



HIV Justice Worldwide Strategy Meeting 2020

Meeting Report

NH Amsterdam Centre Hotel
Stadhouderskade 7, 1054 ES, Amsterdam

January 28-29, 2020

Introduction

HIV JUSTICE WORLDWIDE

HIV JUSTICE WORLDWIDE is a global coalition that campaigns to abolish criminal and similar laws, policies and practices that regulate, control and punish people living with HIV based on their HIV-positive status. We believe that HIV criminalisation is discriminatory, a violation of human rights, undermines public health, and is detrimental to individual health and well-being. HIV JUSTICE WORLDWIDE exists to shape the discourse on HIV criminalisation as well as share information and resources, network, build capacity, mobilise advocacy, and cultivate a community of transparency and collaboration

The HIV JUSTICE WORLDWIDE Steering Committee currently comprises nine organisations: [AIDS Action Europe \(AAE\)](#); [AIDS and Rights Alliance for Southern Africa \(ARASA\)](#); [Canadian HIV/AIDS Legal Network \(Legal Network\)](#); [Global Network of People Living with HIV \(GNP+\)](#); [HIV Justice Network \(HJN\)](#); [International Community of Women living with HIV \(ICW\)](#); [Positive Women's Network - United States of America \(PWN-USA\)](#); [Southern Africa Litigation Centre \(SALC\)](#); and [Sero Project \(Sero\)](#).

The HIV Justice Network co-ordinates HIV JUSTICE WORLDWIDE activities and is the lead organisation for the HIV Justice Global Consortium, the mechanism funded by the [Robert Carr Fund](#) for civil society networks, that supports many of the activities of HIV JUSTICE WORLDWIDE, including this meeting.

This year's [HIV JUSTICE WORLDWIDE](#) Strategy Meeting was convened to finalise the 2020 HIV Justice Global Consortium workplan, reflect on the global impact of HIV JUSTICE WORLDWIDE so far, and explore how to move forward to build on the momentum and increased visibility of the movement to end HIV criminalisation.

This report, produced by HIV Justice Network – the HIV JUSTICE WORLDWIDE secretariat – summarises the main discussions and outcomes of the Strategy Meeting, and has been prepared in consultation with the HIV JUSTICE WORLDWIDE Steering Committee.

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Participants

Gonzalo Aburto (Sero), Sylvie Beaumont (HJN), Edwin J Bernard (HJN), Sally Cameron (HJN), Georgina Caswell (GNP+), Nyasha Chingore (ARASA), Richard Elliott (Legal Network), Kené Esom (UNDP), Julian Hows (HJN), Cecile Kazatchkine (Legal Network), Naina Khanna (PWN-USA), Paul Kidd (HJN Supervisory Board), Svitlana Moroz (Eurasian Women's Network on AIDS, representing ICW), Lisa Power (HJN Supervisory Board), Mianko Ramaroson (UNAIDS), Sean Strub (Sero), Alexandra Volgina (GNP+), Dymfke van Lanen (HJN), and Rebekah Webb (HJN).

Joined by video conference, hosted by Nicholas Feustel (Georgetown media):

Ferenc Bagyinszky (AAE), Tambudzai Gonese (SALC), Victoria Grandsoult (UNITE), Ibrahim Kassoumou (Coordination de lutte intersectorielle contre les IST/VIH/SIDA); Anneke Meerkotter (SALC); and Alexander McClelland (HJN Global Advisory Panel).

1. HIV JUSTICE WORLDWIDE: 2020 work plan

Edwin J. Bernard, HIV Justice Network's Executive Director, and Global Co-ordinator of HIV JUSTICE WORLDWIDE, welcomed the participants and after a round of introductions, gave an overview of the achievements and milestones reached by the HIV JUSTICE WORLDWIDE (HJWW) coalition. He noted that the movement to end HIV criminalisation was now truly global and HJWW was committed to producing information and resources in four core languages: English, French, Russian and Spanish.

HIV JUSTICE WORLDWIDE's milestones can be viewed at <http://www.hivjusticeworldwide.org/en/milestones/>

HIV Justice Network

Sally Cameron, HJN Senior Policy Analyst and Sylvie Beaumont, HJN Research/Outreach Co-ordinator, reported on HJN's workplan for 2020, and emerging issues.

Key activities & projects in 2020:

- Updating of the advocacy toolkit in all four core languages
- Incorporating the Global Criminalisation Scan into HJN's website
- Expert Consensus Statement follow-up (i.e. monitoring where used, and promoting further)
- Breastfeeding paper –although the paper will not be a scientific consensus statement, the working group will invite a few scientists to be co-authors.
- Supporting the accused/witnesses and HIV criminalisation survivors' toolkit - will likely take the form of a collection of articles collated in a special section in the advocacy toolkit.
- Maintaining and updating all multilingual platforms (Website, listservs, toolkits, publications etc)
- Carrying on the monitoring of HIV criminalisation cases (for website), with additional internal monitoring of cases where HIV status was used for sentence enhancement and cases of violence against PLHIV linked to disclosure.

Follow-up: Explore possibility of developing a paper addressing transmission risks aimed at first responders.

Canadian HIV/AIDS Legal Network

Richard Elliott, Executive Director of the Canadian HIV/AIDS Legal Network, reported that there had been significantly fewer prosecutions in Canada in the previous year (only two new cases in 2019), due in part to the 2018 Federal Attorney General's prosecutorial directive; a number of provincial prosecutorial guidelines and policies in British Columbia, Ontario, Alberta and Quebec; and also the popularisation of the Expert Consensus Statement. There is also growing recognition that using sexual offences for the prosecution of HIV non-disclosure cases is problematic. Additionally, the House of Commons Standing Committee on Justice and Human Rights has issued strong recommendations against HIV criminalisation as a result of mobilisation by Canadian activists, setting the stage for future advocacy.

Key activities & projects in 2020

Nationally

- Advocate for law reform including securing community consensus on specific Criminal Code reforms.
- Support lawyers and intervene in cases
- Undertake community education and mobilisation
- Advocate for prosecutorial guidelines at provincial level, where strategic
- Advocate for review of wrongful convictions

Internationally

- Finalise guidance for prosecutors in partnership with UNDP to be launched in July 2020
- Intervene in court cases and UN committees
- Support to the Francophone Network in Africa: development and promotion of francophone tools, workshops, webinars, small grants

- Undertake capacity-building and legal support in EECA
- Contribute to the HIV criminalisation working group of the Organisation of American States (OAS) LGBTTI Coalition
- Progress HJWW projects: Sexual violence and HIV criminalisation
Breastfeeding and vertical transmission

The Legal Network's presentation can be viewed here:

<https://drive.google.com/open?id=1APuDGUJdTrWFTB7Oyrs4Ue4pqSv6DFBQ>

GNP+

Sasha Volgina, GNP+'s Knowledge Management Manager noted that although GNP+ criminalisation advocacy had previously been centred around the UNAIDS PCB, it was critical to ensure a regular platform to address criminalisation and to put in place accountability mechanisms and data collection around stigma, discrimination and criminalisation. Following a proposal during the 41st UNAIDS PCB, the NGO Delegation of the UNAIDS PCB, along with GNP+, UN Women, UNDP, and the UNAIDS Secretariat came together in 2018 to launch the [Global Partnership for Action to Eliminate all Forms of HIV related Stigma and Discrimination](#) with a goal of zero tolerance for HIV-related stigma and discrimination.

The Global Partnership focuses on six settings where stigma and discrimination can occur: justice; health; education; household; workplace and humanitarian. Actions will initially focus on 30 countries. Countries have to engage in a certain number of interventions and choose their priorities regarding areas of stigma and discrimination. National consultations have been held in ten countries and have included discussions on criminalisation. A list of interventions and a guidance document have been produced.

Key activities & projects in 2020

- Continue to co-convene the Global Partnership
- Continue to co-ordinate the Technical Working Group, including the justice workstream (co-led by UNDP and HJN), involving:
 - Work to raise resources for country-level action, especially for CSOs
 - Technical support to countries/CSOs to implement interventions, including on justice
- Co-ordinate the PLHIV Stigma Index in 36 countries, including eight EECA countries
- Lead on ensuring HIV (and HIV criminalisation) are central to UHC discussions
- UNAIDS PCB

GNP+'s presentation can be viewed at:

<https://drive.google.com/open?id=1WgeHOJm6yojy4JMBhYrJzQY5kOjGRjKe>

Follow-up:

- ⇒ Share civil society contacts within HIV JUSTICE WORLDWIDE to avoid duplicating work and increase connections
- ⇒ Explore possibility of translating the list of Global Partnership interventions and guidance document into more accessible language.

Positive Women's Network – USA

PWN-USA is the only national organisation in the US led by and for women and trans people living with HIV. PWN's policy agenda is intersectional, grounded in racial and gender justice analysis, with ending HIV criminalisation one component of the policy agenda.

PWN policy priorities:

At Federal level

- Support the REPEAL HIV Discrimination Act
- Support passing the Pre-trial Integrity and Safety Act
- Support removal of the US entry ban on sex workers
- Oppose attempts to revive the war on drugs
- Oppose cooperation between law enforcement agencies and immigration and ICE
- Oppose the use of molecular surveillance
- Oppose any attempt to expand criminal penalties based on HIV status

At State level

- Support the repeal of HIV criminalisation laws
- Support the decriminalisation of sex work
- Support the elimination of condoms as evidence policies
- Adopt and fund harm reduction services

Key activities & projects in 2020

- Co-produce HIV is Not a Crime Training Academy, now being co-produced by all US national PLHIV networks
- Elevate decriminalisation of HIV, sex work and drug use in the 2020 election cycle to secure commitments from people running for office
- Leading advocacy against molecular HIV surveillance
- Launch and co-ordinate a new national coalition on HIV decriminalisation: a three-year collaboration aiming to lead an effective and strategic national decriminalisation movement led by Black, Indigenous and People of Colour.
- Supporting PLHIV-led HIV decriminalisation efforts in at least five states

Positive Women's Network USA presentation can be viewed here:

https://drive.google.com/open?id=1ph1eaTWMGkT05VCgXXqgrvO_v8KYpyKE

Sero Project

The Sero Project is a network of people living with HIV that prioritises PLHIV leadership to end HIV criminalisation and social injustice by supporting PLHIV networks to improve policy outcomes.

Key activities & projects in 2020

- Support advocacy regarding a number of bills are pending in Florida, Missouri (two different bills strategically coordinated behind the scene), Tennessee, Indiana and maybe in Ohio.
- Co-produce the 4th "HIV is Not a Crime" training academy will take place in Ohio from May 31st to June 2nd with 300 participants. A new model is being implemented moving forward, with all key national networks in the US involved as producing partners, using their own processes to allocate scholarships.

- Supporting the Network Empowerment Project development of a brochure to be distributed in testing centres, referring newly diagnosed PLHIV to PLHIV networks.
- Produce a wellness guide for people incarcerated and holiday card programme.

Follow-up:

Share with Consortium partners proposed or enacted HIV criminalisation statutes that are well-written, to support advocacy efforts in other countries.

AIDS Action Europe

AIDS Action Europe is a network of more than 400 HIV organisations covering the WHO European region, supporting national advocacy of member organisations including helping build capacities. AAE's work on HIV criminalisation focuses on EU countries within the frame of the [European HIV Legal Forum](#).

In 2018/19, a legal survey was launched in 10 EU countries looking at the legal environment, specifically around HIV criminalisation, to identify trends, affected populations and countries.

Results from the survey showed that:

- Science is used extensively both in police investigations and in court cases with scientific considerations, such as low viral load, are very strictly followed. Doctors are often contacted to give testimonies.
- In the UK, the Crown Prosecution Service (of England and Wales) are about to release updated prosecutorial guidelines, whereby 'deliberate deception' around known HIV-positive status could be classified as rape.
- In Austria and Germany cases of criminalisation for HIV exposure and non-disclosure in healthcare settings have started to appear.
- In general, people mostly affected by HIV criminalisation are members of marginalised communities (sex workers, migrants, people of colour, and gay men).

Key activities & projects in 2020

- Publish survey report by the end of February
- Develop a policy paper based on the findings of the report and recommendations on HIV criminalisation
- Consider work to address concerns over enhanced partner notification and links to HIV criminalisation
- Advocate to try to get HIV back on the EU agenda, including organising an event at the European Parliament on living with HIV in EU in 2020
- Focus on the rules of law being ignored by the regimes of some central European countries such as Poland and Hungary

2. HIV JUSTICE WORLDWIDE Regional Focus

Latin America and The Caribbean - Gonzalo Aburto/Sero

What has been done so far:

- Creation of a database of PLHIV leaders and prospective criminalisation reform leaders for 35 LAC countries, with 79 contacts.
- Ongoing monitoring of LAC criminalisation cases and criminalisation-related developments
- Creation of US-based Latin American Network, with Spanish speaking PLHIV in the US
- Creation of Spanish listserv, currently underutilised but expected to play an important role in the lead up to HIV2020, and afterwards.
- Support of the translation process of HJWW resources in Spanish
- Small grants administration, with grants going towards the organisation of a national meeting for la Red Mexicana and for a penal code report in Mexico

Key activities & Projects in 2020

- Support of HIV2020 in Mexico City, including participation in the Communication Committee
- Develop “HIV no es un crimen” programme (HIV is Not a Crime Academy for LAC participants) within the framework of HIV2020
- Complete the global scan of Latin America HIV criminalisation laws and complete research on how penal codes in every Mexican State can, or are, being used to criminalise PLHIV
- Continue lobbying in Quintana Roo and Veracruz to successfully repeal articles criminalising HIV
- Continue monitoring and tracking of criminalisation cases
- Develop a regional anti-criminalisation network in Central America and the Caribbean, and another one in South America
- Distribute remaining balance of small grants, including in Brazil
- Continue work with Mexico Human Rights National Coordination and lobbying of legislators and senators at the local level

SERO LAC Initiative presentation can be viewed at:

<https://drive.google.com/open?id=1dVx4cmm2kpgg2y94vPBB73wFRrGkuGsE>

EECA – Svitlana Moroz/EWNA & Alexandra Volgina/GNP+

The [Eurasian Women's Network on AIDS](#) is the regional hub for the EECA region and a network of regional leaders from 12 countries advocating for the rights of women living with HIV and those vulnerable to HIV in the region. These rights include the elimination of violence against women, including HIV criminalisation and the criminalisation of key populations.

What has been done so far:

- The first in-person decriminalisation meeting was convened in Minsk in November 2019 with national, regional and international networks, as well as UNAIDS, the Canadian HIV/AIDS Legal Network, and some key journalists, to discuss HIV criminalisation in the EECA region. Priorities were identified and regional and national plans were drawn up for the coming year
- The [EECA Statement](#) on HIV criminalisation in the EECA region was released on Human Rights Day, December 10th 2019.
- HJWW’s advocacy and media toolkits were launched in Russian.

- EWNA published a number of articles on criminalisation on their website, looking at the situation, the impact of criminalisation, and linking to the advocacy campaign, 'Chase the Virus, not People'.
- Information webinars were conducted in Belarus.
- Ongoing monitoring and analysis of cases with direct legal support and follow-up
- Media monitoring.
- A database of organisations providing HIV criminalisation-related support was created.
- A journalism contest was launched around the region for the best article on HIV criminalisation to promote responsible journalism and encourage the media to write more scientifically and professionally about HIV criminalisation cases. The award for mainstream publications went to a journalist in Uzbekistan (<https://nemolchi.uz/2019/10/04/privet-ja-alik-i-u-menja-vich/>) and the award for activist publications to E.V.A (<https://evanetwork.ru/ru/article/vikino-delo/>). The competition also created new contacts with journalists.

Key activities & Projects in 2020

- **In Belarus**, further to the amendment of article 157, the number of criminalisation cases has reduced: Between 1st August 19 and 31st October 2019, since the implementation of the amendment, there have been 9 cases of HIV criminalisation, compared to 55 in the seven months preceding. People are being released from prisons and are in need of additional support. [People Plus](#), the national network of People Living with HIV in Belarus, has supported 73 people so far. The work is ongoing with future decriminalisation work to focus more closely on the criminalisation of people who use drugs in partnership with activists, UNAIDS and UNDP.
- **In Russia**, there is a criminalisation trend with an increase in repressive methods, implemented by the government in the misguided belief that they will counteract a growing HIV epidemic and the rise in HIV denialism. In 2020, [E.V.A](#), an NGO network established to protect women affected by HIV will release a position paper; work on the Stigma Index will start; and work will be conducted to place criminalisation on the agenda of the new Global Fund grant proposal for Russia.
- **In Central Asia**, support will be needed in Tajikistan where criminalisation cases are growing, mainly affecting women.
- Advocacy messages have been developed to highlight that HIV criminalisation is a gender issue and that laws that were designed to protect women have instead made them more vulnerable to violence and structural disparities. In Ukraine, gender disaggregation of statistical information provided by the State Judicial Administration showed that 80% of prosecutions have been against women and, since 2015, only women have been prosecuted under article 130 of the penal code.

Follow-up:

- ⇒ Ensure the breastfeeding paper is translated into Russian. The [breastfeeding case in Saint Petersburg](#) has highlighted the importance of the upcoming HJWW paper on breastfeeding and a Russian translation will be essential for the region.
- ⇒ Share stories from the journalism contest, as well as upcoming survivors' stories, with partners; and consider translation of survivors' stories for the English/French/Spanish toolkits if appropriate.
- ⇒ Keep an overview of countries where notification about legal duties has to be signed upon diagnosis.

⇒ Explore possibility of obtaining disaggregated data on prosecutions of women, similar to the Ukrainian data, which would be invaluable for advocacy efforts and evidence that HIV criminalisation disproportionately harms women.

Anglophone and Lusophone Africa - Nyasha Chingore/ARASA, Tambudzai Gonese and Anneke Meerkotter/SALC

Key activities & Projects in 2020

- **Angola:** Research work will continue in Angola with analysis of the law and mapping and capacity building of civil society. The first draft of the legal scan and legal assessment was completed in 2019. The new law is specifically around transmission of communicable diseases that are life-threatening, without prior disclosure. There are enhanced penalties for transmission but no requirement for actual transmission. There are also enhanced penalties for intention but no requirement for actual intention to transmit. No cases of prosecutions have been identified so far but some organisations have said they were aware of cases. The next phase will be to finalise the legal scan and analysis. Many organisations appear to be supportive of criminalisation so capacity building will have to be carried out. The research is expected to be completed around February and will be translated into Portuguese.
- **Zimbabwe:** Support will continue around the Marriage Bill which would repeal Section 79, the HIV criminalisation statute. The 2019 small grants went to Zimbabwe Lawyers for Human Rights to work with parliamentarians and to SALC for publications. Work is ongoing and ZLHR is positive about the outcomes. Another small grant might be needed to go forward.
- **Nigeria:** Support will continue with Lawyers Alert for work in Ikwa Ibong State – they received a small grant in 2019 for an HIV criminalisation sensitisation meeting. They have come up with an action plan around media and parliamentary engagement and work will carry on in order to sustain momentum. Future activities still need to be discussed.
- **Namibia:** Namibia has a new law that was passed by parliament in 2015, to criminalise the transmission of sexually transmitted infections, but the law has not yet been gazetted. Civil society is supportive of challenging the law, and the first step will likely be a brief to the Minister to state why it should not be gazetted.
- **Zambia:** There is a breastfeeding case in Zambia likely to be heard in February and SALC is providing legal support. They have decided not to do public advocacy for the time being given the political environment and the upcoming election.
- **Lesotho:** There is an ongoing case dealing with aggravated sentencing as a result of HIV status. A man living with HIV was convicted of sexual assault against a 19-year-old woman. He was tested for HIV as part of the proceedings. There was no HIV transmission and he was on treatment and is now facing the death penalty as a result of mandatory minimum sentencing. The sentencing judge in the High Court suggested bringing a constitutional challenge. This judge had participated in the UNDP judicial training, demonstrating the impact of the training. SALC

and the Legal Network will support the defence lawyer in the application for a constitutional challenge and Linda-Gail Bekker has agreed to provide an affidavit on the science. Following the intervention of the judge, there has been a preliminary submission from the Crown itself against criminalisation, citing the Expert Consensus Statement.

- **Kenya:** The Amicus Brief has to be filed in February and discussions are ongoing. **UPDATE: This has now been completed and filed, led by SALC with Legal Network support.**
- ARASA's online course on criminalisation of HIV will continue in 2020. 110 people signed up for the course in 2019, and 60 completed it.
- Technical brief (or case study) will be published around parliamentary engagement on HIV criminalisation, building on the work undertaken with the SADC Parliamentary Forum on the adoption of the motion against HIV criminalisation and non-disclosure. This will pull case studies from the case in Malawi, Zimbabwe etc and focus on how parliament can engage on decriminalisation efforts. This will hopefully inform advocacy in the East African region.
- Publication of position paper around sexual violence and HIV criminalisation in partnership with other HJWW partners.

Follow-up: HJWW agreed to provide technical support in the Lesotho case. Potentially financial support could also be provided if requested. **UPDATE: SALC will manage USD3000 support via HJWW's legal challenge fund.**

Francophone Africa – Cecile Kazatchkine/Legal Network

Around 30 organisations from 14 different countries have officially joined the HIV JUSTICE WORLDWIDE coalition, with 36 people on the francophone listserv. The network is an important resource in terms of people, including human rights specialists, lawyers, UNAIDS representatives etc. In 2020, the Legal Network will continue its consolidation of the network, with direct exchanges on strategies and resources.

In 2019, one of the small grants went to REVS+ in Burkina Faso to engage in law reform as a follow-up to UNDP's legal environment assessment and action plan, and a second went to HODSAS in DRC.

Key activities & Projects in 2020

- Publication of a Francophone info-sheet on HIV criminalisation in the region, drafted in 2019 with the support of local advocate, Alain Kra, which will include description of some of the strategies successfully deployed by local activists.
- Two-hour workshop on HIV criminalisation within the Coalition Plus pre-conference during AFRAVIH in Dakar (April 2020) **UPDATE: AFRAVIH has been postponed to November 2020.**
- Development of webinars for Francophone partners, inspired by EECA webinars and ARASA's online course with focused discussion on specific issues such as women and HIV criminalisation, media toolkit, expert consensus statement, etc.
- Continued support in Burkina Faso and to other colleagues through small grants

Follow-up: Noting that many of the countries from West and Central Africa are part of the window 1 of the Global Fund funding, ensure that, once civil society has undergone training, HIV criminalisation is included in the Global Fund proposals with actionable plans that fit with the Global Fund.

UNAIDS – Mianko Ramarosan

Key activities & Projects in 2020

- Global Partnership. The Global Partnership was a call from Civil Society at the PCB in 2017 arising from their frustration about the lack of framework for accountability around stigma and discrimination. It aims to leverage efforts that are already implemented. Of the 30 targeted countries, 20¹ are recipients of the Global Fund [Breaking Down Barriers](#) initiative. The idea is to bring partners together (governments, funders, UN bodies, civil society) to address stigma and discrimination.
- Governments are invited to join and give political commitment to implement at least three out of six target settings (one of which is 'Justice'), allocate resources and agree accountability according to a set of indicators.
- UNAIDS is conducting consultations to set targets for 2025 and social enablers indicators are still being discussed. There is a set of criteria to decide which countries will be part of the first wave of implementation. One of these is being one of the 20 countries already in the Global Fund's Breaking Barriers programme. There is an expectation that civil society will do the groundwork.

Follow-up: Engage actively and provide leadership in countries that have picked the Justice setting.

UNDP – Kené Esom

Key activities & Projects in 2020

- Following last year's strategic litigation workshop in Bangkok (attended by the Legal Network and HJN, amongst others), UNDP developed short videos taking forward the work of the Global Commission on HIV and the Law including the use of scientific evidence to reduce the number of unjust HIV-related prosecutions. These videos should be available shortly.
- A forthcoming report from the workshop focuses on five case studies, one of which is on HIV criminalisation.
- Recommendations and practical guidance on the use of digital technologies in HIV and health programmes. This comes as a follow up to [UNDP Digital Strategy](#) on transformation and innovation and pathways to the SDGs. One of the areas covered will be on enabling environment and the impact of digital technologies on criminalisation.
- Publication of Prosecutorial Guidance in July 2020 (see below)

¹ The 20 countries are: Benin, Botswana, Cameroon, Democratic Republic of Congo (province-level), Cote d'Ivoire, Ghana, Honduras, Indonesia (selected cities), Jamaica, Kenya, Kyrgyzstan, Nepal, Mozambique, Philippines, Senegal, Sierra Leone, South Africa, Tunisia, Uganda and Ukraine.

3. Prosecutorial Guidance Consultation

Richard Elliott & Cécile Kazatchkine, Legal Network

The primary audience for this document is prosecutors, which informed how the document has been framed. Arguments that are important to activists might not be important to this particular audience. The guidance is written for a global audience so is, to a certain degree, generic, to be applicable in different jurisdictions. The role of prosecutors will vary across different systems. The analytical framework that prosecutors have to apply when charges are brought forward and the legal concept also vary. The challenge was to make the document relevant across all these differences. The objective of the document is to prevent prosecutions, and/or to influence thinking and practices to reduce the harms of prosecutions. The document will be launched at HIV2020 and possibly also at AIDS2020.

Process:

A literature review was conducted to look for existing guidance, and to get a sense of how the prosecutorial function is structured and governed in different jurisdictions. Key informant interviews were conducted with people across a range of different jurisdictions, along with an online survey. An advisory committee was set up and a number of prosecutors were contacted for input. Feedback has been sought from a number of prosecutor associations across the world.

Content:

1. Three general principles were articulated: health, rights and evidence. HIV is a public health issue and should be thought of as such; it must be grounded in considerations of the rights of the complainant and the accused; and it must be based in evidence.
2. Deciding whether to prosecute should be based on the reasonable prospect of a conviction based on evidence and on public interest considerations.
3. The prosecution should generally consent to pre-trial release.
4. During trial the privacy of the complainant and the defendant must be respected; inflammatory or prejudicial arguments must be avoided; and correct interpretation of science and its limitations in seeking to prove actual transmission must be ensured.
5. There should be no discrimination in sentencing; alternatives to incarceration should be considered; aggravating and mitigating circumstances should be considered. (Post-release conditions still to be articulated).

Suggestions from meeting participants regarding content:

- Do not lead with the public health argument as prosecutors are usually not interested, move it third after the other two principles.
- Add something around considering the appropriateness of the offence.
- Include semi-fictionalised case studies that could be analysed and used to illustrate the application of these principles. These should be short and come after the point being made.
- Use the term 'complainant' consistently rather than 'victim' throughout the document
- Mention possible alternatives to prosecutions.

- Mention referring the complainant to support organisation, particularly if HIV was transmitted.
- Address sentence enhancement.
- Avoid using footnotes and use bulleted text to make it more practical.
- Whether we would necessarily always need expert opinion to weigh in where circumstances are clear that the case should not proceed (e.g. undetectable viral load, oral sex).
- Be more explicit on biting and spitting.
- Consideration around privacy should also apply to pre-trial. As the police publishes names to 'fish' for more complainants, a good counter argument needs to be presented.
- Maybe point out that if there are a number of cases in a jurisdiction, it might be worth analysing how those cases have proceeded. In England and Wales this process revealed very useful information for the prosecution service, particularly around the use of experts.
- Mention access to a lawyer for the complainant to ensure fair trial.

Follow-up:

- ⇒ Road test the document with prosecutors who are not specialists
- ⇒ Explore the possibility of companion documents: How to advocate for guidance and guidance for defence lawyers
- ⇒ Once the guidance is launched, organise trainings and workshops using case studies
- ⇒ Use this guidance as a source document that can be adapted for other jurisdictions, including in the US
- ⇒ UNDP will issue a call on how to promote the document and will launch it strategically

4. HIV JUSTICE WORLDWIDE: Joint 2020 Planning

1. Global overview - HJN

Incorporating the Global Criminalisation Scan and case monitoring

With the integration of the Global Criminalisation Scan into the [HIV Justice Network site](#), the website is being restructured to include:

- New integrated and interactive mapping
- Improved listing of cases with timelines and history and automated case count
- General technical refresh
- Country pages which will be updated weekly, highlighting:
 - . Laws used to prosecute HIV non-disclosure, exposure and transmission
 - . Narrative on how the law has been used, analysis of key cases
 - . Number of documented cases and links to cases page
 - . List of organisations working on criminalisation in the country
 - . News feed specific to the country
- HIV criminalisation cases page highlighting:
 - . The timeline, keeping a history of the case from first report
 - . Media coverage of the case, with names removed and source cited but not hyperlinked

- . Case type (sex, biting etc.) and demographics (sex workers, women, migrants, gay men etc.), allowing for a more in-depth analysis
- . Country/jurisdiction

Pages will be searchable using key words.

The backend of the system will act as a database from which detailed information can be extracted, including details of jurisdictions where prosecutions for transmission or exposure to other diseases have occurred. Court transcripts, where available, will be referenced in the database and available on request but not made public.

There are also separate databases kept on Google Drive on violence against people with HIV following disclosure, and enhanced sentencing in cases of rapes, sexual assault, underage sex etc, also available on request.

The discussion in this session focused on establishing a robust definition of what HJWW considers a criminalisation case, on the type of laws to consider and on the level of granularity required for the scan.

Key recommendations/decisions on Global Criminalisation Scan:

- Where jurisdictions have laws that have been named and used, and/or are different from federal/national law, they will be mentioned separately on the Scan, regardless of the political dimension (e.g. Taiwan).
- It was proposed that cases would be counted from the point where people are being investigated. Even if they are not subsequently charged, this is the point where the harmful impact of criminalisation starts occurring. For example, in England and Wales, people have waited two years before being charged or not, during which time media reported on the investigation. Agreement: a case should be counted where there is a “measurable impact” on the person, even if not resulting in a charge in the end (i.e. media reports, long investigation, etc.).
- Agreed to disaggregate cases to have a historical number of cases (prior to January 2019) and a case count starting from January 2019 (from when reporting is much more accurate).
- Explore adding a field to cases to indicate how the case originates (partner, police, healthcare worker, other complaint, etc.).
- Explore publishing case studies where the ‘cascade of criminalisation’ can be shown.
- Although at present we do not have the capacity, nor is it our mission, to monitor laws criminalising other diseases (e.g. hepatitis, TB) or other punitive laws related to HIV status (e.g. entry, stay, residence or mandatory testing), a strategy should be developed on how to keep an eye on the bigger picture.
- Regarding the categorisation of laws, the point of differentiation is how exclusive to HIV vs. how general the criminal law is that is being used. The name of the law under which the particular section/article appears is a different consideration. If it is not an HIV-specific/exclusive law or an HIV-specific section/article but it is a provision that is being adapted to HIV criminalisation, then it should be considered a general criminal law. Agreement: Whenever people with HIV are singled out for harsher treatment, it should be categorised as an HIV criminalisation law, but an HIV-specific law is one that names HIV only.

- Sentence enhancement analysis is to be included in the narrative where appropriate (e.g. the case in Lesotho) but not in the 'Cases' newsfeed. If possible, sentence enhancement laws are to be listed in the Scan. Regarding cases, the question to ask is: Is HIV a legitimate consideration as an aggravated circumstance? If there is no additional risk or harm, then it is clearly an unjust use of a person's HIV status and should be captured and made available, although not necessarily publicly.
- Decision on whether or not civil cases should be included was postponed for further consideration. List to be circulated on civil cases to partners. In some countries, civil prosecutions are being used as an alternative to criminal prosecutions.
- Proposed laws to be included in database. If a law is not passed because of successful advocacy, this will be highlighted in the Advancing HIV Justice report.
- Explore ways to include a link to the mapping of related laws, e.g. those done by ILGA and of Global Network of Sex Work Project.

2. Opportunities and threats

This session focused on how the political situation across the world is affecting the work of HJWW's partners, its capacity to engage and reach out to activists, and how to overcome those barriers.

Political pressure and concerns – How to respond?

Sasha framed the discussion commencing with the example of the last UNAIDS PCB, noting that no SRHR language was included in any decision points despite discussions around this. Countries who previously were not so good at working together, now manage to unite to block resolutions. While previously EU countries, Brazil and the US were great allies, the rise in right wing governments has negatively impacted efforts around human rights and gender issues. Many African countries working with Iran and Russia have become stronger in their collaboration to block decision points. The dynamic around the Global Fund is similar. Even in spaces where civil society traditionally had a huge impact, such as the International AIDS conferences, the shutting down of civil society voices that has led to the segregation of HIV2020, will require us to think strategically to ensure our messages are still heard at AIDS2020. The question was how to position HJWW's work within the broader agenda and what tools and arguments to develop to have an effect.

Key suggestions:

- Work more closely with other key populations, consistently raising issues of criminalisation with allies and uniting to push our issues onto the agenda. Also identify two or three intersecting movement spaces to prioritise over the next couple of years and have a structured engagement in those spaces.
- For example, one such space is the ICPD (International Conference on Population and Development), a conference where many commitments are made around reproductive health and rights. The breastfeeding paper could be an entry point to introduce HIV criminalisation there. Another suggestion was to engage with women's rights, for example at the Women Deliver conference.
- Strategise to push for easy wins that will keep advocates motivated by targeting what might be the easiest issues for governments to take on board rather than getting stuck on issues they will not consider.
- Have focused conversations on how to message the importance of addressing and positioning HIV criminalisation issues as a core component of the *Ending the Epidemic* agenda. This would have an impact on the allocation of resources and the focus on policies.

- In LAC, the political landscape has set back efforts to improve people's lives. It is a crucial time to be allocating more money and resources to movements that work with very little on the ground. HIV2020 is a good opportunity to bring resources in the area.

2. Funding – How to position our HIV criminalisation work in philanthropy

Naina framed this discussion, reminding the group that the HIV Justice Global Consortium had been funded by RCF twice and has guaranteed resources until the end 2021. However, to ensure sustainability beyond 2021, as well as secure additional resources for HJWW's ongoing work, it is crucial to look for alternative sources of funding to leverage the work already done. Naina noted that a number of funding spaces were closing to HIV in general and the competing pressure of the biomedical discourse was overriding social and human right issues. However, there are also opportunities, such as exploring pharmaceutical funding. Gilead has expressed some interest in funding this type of work and could be invited to invest at the global level. Other funders, such as EJAF, are realigning and there are opportunities to reach out to them while they are working on their new plans.

The group felt that pharmaceutical industry funding was a delicate balance, especially with regards to U=U as a way to avoid criminalisation. To be funded by an industry that has made it difficult for people to access treatment in some countries (via unreasonable patent protections) could be problematic, and act as a barrier if the movement was seen as 'being in the pockets of' the pharmaceutical industry. However, it was noted that pharma funding could be used for projects where it is possible to show that there is no interference. It was pointed out that HIV criminalisation has become an impediment around testing, and therefore seen as an issue for some pharma companies who want to ensure a large market for their HIV drugs. One could therefore argue that by reducing HIV criminalisation, we were facilitating access to their customers. On the negative side, it was also noted that some drug companies had become large contributors to non-profit organisations, thus making it far less likely these organisations would advocate against them.

Nevertheless, it was also noted that separating 'good' money from 'bad' money was a false dichotomy, and instead, time should be spent developing a resource mobilisation approach or strategy, and a due diligence concept with a set of rules that can be followed when considering funding sources. We were also reminded there is a distinction to be made between funding for HJWW compared with funding acceptable for an individual organisation.

Key suggestions and follow-up:

- Follow-up with the Elizabeth Taylor AIDS Foundation, as they and Elizabeth Taylor's grandchildren are interested in and have been involved in HIV criminalisation advocacy. They are not likely to be a significant source of resources; usually with modest grants of \$10,000 to \$25,000 that are typically related to events or endeavours that also involved the grandchildren.
- Maximise potential free support and outsourcing: pro-bono work (as for the Global Scan with Australian law firm, Hall & Willcox); development of links with universities as a way to get young people studying law, public health or international studies interested in these issues and maybe work as interns (Columbia University, NYC, or the Institute of Global Health might be possibilities to explore) or help with monitoring; explore possible accreditation scheme via training modules on HIV criminalisation for advocates.

- Start packaging and costing some projects. Some organisations/universities/agencies might be keen on being associated with certain projects (e.g. Global Scan).
- Identify organisations that are in the process of establishing new priorities/CEO and prioritise reaching out and having influencing conversations with them.
- Set up a set of internal policies for the HJWW Steering Committee around funding.
- Possible individuals and organisations to contact: GATES Grand Challenges Fund to work on stigma and mental well-being; Alvaro at IPPF; Global Fund for eligible country-based work in partnership with local organisations; gay dating apps, such as Grindr or Hornet.
- Consider adding an individual donation button on website.
- Consider a legacy and exit strategy, thinking of HJWW/HJN as a time-limited project.

3. HIV2020, AIDS 2020 and other key global and national meetings

This session focused on HIV 2020 and AIDS 2020, looking at ways to ensure that both conferences have criminalisation on the agenda. The session also explored HJWW proposals around 'Beyond Blame' and 'HIV is Not a Crime in Español'.

- For day 1 – Work on proposal for a ½ day session for the LAC region around HIV Criminalisation 101 (Latin America, Brazil and the Caribbean). This meeting will be about giving people the tools to fight against HIV criminalisation
- For day 2 – Work on proposal for Beyond Blame as a combination of plenary sessions on the current situation in HIV criminalisation with break-out sessions. Presentations will come from HJWW partners and people from other networks invited to present and show the linkages and intersectionality of criminalisation in greater detail. Brazil to be invited as part of a panel on status of criminalisation in different regions and formerly present as well. If possible, video recording and live stream will be organised to increase access and increase the interactivity of the session. The proposal put forward will also stress that HJWW trusts the conference organisers to consider synergies that might exist with other proposals.

UPDATE: Both proposals were submitted on time; awaiting outcome

Moving on to AIDS 2020, the conversation focused on ways to put HIV criminalisation on the agenda, possibly through a Bridging session between HIV 2020 and AIDS 2020 that includes presentations from Edwin (HJN) and Naina (PWN-USA) via satellite from Mexico City on HIV criminalisation and criminalisation and borders, respectively.

UPDATE: Edwin has also been invited to speak on HIV criminalisation in another symposium session, which he has accepted, pending adequate facilities for live linkups between Mexico City and San Francisco are made available by the IAS.

UNAIDS and UNDP will attend both conferences; Svetlana (EWNA/ICW) has been invited to present on community-led research for people who use drugs.

It was suggested to ask some of the scientists attending AIDS2020 to do a session on the Consensus Statement. IAPAC could also maybe organise a session at their booth in the Global village. UNAIDS could help organise something around the Expert Consensus Statement and its impact.

Other meetings/opportunities

GNP+ will be following the UNAIDS new strategy development process and consultation, as well as engaging around the SDG review process to bring decriminalisation to conversations around stigma. There is also a new year-long initiative called Beyond Living, led by ICW, GNP+ and Y-Plus, set up to hear about people experiences of living with HIV, and it will be an opportunity to ask questions around decriminalisation.

The IAPAC-led Fast-Track Cities conference in Lisbon (September 2020) may be another key global meeting where HJWW could intervene around HIV criminalisation.

Key suggestions and follow-up:

AIDS2020

- Encourage scientists to present an abstract or organise a session with scientists on the Consensus Statement and ask IAPAC to maybe organise a session at their booth in the global village.
- Organise a placeholder slide for people to add to their presentations to gain visibility
- Find out who the track reporters will be and reach out to them with some key content.
- HJWW partners to update each other regularly and put into place a strategy to ensure the absence of HJWW is noted at AIDS2020 and criminalisation is on the agenda. Julian to lead on strategy development.

4. Molecular HIV Surveillance and HIV criminalisation - Overview, implementation and resistance

Alexander McClelland and Naina Khanna

Alexander McClelland (University of Ottawa/ [Canadian Coalition to Reform HIV Criminalization](#)) gave an overview of how Molecular HIV Surveillance (MHS) works, where it has been implemented, and what the concerns are, specifically regarding issues of consent and criminalisation. He also looked at forms of community and academic resistance to counter the challenges and concerns of MHS.

Molecular Surveillance is a practice that epidemiologists, public health experts and infectious diseases specialists have been increasingly mobilising to control a range of different diseases outbreaks. The idea is to rapidly and accurately identify similar strains of a virus connected in clusters that may not be captured by other routine public health investigations; and once clusters of transmissions have been identified in real or near real time, to intervene with enhanced public health practices (connecting people to testing, diagnostics and treatment and care).

In North America, Molecular HIV Surveillance is being rolled out in HIV care settings using bloods taking during routine resistance testing, without patient consent. Phylogenetic analysis then is used to identify transmission clusters.

Concerns are being raised that there are no national standards; that data is acquired through HIV surveillance without people knowing or consenting; and that there has been no community involvement in this process;

meaning people living with HIV could be at heightened legal risk if MHS data were misinterpreted and used as evidence of possible violation of HIV criminalisation laws or other punishing laws. We already know that MHS data held in a databank in the US was used as evidence around similarity of virus in a Canadian criminalisation trial.

Naina emphasised the high level of concerns in the US around MHS, particularly following the announcement last year from the White House that the new Federal End the HIV Epidemic Plan includes MHS as one of four pillars: increased diagnosis, treatment, scaling-up prevention, and the use of molecular HIV surveillance. This new plan mandates every jurisdiction funded by the CDC to implement and integrate molecular HIV surveillance at the core of its prevention activities. However, a study conducted by NASTAD showed wide variations in data privacy and data sharing laws in each of the states that have implemented MHS.

In the US context, clusters are defined as five or more viruses with a variation of less than 0.5% over a 12-month period. Clusters can be tracked not only at the local jurisdiction level but also across state lines. In addition, recency assays have been added to the required surveillance and prevention activities in jurisdictions funded by the CDC. This is a test that can be done to help determine how recently an HIV diagnosis was acquired. There is a concern that this could be layered on top of MHS data to presume directionality, even if the directionality science is not there. A number of clusters are being tracked and many of them involve Latinx people, and there is a concern that the community could be targeted with regard to immigration and health status by the current government.

Community resistance in the US context has involved a protest during the US HIV Conference on AIDS and a presentation in front of a body of 50 organisations working on federal HIV policies, highlighting the community concerns. An *ad hoc* working group has been meeting for seven months and is working on a position statement. There is also a draft call for an MHS moratorium until HIV criminalisation is abolished.

In terms of academic resistance, a small community of social scientists are trying to respond and engage in public debate. Articles, commentaries, public responses to articles in peer-review journals that are found to be problematic have been published. Research projects have been initiated on things that are still unknown, for example on the impacts of MHS on targeted communities, or the way MHS data is linked to other data sources etc.

The potential role of HJWW is to amplify these concerns, to mobilise the international scientific and legal community, to promote other forms of patient consent and to consider how to position concerns about intersections between criminalisation and MHS.

Alexander and Naina's presentation is available at:

<https://drive.google.com/file/d/1kNXMCs0GJxwINQqgYEFAXek5Av9wYWiF/view?usp=sharing>



Discussion

In Australia, New South Wales and Victoria are planning to implement MHS, and Victoria was conducting a consultation with the community. They were also planning to use stored blood samples since the beginning of the epidemic, thus creating a huge databank. Consultation with scientists revealed that they blindly believed that the data could not be used in court because it could not conclusively prove a link between two persons - they evidently need education about the reality of court proceedings. Another concern is Australia highly developed public health processes with coercive elements, and the fact that MHS could enliven public health interventions. These projects do not benefit people with HIV and can only identify clusters if people have been tested.

This is not only a global north issue – Gates-funded work on MHS is taking place across Africa - and it is only a matter of time before it is rolled out worldwide. This is an opportunity for HJWW to raise the issue and get it on the agenda. With the move to the 95-95-95 targets, rollout of MHS was likely to increase. In addition, UNAIDS and WHO have written a draft Q&A on recency testing, but it has not yet been finalised. There is a need to anticipate issues that may arise from the rollout of this technology in order to advise partners on the ground to take into account the complex ethical considerations.

Key suggestions and follow-up:

- Working group to move the MHS discussion forward (Alex, Edwin, Julian, Rebekah, Richard, Sean, Paul & Sylvie - with Naina to lead) with a view to publishing a position paper on the topic in 2020, available in different languages, with hopefully the support of UNAIDS and UNDP. **Update: the group met virtually in February and have established a workplan that includes a rapid global scan of HIV surveillance methods (including, but not limited to MHS) to ascertain whether HIV organisations are aware of this and/or have concerns, with an aim to release a report and statement in time for HIV2020.**

- Work into HJWW’s legislative reform agenda the issue of how evidence gets used in criminal proceedings. Explore whether to draft provisions that go into statutes that explicitly prohibit the introduction of certain kind of evidence into a criminal proceeding.
- Follow-up with the experts HJWW has been working with and explore how to bring the issue to AIDS2020 as part of our messaging.
- Refer to “unethically obtained data” rather than data without consent, to make it about the researcher rather than the person with HIV.
- Emphasize the fact that people are becoming reluctant to be tested as they do not want to be identified as part of a cluster.
- With respect to discussions on digital technologies, enter the conversation by framing the positive and potential benefits **but...** present alternatives when cautioning, as people tend to be on the either/or side of this conversation and are quick to shut down contradictory voices.
- Educate the community

5. Key resources and future planning

1. Breastfeeding/vertical transmission paper

Sally Cameron, HJN, who is co-leading on the paper, alongside ARASA, the Legal Network and SALC, explained that the breastfeeding paper is being framed as a resource with a main purpose for use as a document in court, but also as a document that could be used to lobby for law reform and to inform the community. A quick desk review of known cases has been conducted and the next step is to identify a couple of scientist co-authors who are highly experienced in this area. It was also decided to divide other stakeholders between partners to co-author (ICW) and partners to contribute and consult (WHO, UN and other agencies). A number of UN agencies will also be approached seeking their endorsement of the final product. Where to publish has yet to be decided, but it will probably be in a peer-reviewed journal and this will inform the model/format of the paper.

In terms of content, breastfeeding will be framed in the context of HIV criminalisation. It will look at issues such as the intersection of criminalisation for women with HIV with the general pressure on women to breastfeed, the fear of being exposed to violence, and the stigma of not breastfeeding. Mother-to-child transmission will be referred to but will not be the focus of the paper. The paper will differentiate experiences and issues in rich and poor settings, and reference human rights and public health systems. Although the paper will include science, it will not be centred around it.

Preliminary research for the paper has included a scoping of the laws, both those precluding prosecutions and those allowing for prosecutions of women who breastfeed when living with HIV. Research on prosecutions showed that most cases were not against mothers themselves, but instead included cases of third-party exposure via accidental or ‘wet nurse’ feeding, including allegations motivated by spite, and knee jerk reactions from the police that could have been resolved through mediation.

The paper will demonstrate that prosecutions are driven by fear and stigma and are at odds with science, that supportive interventions would often solve the problem, and the impact of positive women’s sense of being under surveillance from healthcare systems and how this is counterproductive.

The paper will end with a set of recommendations.

Sally's presentation is available here:

<https://drive.google.com/file/d/1T44JIM7EQus95Lxd6h4aNoYEaemDd2Xi/view?usp=sharing>

In the discussion following the presentation, Rebekah noted that she had recently been commissioned by [aidsmap.com](http://www.aidsmap.com) to write a paper on infant feeding for women living with HIV. The main findings of the research were that U=U does not apply to breastfeeding and that the advice given to women is very different, depending on where they live. The article is available at: <http://www.aidsmap.com/about-hiv/feeding-your-baby-when-you-have-hiv>

Richard noted that there had been a case in Canada where charges were laid against a woman for, notably, not disclosing during pregnancy and therefore not enabling certain interventions. She pled guilty, so this not set any legal precedent, but Richard wondered if this should be addressed. Sally suggested whether another paper around women's bodily autonomy during pregnancy, including enforced treatment, would be useful. Richard pointed out that bodily autonomy no longer applies once the child is born and legally the position is different.

Following on this point, Naina asked whether the paper would cover mandatory treatment during breastfeeding, especially in the context of the new 95-95-95 focus. She explained that in the US, there was a move to develop a certification process for jurisdictions that eliminated vertical transmission, and in the US political context, there are concerns that immigrant women could be prosecuted for dropping out of healthcare after giving birth. Women are also being criminalised for taking drugs while breastfeeding.

Paul also wondered if the paper would address child protection law, given that it is likely women will come into the legal system through these. Sally remarked that these issues had not been discussed yet, and there was a layer of complexity that needed unravelling to make a persuasive argument. Cecile noted that the science was stronger around vertical transmission than breastfeeding, which is why the two issues had been separated and she feared that comparing them could diminish the argument around breastfeeding.

Key recommendations and follow-up

- ⇒ The need for three papers emerged from the discussion, to be discussed at the next Steering Committee meeting, probably aiming for 2021 publication:
 - Current paper on breastfeeding, focusing on criminal liability and not looking at child protection issues;
 - Paper on surveillance and control experienced by women, including concerns from child protection agencies
 - Paper around forced treatment during pregnancy
- ⇒ When asking for partners' input, use bullet points to maintain the focus of the paper and give small outline of the limits of discussion

2. Sexual violence, HIV and aggravated sentences

Cecile Kazatchkine (Legal Network) provided an update of the research project undertaken in partnership with SALC and ARASA, looking at preliminary findings and questions that have arisen so far. Giving some background of the project, she explained that concerns around sexual and gender-based violence against women and children exacerbated HIV criminalisation in Africa and that HIV transmission resulting from sexual violence was used to justify enhanced sentencing or to punish transmission of HIV as a separate crime. The issue of HIV criminalisation in the context of sexual violence, she noted, had been avoided or ineffectively and inconsistently addressed in advocacy.

The objective of the research is to understand the link between sexual violence and HIV criminalisation in Africa and to explore whether arguments against HIV criminalisation are, or ought to be, applicable in cases of sexual violence implicating HIV non-disclosure, exposure or transmission. It will hopefully enable more nuanced messaging and positioning in advocacy efforts around this issue and help HJWW members to identify elements for considerations when intervening in cases of sexual assault where HIV is a factor for conviction or enhanced sentencing.

The research focuses on the empirical and discursive links between HIV and sexual violence in Africa and on the way existing laws are being applied at national level in the context of sexual violence. It is still in the draft stage and needs to be further refined.

As a result of this research, it is hoped that HJWW will develop a brief/position paper arguing against the need for HIV specific laws in the context of sexual violence, or the use of HIV criminalisation as a tool to combat sexual and gender-based violence, as well as looking at procedural and human rights issues such as mandatory testing and sentencing and advocating for the use of science.

Amongst some of the considerations for HJWW messaging is the need to ascertain if our messaging must distinguish between cases involving consensual sex and sexual violence and what argumentation parallels could be found in those cases. The meeting also explored where the lines should or could be drawn, as, in the context of sexual violence, there may be legitimate consequences or heightened penalties in cases of HIV transmission, due to the harms suffered by the complainants. For example, it would be more difficult to take into account the issue of intent in those contexts.

Cecile's presentation is available at:

<https://drive.google.com/file/d/1IShmOmHyBynRiN5XNAmiWROgTa5hhdvt/view?usp=sharing>

In response to some of the questions raised by the presentation, it was stated that HIV itself does not constitute violence, and that HIV exposure and HIV transmission in and of themselves are not acts of violence. It was proposed that HJWW push back on this type of discourse and disaggregate sexual violence from HIV.

Regarding the focus on Africa, the meeting felt that sexual violence and the criminalisation of HIV as a proxy to dealing with sexual violence was a global issue - albeit with some regional specificity, such as enhanced sentencing in some African countries and the US. It was therefore felt that the research could focus on specific examples/case studies in a number of countries, drawing on the authors' particular expertise, while maintaining a global reach, upon which HJWW principles could be based and used in all settings.

It was also felt that the issue of sexual violence on minors should not be ignored, as the principles remain the same, even if the research report does not deal with it in depth. Ibrahim noted that he had been working on a research project with Fondation de France on sexual violence against sex workers and HIV transmission in central Africa, and there was a lot of evidence that sexual violence had been a major cause of HIV transmission in sex workers. The HJWW research and position paper would therefore be very useful to support work in the region and help change the narrative.

Key recommendations and follow-up

- ⇒ Frame the research as case studies on a number of countries with example of where laws exist. As it is not a comprehensive study of the law, the tools and principles will be globally relevant.
- ⇒ Identify potential allies and opponents before publication
- ⇒ Involve PWN & ICW as well as LGBT groups and sex workers groups in a broader consultation to develop a strategy.
- ⇒ Edwin to reach out to Dentons a global law firm in the Netherlands which has offered to do pro-bono work, to help check laws for enhanced sentencing provisions in case of HIV exposure/transmission.



Appendix 1: Agenda

Tuesday 28th Jan	Agenda item	Location	Notes <i>HJWW Steering Committee (SC) and key partners/allies</i>
9-9.45am	Welcome, introductions and meeting overview.	Meeting Room	Chair: Edwin J Bernard
9.45-10.30am	HIV JUSTICE WORLDWIDE: the story so far	Meeting Room	Chair: Lisa Power <ul style="list-style-type: none"> Edwin J Bernard – HJN (30 mins) Q&A (15 mins)
10.30-11am	Morning break	Break area	
11am- 1pm	HIV JUSTICE WORLDWIDE: 2020 Workplan – Part 1	Meeting Room	Chair: Paul Kidd Presentations on relevant work by HJWW SC members (20 minutes per partner including discussion time) <ul style="list-style-type: none"> Sally Cameron, Rebekah Webb and Sylvie Beaumont – HJN Richard Elliott - Canadian HIV/AIDS Legal Network Georgina Caswell and Alexandra (Sasha) Volgina - GNP+ Naina Khanna - PWN-USA Sean Strub – Sero Ferenc Bagyinszky - AIDS Action Europe (via Zoom)
1-2pm	Lunch	Restaurant	
2-4pm	HIV JUSTICE WORLDWIDE: 2020 Workplan – Part 2: Regional Focus	Meeting Room	Chair: Edwin J Bernard Presentations on issues relating to HIV criminalisation in key regions (30 minutes per region, including discussion time) <ul style="list-style-type: none"> <u>Eastern Europe and Central Asia</u> Svitlana (Sveta) Moroz – EWNA/ICW and Alexandra Volgina – GNP+ <u>Anglophone and Lusophone Africa</u> Nyasha Chingore – ARASA and Tambudzai Gonesse and Anneke Meerkotter – SALC (via Zoom) [plus Cécile Kazatchkine – LN and Mianko Ramaroson – UNAIDS, on Lesotho, and Allan Maleche – KELIN (via Zoom) on Kenya] <u>Francophone Africa</u> Cécile Kazatchkine - Legal Network <u>Latin America / Caribbean</u> Gonzalo Aburto – Sero To include discussion to cover:

			<ul style="list-style-type: none"> • regional network/movement building • cases, laws, and advocacy monitoring • development of regionally relevant info sheets • translation needs (and capacity)
4-4.30pm	Afternoon break	Break area	
4.30-6pm	UNAIDS and UNDP, Global Partnership interventions discussion followed by consultation on UNDP's Prosecutorial Guidelines Project led by Canadian HIV/AIDS Legal Network	Meeting Room	<p>Chair: Lisa Power</p> <p>Presentations from our key partners at the UN: Mianko Ramaroson – UNAIDS and Kené Esom – UNDP to include discussion on country-level interventions as part of the <i>Global Partnership for Action to Eliminate All Forms of HIV-Related Stigma and Discrimination (30 minutes)</i> with Alexandra Volgina – GNP+ and</p> <p><i>Prosecutorial Guidelines Consultation (1 hour)</i> with Richard Elliott and Cécile Kazatchkine – Canadian HIV/AIDS Legal Network</p>
6pm	Adjourn		
	Free Evening		

Wednesday 29th Jan			
	Agenda item	Location	Notes <i>HJWW Steering Committee and key partners/allies</i>
9-9.30am	Welcome and introductions to new participants; followed by brief recap of Tuesday's discussions, including any unfinished business.	Meeting Room	<p>Chair: Paul Kidd</p> <p>Rapporteurs: Sylvie Beaumont and Rebekah Webb</p>
9.30-11am	HIV JUSTICE WORLDWIDE Joint 2020 planning: Improving	Meeting Room	<p>Chair: Paul Kidd</p> <ul style="list-style-type: none"> • Edwin J Bernard (Global overview) • Thomas Paterson (Website overview – via Zoom) • Sally Cameron, Rebekah Webb and Sylvie Beaumont (Monitoring and documenting laws and cases)

	monitoring and documenting laws and cases via the new HJN website.		<p>Followed by a discussion to include:</p> <ul style="list-style-type: none"> Ensuring cases, laws and advocacy monitoring is 'fit for purpose' and efficiently centralised. Monitoring broader HIV 'justice' issues? (e.g. other HIV-specific laws, supportive/protective laws/policies, mandatory testing etc.)
11-11.30am	Morning break	Break area	To include time for a group photo
11.30am-1pm	HIV JUSTICE WORLDWIDE 2020 planning: Opportunities and threats Part 1	Meeting Room	<p>Chair: Lisa Power Facilitator: Julian Hows</p> <p>A SWOT (strengths, weaknesses, opportunities and threats) analysis session to cover:</p> <p><u>1. Political pressure and concerns – How to respond?</u> <u>2. Funding – How to position our HIV decriminalisation work in philanthropy?</u></p>
1-2pm	Lunch	Restaurant	
2-4pm 2pm-3pm HIV2020 / AIDS 2020 followed by 3pm-4pm Molecular HIV Surveillance	HIV JUSTICE WORLDWIDE 2020 planning: Opportunities and threats Part 2	Meeting Room	<p>Chair: Paul Kidd</p> <p><u>Discussion - HIV2020, AIDS 2020 and other key global and regional meetings:</u> Who is planning what, and how do we ensure optimal impact for the least cost?</p> <p><u>Presentation: Molecular HIV Surveillance and HIV Criminalisation: Overview, Implementation and Resistance</u></p> <ul style="list-style-type: none"> Alexander McClelland (via Zoom) Naina Khanna - PWN
4-4.30pm	Afternoon break	Break area	
4.30pm-6pm	HIV JUSTICE WORLDWIDE Joint 2020 planning: Key resources, next steps, and any other business.		<p>Chair: Edwin J Bernard</p> <ul style="list-style-type: none"> Breastfeeding/vertical transmission paper (Sally Cameron, HJN - lead) (20 mins) Sexual violence, HIV and aggravated sentencing paper (LN/SALC co-lead, with ARASA support) (20 mins) <p>Discussion on any other resources that require updating / writing / translating plus next steps and AOB. (45 mins)</p>
6pm	Meeting Ends		
6pm-7pm	Drinks Reception	Bar & Kitchen Copper	

Appendix 2: Meeting Evaluation

Following the meeting, all participants (those attending in person as well as those participating via Zoom) were asked to fill in a short survey (via SurveyMonkey) to evaluate both the meeting and the logistics. All those who were eligible to provide feedback did so.

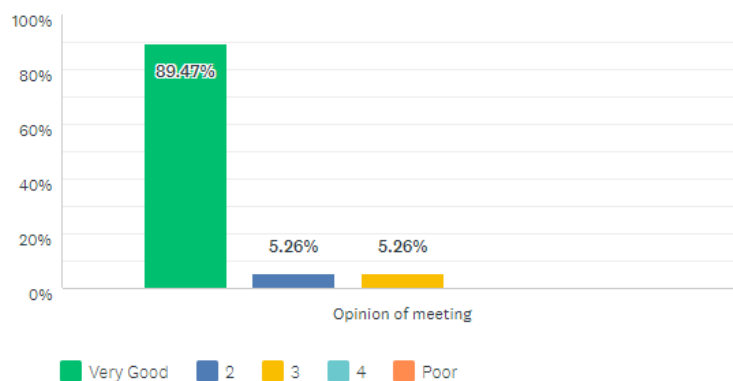
The survey included four qualitative questions (overall opinion, usefulness of the meeting, and two questions regarding the logistics and other arrangements) and 15 questions about the usefulness of each of the sessions – which participants could score on a scale of 1 to 5, as well as providing a further comment.

Only the results of sessions held on Tuesday 28th (Day 2) and Wednesday 29th (Day 3) are included below (Day 1 was a 2019 Collective Reflections Workshop for HIV Justice Global Consortium-funded partners only, and this part of the meeting is not included in the report).

For the purposes of this report individuals' comments have been anonymized, although the survey was not anonymous. We appreciate participants' willingness to provide constructive feedback which was extremely helpful, and which will inform the planning of the next Strategy Meeting.

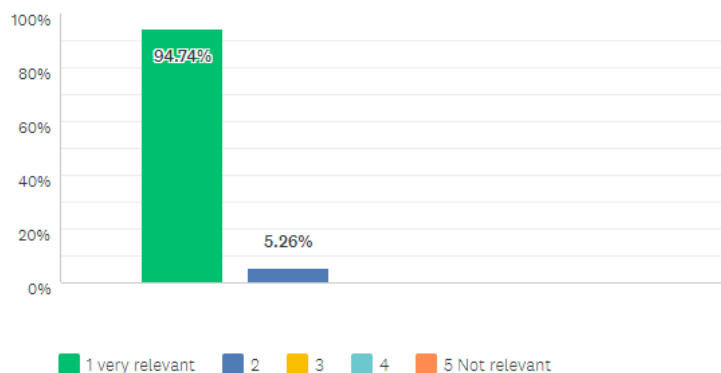
What was your overall opinion of this meeting? 1 being very good and 5 being poor

Answered: 19 Skipped: 0



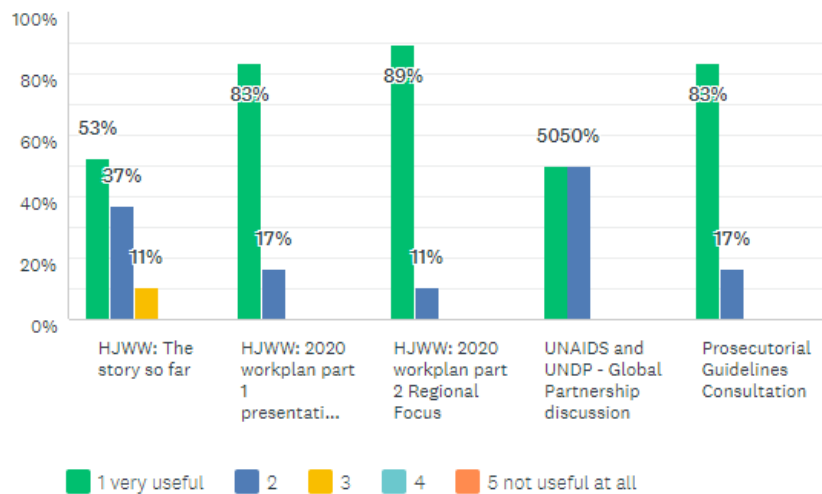
How relevant was this meeting to your work (or interest in HIV Criminalisation)? 1 being very relevant, 5 not being relevant.

Answered: 19 Skipped: 0



Of the sessions on day TWO please tell us how useful they were - 1 being very useful and 5 being not useful at all

Answered: 19 Skipped: 0



Comments on the sessions

HJWW: The story so far.

- *Particularly liked the focus on the journey and progress which was quite encouraging.*
- *Our story is long, so it took a long time to go through the different milestones but again, super important to remind ourselves about what we have achieved.*

HJWW 2020 workplan part 1: presentations from HJWW Steering Committee members.

- *Fantastic to hear what people are doing and planning.*
- *Very good mapping of current efforts and initiatives.*
- *Very helpful to hear from each SC member. I would suggest that next time we maybe have further direction on how to present our work as I think it was a little inconsistent between the different partners. I also wonder if we should not divide this session into two to avoid having a long series of presentations and provide more space for discussions.*

HJWW workplan part 2: Regional Focus

- *Very good update of pressing issues in each region*
- *Although creative/engaging presentation should be encouraged, clear pre-instructions on how to prepare for this and what would be most helpful to focus on.*
- *It is so important to hear about the work of our colleagues, but I feel that sometimes we lose people or opportunities for discussions by not having compact series of presentations.*
- *Great to have UNAIDS there to be able to alert them on our work in Burkina so they can do some follow up. I wished we had more time for discussion for the Lesotho case*

UNAIDS and UNDP Global Partnership discussion

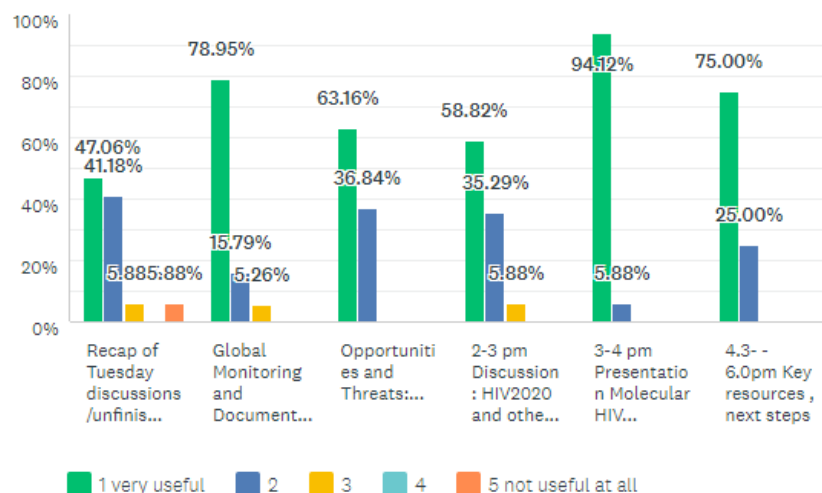
- *Great to get all partners in the loop*
- *This was helpful especially as we could make connections with other work as well (GF) and work at regional level but maybe it could have been a little shorter*

Prosecutorial Guidelines Consultation

- *Really useful with different perspectives adding nuance*
- *Great feedback on the Guidelines*

Of the sessions on day THREE please tell us how useful they were - 1 being very useful and 5 being not useful at all

Answered: 19 Skipped: 0



Comments on sessions

Recap of Tuesday discussions/unfinished business

- *Sylvie did a brilliant summary*
- *Thanks Sylvie!*

Global Monitoring and Documenting of Laws and Cases – website/scan

- *As the person leading on country studies, I found the collective input invaluable*
- *Very good update on data gathered by HJN*
- *Great, and congratulations to HJN for this truly amazing work.*
- *Would have been better if the site had actually been live to discuss the content.*

Opportunities and Threats

- *Very important and productive discussion*

HIV2020 and other key global and regional meetings - planning and ensuring optimal impact for least cost

- *We progressed our ideas and thinking*

Presentation on Molecular HIV Surveillance and HIV Criminalisation

- *Great, clear and got us thinking further*
- *Extremely urgent. Very instructive.*
- *I thought that was an excellent session, probably the one that stood out for me. It also felt like a whole collaborative group discussion, rather than an individual project (i.e. driven by one partner and others contribute)*
- *This was my best session of the meeting. Would be great to continue to get updates on this and how US and Canada partners are engaging*
- *The most interesting session for me. Very scary, enlightening, enraging.*
- *Fantabulous exposition of a frightening development that goes to show how things can oh so easily go back to the 'bad old days'*

Key Resources and next steps

- *Invaluable, with the collective input greater than the sum of its parts*
- *Again, really great to have an opportunity to get feedback from the group on projects.*

Additional comments

Comments on how the meeting was structured, order of presentations, balance between topic areas, level of interaction, etc.,

- I would like a brief summary of what everyone has done before we evaluate on the first day - even if it's in short written form or perhaps posing a couple of background questions pre-meeting for people to briefly answer
- Good balance
- I thought it was good but am wondering if maybe the partners' presentations could be spread out between other topic areas, sometimes it can be a bit long to have one after the other.
- Generally, very satisfied,
- Structure was good,
- It was really engaging, everyone had space to share, there was perhaps a bit of overlap in terms of agenda items/topics,
- Sessions were a bit heavy on presentation and less on engagement.
- As mentioned before, I think we can maybe find better ways to present on our respective work to avoid compact series of presentations and leave more room/time for discussion,
-

Comments about the meeting in terms of the practical arrangements, including the hotel, meals and logistics - and for Zoom participants feedback on how this worked for them

- Great. Obviously, internet was an issue - not just in the meeting room but also in individual hotel rooms. I had limited access trying to work pre-meeting and also difficulty contacting family. It would also be great if there was a basic business centre in the hotel so we could print on site. Everything else was great.
- Zoom was at times difficult because of poor sound.
- The hotel was really good and meals/breakfast excellent. Probably the best since we started our meetings. It's a pity it was let down by the Wi-Fi issues for Zoom.
- The meeting room was comfortable and conducive to work and focus despite internet being slow at times. The hotel rooms were not so good.
- That was remarkable meeting for me - first in person. Very exiting - gives a lot of information and inspiration
- Really well organised, thank you!
- All great, know there were internet issues, but I wasn't as impacted
- I know we struggled with technical issues because of the internet but personally I thought the meeting was really great and as usual incredibly well organized. Thank you for taking care of us so well and thanks for the amazing diner on Monday. I miss you all already.
- First day (Tuesday) for me was a bit of a struggle due to the quality of internet on both ends so will need the notes to some of the presentations, but once the internet got fixed it was a very relaxed experience, I felt I could participate as much as I needed and could follow all the discussions without having to travel and attend in person. (I missed you guys though) :)
- Damn fitness centre doesn't open until 9 am, which makes it impractical for many business travellers!
- Thanks for all the logistical work that went into the meeting!
- Zoom set up went well. Much better connection on the second day, but it was a great set up and nice to see the participants.