

ACT TO CHANGE LAWS THAT ~~DISCRIMINATE~~



Zero Discrimination Day
1 March 2019



#ZERO
DISCRIMINATION



ABOUT ZERO DISCRIMINATION DAY

On Zero Discrimination Day, 1 March, we celebrate the right of everyone to live a full and productive life—and live it with dignity.

Zero Discrimination Day highlights how people can become informed about and promote tolerance, compassion, peace and, above all, a movement for change. Zero Discrimination Day is helping to create a global movement of solidarity to end all forms of discrimination.

Cover photo: Indian members and supporters of the lesbian, gay, bisexual and transgender (LGBT) community celebrate the Supreme Court decision to strike down a colonial-era ban on gay sex, in Mumbai, India, on 6 September 2018. India's Supreme Court struck down the ban, which had been at the centre of years of legal battles, on 6 September. "The law had become a weapon for harassment for the LGBT community," Dipak Misra, Chief Justice, said as he announced the landmark verdict. (Photo credit: Indranil Mukherjee/AFP/Getty Images.)

ACT TO CHANGE LAWS THAT ~~DISCRIMINATE~~

On Zero Discrimination Day this year, UNAIDS is highlighting the urgent need to take action against discriminatory laws.

In many countries, laws result in people being treated differently, excluded from essential services or being subject to undue restrictions on how they live their lives, simply because of who they are. Such laws are discriminatory—they deny human rights and fundamental freedoms.

People may experience more than one form of discrimination. A person may experience discrimination because of his or her health status and because of his or her race, gender identity or sexual orientation, compounding the effects on the individual and the wider community.

Laws—such as laws on sex work, same-sex sexual relations, the use or possession of drugs for personal use and the non-disclosure, exposure or transmission of HIV—may discriminate by criminalizing conduct or identity.

Other laws may prevent people from accessing benefits or services. Girls may not be allowed to go to school if they are pregnant or women may not be able to access financial services without their husband's permission. Laws may also impose parental consent for adolescents to access health services or restrict the entry, stay and residence of people living with HIV.

States have a moral and legal obligation—under the Universal Declaration of Human Rights, human rights treaties, the 2030 Agenda for Sustainable Development and other international obligations—to remove discriminatory laws and to enact laws that protect people from discrimination.

Some of the rights that people can use to contest discriminatory laws include the following:

- **The right to equal treatment before the law.**
- **The right to an education.**
- **The right to economic opportunities.**
- **The right to privacy.**
- **The right to dignity.**
- **The right to health.**
- **The right to association.**
- **The right to a fair trial.**

Everyone has a responsibility to hold states accountable, call for change and contribute to efforts to remove discriminatory laws. The first steps to making a change are to know the law, recognize that laws can discriminate and highlight discriminatory laws to others.

LAWS THAT CAN CONTAIN DISCRIMINATORY PROVISIONS

Laws can affect people in different ways. It is not always obvious whether a law will contain discriminatory provisions, and it is not always obvious from the name of the law. Examples of laws that can contain discriminatory provisions include the following:

- **Marriage and civil union laws.**
- **Parental consent laws that affect access by young people to services.**
- **Workplace legislation.**
- **Laws that govern the education or health sector.**
- **Laws that limit access to services and that exclude certain people based on, among other things, their gender identity, race, nationality or socioeconomic status.**
- **Banking and insurance laws.**
- **Migration and citizenship laws.**
- **Public order and security laws.**
- **Property laws.**
- **Inheritance laws.**
- **Laws that regulate sexual conduct.**
- **Laws that regulate access to reproductive health services.**
- **Laws that punish people owing to their health status, such as HIV or pregnancy.**
- **Laws that punish people who use drugs.**

LAWS THAT CHANGED THE AIDS RESPONSE IN 2018

IN 2018, THE SUPREME COURT OF INDIA STRUCK DOWN ARTICLE 377 OF THE PENAL CODE CRIMINALIZING SAME-SEX SEXUAL RELATIONS. IN 2018, THE PHILIPPINES LOWERED THE AGE OF CONSENT TO 15 YEARS FOR VOLUNTARY HIV TESTING WITHOUT THE NEED OF OBTAIN CONSENT FROM A PARENT OR GUARDIAN. IN 2018, MALAWI REMOVED PROVISIONS CRIMINALIZING HIV NON-DISCLOSURE, EXPOSURE AND TRANSMISSION FROM ITS HIV LAW.



CHANGING LAWS IS POSSIBLE

The Preamble of the Charter of the United Nations has human rights at its core. In its opening sentence it states, “We the peoples of the United Nations ... reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small ...”

The law can be a powerful force for good, but it can also be a powerful force for bad—to stop discrimination, the law must be on the side of good. For example, gender equality is still a long way off, but we know that progress is possible—only 60 years ago, the majority of women globally could not vote or even have a bank account in their own name.

There are different ways of changing discriminatory legislation:

1. Parliamentary process. Laws that discriminate can be abolished through the leadership of governments and the votes of parliamentarians. Awareness-raising among the legislature is therefore essential. Law reform can take time, but building coalitions, working with parliamentarians, building up the evidence base for reform or using international human rights mechanisms are all actions that people can take.
2. Strategic litigation. In many countries, the courts have the power to strike down laws that are barriers to constitutionally enshrined human rights principles. This can be realized through litigation brought by an individual or an organization affected by the law.
3. Public consultation and a referendum. In some countries, citizens can propose law reform through a petition and request a national vote or referendum.

Photo credit: Igor Barbero/MSF.



THE CHALLENGE

Ending discrimination and changing laws is the responsibility of us all. Everyone can play a part in ending discrimination and can try to make a difference, in ways both big and small. The Zero Discrimination Day 2019 campaign challenges people to act against laws that discriminate in their country.



“Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it’s the only thing that ever has.”

Margaret Mead, 1901–1978, anthropologist



SUPPORT YOUR COUNTRY TO JOIN THE GLOBAL PARTNERSHIP FOR ACTION TO ELIMINATE ALL FORMS OF HIV-RELATED STIGMA AND DISCRIMINATION

The global partnership's goal is to catalyse and accelerate the implementation of commitments made to end HIV-related stigma and discrimination by United Nations Member States, United Nations agencies, bilateral and international donors, nongovernmental organizations and communities.

Following a call from civil society in 2017 to accelerate and scale up action to address stigma and discrimination, UNAIDS, UN Women, the United Nations Development Programme and the Global Network of People Living with HIV agreed to co-convene the Global Partnership to Eliminate All Forms of HIV-Related Stigma and Discrimination.

The global partnership was launched on 10 December 2018, on the 70th anniversary of the adoption of the Universal Declaration of Human Rights, and has three objectives:

- **Support the fulfilment of commitments.** It will put into action the human rights obligations of United Nations Member States to end stigma and discrimination already made at the global, regional and national levels.
- **Build meaningful partnerships.** It will establish, strengthen and revitalize partnerships among stakeholders to implement and scale up programmes towards ending HIV-related stigma and discrimination.
- **Share responsibility for measurement and accountability.** It will collect and disseminate data to inform policy and programming, measure progress and support accountability towards the elimination of HIV-related stigma and discrimination.

More information is available at http://www.unaids.org/sites/default/files/media_asset/global-partnership-hiv-stigma-discrimination_en.pdf.

TAKE ACTION

This year's Zero Discrimination Day campaign highlights actions that individuals, civil society or governments can take to change laws that discriminate.

Five actions for individuals

1. **Highlight discriminatory laws**, so we can all advocate for change—post your initiatives for zero discrimination on social media.
2. **Be an ally**, call out discrimination when you see it.
3. **Demand change** from your parliamentarian, ombudsperson or human rights organization.
4. **Start a petition** to change the law.
5. **Donate** time, money or expertise to an organization that is working for law reform, or start one yourself.

Five actions for civil society organizations

1. **Start a campaign** to change a law. Highlight discriminatory laws, so we can collectively advocate for change.
2. **Provide support** and a safe space, including legal support and pastoral care for people who experience discrimination.
3. **Conduct awareness-raising sessions** on human rights in a workplace, school, clinic or peer network.
4. **Convey a request** to remove discriminatory laws to your representative in parliament or local government, United Nations office or national body responsible for monitoring human rights in the country.
5. **Adopt and promote** a policy that prevents and protects against discrimination in the civil society organization workplace.

Five actions for parliamentarians and governments

1. **Inform yourself** about discrimination and its impact on the people affected.
2. **Raise awareness** among other public servants, members of the judiciary and law enforcement officers.
3. **Facilitate platforms** of parliamentarians, nationally and internationally, to commit to promote good laws that advance the well-being and fundamental dignity of everyone, based on evidence and guided by human rights standards.
4. **Be an ally** and act on civil society requests to remove discriminatory laws and give civil society a platform so that their voices can be heard.
5. **Table amendments to laws** or call for a review of the legislation.

Five actions for partners and donor organizations

1. **Inform yourself** about discrimination and its impact on the people affected.
2. **Adopt and promote** a policy that prevents and protects against discrimination in the donor organization workplace.
3. **Commit to prioritizing** the reform of discriminatory laws in health and development programmes.
4. **Ensure that funding goes towards human rights**, law reform, legal aid and legal education.
5. **Work with local organizations** that are affected by discriminatory laws or that are working on law reform.

FACTS ABOUT DISCRIMINATION



Women

- In 29 countries women require the consent of a spouse or partner to access sexual and reproductive health services.
- In 92 countries girls can marry before the age of 18 years.
- In 112 countries marital rape is not criminalized.
- In 49 countries there is no specific law against domestic violence.
- In 45 countries there is no legislation to address sexual harassment.
- A total of 150 countries have at least one law that treats women and men differently, and 63 countries have five or more.



People who use drugs

- There are at least 33 countries and territories that prescribe the death penalty for drug offences in law.
- At least 100 countries have laws that criminalize the possession of drugs for personal use.



Sex workers

- At least 98 countries criminalize some aspect of sex work.
- At least five countries report that people can be prosecuted or punished for carrying condoms.



Same-sex relations

- Sixty-seven countries criminalize same-sex sexual relations.
- In at least eight countries, the death penalty is still implemented for same-sex sexual relations.



Transgender people

- Seventeen countries criminalize transgender people. This can take various forms, including criminalizing the impersonation of another gender.
- Only nine countries globally provide legal recognition for non-binary gender and give citizens who don't fit in the male or female categories a legal status.



People living with HIV

- At least 20 countries worldwide still impose travel restrictions of some form against people living with HIV.
- At least 68 countries have laws that specifically criminalize HIV non-disclosure, exposure or transmission. Nineteen countries are known to have applied other criminal law provisions in similar cases.
- Across 19 countries with available data, approximately one in five people living with HIV reported having been denied health care (including dental care, family planning services or sexual and reproductive health services).



Mandatory HIV testing

- In 2018, 59 countries reported maintaining mandatory HIV testing for marriage, work or residence permits or for certain groups of people.



Young people

- In 2018, 45 countries reported having laws that impose the need for parental consent for adolescents and young people below 18 years to access HIV testing services.

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