sexual activity, gender identity and expression, drug use and possession for personal use, all aspects of sex work and non-disclosure, exposure and transmission.

Recognising this, the 2021 – 2026 Global AIDS Strategy includes specific targets relating to criminal and punitive laws: that **by 2026, less than 10% of countries will criminalise same-sex sexual activity, the possession of small amounts of drugs, sex work or HIV exposure, non-disclosure and transmission (“HIV-related criminalisation”)**.² These targets are reflected in numerous international public health and human rights norms and standards² including WHO’s 2022 Consolidated guidelines on HIV, viral hepatitis and STI prevention, diagnosis, treatment and care for key populations. The target forms part of the broader 10-10-10 societal enabler targets adopted by consensus by the UNAIDS Programme Coordinating Board in March 2021 and then again in June at the UN General Assembly in the *Political Declaration on HIV and AIDS: Ending Inequalities and Getting on Track to End AIDS by 2030*. These are:

1. fewer than 10% of countries have punitive legal and policy environments,
2. less than 10% of people living with HIV and key populations experience stigma and discrimination, and
3. less than 10% of women, girls, people living with HIV and key populations experience gender inequality and violence.

As reported by UNAIDS in July 2023:

1. 67 countries still criminalise consensual same-sex sexual activity.
2. 143 countries criminalise HIV transmission, exposure or non-disclosure.
3. 168 reporting countries criminalise any aspect of sex work.
4. 145 reporting countries criminalise possession of drugs for personal use.
5. 20 reporting countries criminalise and/or prosecute transgender people.³

¹ See for example, Global Commission on HIV and the Law. *HIV and the Law: Rights, Risks and Health*. UNDP 2012 & Supplement UNDP 2018; UNAIDS Reference Group on HIV and Human Rights: [Decriminalisation and the end of AIDS: keep the promise, follow the science, and fulfill human rights – UNAIDS Reference Group on HIV and Human Rights \(hivhumanrights.org\)](#)

² See for example, the [International Guidelines on Human Rights and Drug Policy](#) 2019; the United Nations Working Group on Discrimination against Women 2023 [Position Paper Eliminating discrimination against sex workers and securing their human rights](#); OHCHR’s [Born Free and Equal: Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law \(2nd Edition\)](#); and UNAIDS’ [Human Rights Fact Sheet Series](#) 2021.

³ UNAIDS. *The Path that Ends AIDS: Global AIDS Update 2023*, p13.

While there has been some movement in terms of decriminalisation, primarily in relation to same-sex sexual activity, including in 4 countries in 2022 alone, progress on law reform is slow and in some cases we are seeing further criminalisation of key populations and growing and concerning push back against human rights, especially of LGBTI populations, as well as against gender equality and the shrinking of civic space, all of which will have negative impacts on the HIV response.

The 2021 UN General Assembly Political Declaration requested the Joint Programme to continue to support Member States, within its mandate, in addressing the social, economic, political and structural drivers of the AIDS epidemic, including through the promotion of human rights. The UN Joint Programme plays an important role in supporting law reform efforts within the HIV response, including by leading and supporting global advocacy, thought leadership and promoting political will, to norms and standards setting and influencing, provision of best practice guidance, technical support and training to governments, civil servants and civil society, alongside supporting social norm change to accompany law reform efforts. In addition, it has an important role as a convener, bringing key stakeholders to the table at the national and international level, as well as coordinating action, resource mobilisation and allocation.

Recognising the need for greater coordinated efforts to support law reform efforts, cosponsors of the Joint Programme on HIV/AIDS agreed to work together on a Global Strategic Initiative on reforming punitive and discriminatory laws, policies and practices that affect the HIV response. The Global Strategic Initiative on Decriminalisation is intended to support countries in undertaking real, effective action to reform laws that harm the HIV response. Working with UN Member States, cosponsors, organisations led by communities of people living with HIV and key populations, parliamentarians, governments and other relevant stakeholders at global, regional, and country levels, this initiative aims to catalyze law reform efforts to create an enabling legal environment for the HIV response through the removal of punitive and discriminatory laws at the country level. The initiative will bring together or otherwise link with existing work and campaigns including, but not limited to, the Global Partnership for Action to Eliminate all forms of HIV-related Stigma and Discrimination⁴, the Love Alliance #Notacriminal campaign⁵, and the UNDP/UNAIDS/PEPFAR Scale Initiative.⁶

Aims:

The Global Strategic Initiative on Decriminalisation aims to increase investment, action, and commitment at the global, regional and country level to reform or repeal harmful and punitive laws affecting the HIV response as part of creating a broader enabling legal environment.

- Repeal of laws criminalising drug use and possession for personal use, sex work, same-sex sexual activity and gender identity/expression, HIV exposure, non-disclosure and transmission.
- Based on consultations there is the option to include reform of other relevant laws such as those criminalising broader SRH services, or those that create HIV-related travel restrictions and those imposing parental consent requirements to access HIV and SRHR services.

⁴ <https://www.unaids.org/en/topic/global-partnership-discrimination>

⁵ <https://notacriminal.org/>

⁶ <https://hivlawcommission.org/scale/>

Potential pillars of work

- **High level advocacy and influencing** to mobilise worldwide leadership, political commitment, and resources for urgent action on law reform, in collaboration with community-led organisations.
- **Support action** in partner countries at national government, parliamentary and community levels by supporting assessments of opportunities for law reform and developing and implementing short- and long-term plans to achieve law reform, including targeted social norms change.
- **Coordinate, leverage and work with existing partnerships and initiatives** to support action at the global and country level to integrate law reform in existing processes and structures, including, but not limited to the Global Partnership for Action to Eliminate all Forms of HIV-Related Stigma and Discrimination, the Global Prevention Coalition, Global Validation Advisory Committee for the Elimination of Vertical Transmission of HIV, Syphilis and Hepatitis, the Global Fund Breaking Down Barriers Initiative, UNDP/UNAIDS/PEPFAR SCALE initiative.
- **Multi-media communications** to increase awareness and visibility of the importance of law reform, to drive political commitment and buy-in, investments and attitudinal change, working closely with relevant community-led organisations.
- **Promote and support** the sharing of knowledge and experience among affected communities and country programs and across relevant sectors, including documenting and sharing of good practices, lessons learned, and building a community of practice to support innovation, commitment and effective action within and among communities and countries.

OBJECTIVES OF THE CONSULTANCY

UNAIDS seeks a consultant to support the development of a draft narrative, results framework, structures, plan of action and budget the first three years of the Global Strategic Initiative.

2023

- In collaboration with the UNAIDS Secretariat and UNDP, UNODC and other interested co-sponsors, relevant UN agencies and partners including community-led organisations working on decriminalisation, develop a comprehensive methodology for a participatory process to develop the GSI, including scope of desk review, stakeholder consultations, drafting, costing and validation.
- Implement the methodology in collaboration with UNAIDS, UNDP, UNODC and other partners identified above.
- Produce a draft GSI framework that includes structure strategy, governance, objectives, target countries, deliverables, indicators, knowledge management products, monitoring, evaluation and learning framework, partners, budget and three year workplan .

2024 (subject to funding)

- Organise and facilitate a hybrid two-day validation workshop to finalise the GSI framework with key partners in Geneva.
- Incorporate feedback given and produce a final framework document that outlines the GSI and plans for its implementation, including, but not limited to: strategy, structure governance,



objectives, target countries, deliverables, indicators, knowledge management products, monitoring, evaluation and learning framework, partners, budget and three year workplan.

Deliverables:

- Methodology, draft framework for validation, validation meeting, and final framework.

Qualifications / Competencies

- At least 7 years' experience working in HIV and Human Rights. Experience working in decriminalisation.
- Master's degree in law, international development, public health, or related field.
- At least 5 years of relevant experience in strategic research and analysis, drafting strategic documents and workplans, facilitating negotiations between various stakeholders, including multilaterals and with community-led organisations.
- Facilitation experience.

Duration

- The development phase of the consultancy shall begin on 25 October 2023 for five months, ending 31 March 2024, for a period of 50 days of work across that time.

Team

- The consultant will report to the UNAIDS Human Rights Team. The consultant will work under the direction of both the UNAIDS Human Rights Team and the UNDP HIV Team.

Location

- The consultancy can be undertaken remotely, though the consultant should be available to travel from time to time during the contract period. In terms of time zones, the primary partners are based in Geneva, Johannesburg, and New York. The consultant should therefore be available to attend online meetings with these partners and attend a validation meeting in person in February 2023.

Application

Interested parties should submit:

- A cover letter outlining previous relevant experience.
- A maximum technical proposal for how the work will be carried out.
- A financial proposal, including daily rates and any relevant travel.
- A CV.
- Contact details for two references.

Applications should be submitted to christie@unaids.org with the subject line "GSI Decriminalisation Consultancy".

Application deadline: 13 October 2023