



# HIV AND GAY MEN AND OTHER MEN WHO HAVE SEX WITH MEN

HUMAN RIGHTS FACT SHEET SERIES

2021

## OVERVIEW

Gay men and other men who have sex with men<sup>1</sup> are disproportionately impacted by the HIV epidemic. In 2019 the **risk of acquiring HIV was 26 times higher**

for gay men and other men who have sex with men than for the rest of the adult male population. In 2019, 23% of new HIV infections were among gay men and other men who have sex with men. In western and central Europe, North America, Latin America and Asia and the Pacific, that figure rises to more than 40% (1).

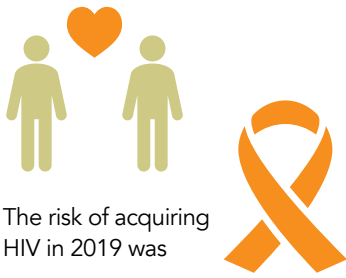


Under international human rights law, discrimination, harassment and violence occurring on the basis of sexual orientation are human rights violations. This includes discrimination in criminal laws, justice, provision of health care, education and employment (2, 3). States have an obligation to protect against such discrimination and to ensure the equal realization of human rights for people of all sexual orientations.

Structural factors, such as stigma, discrimination and violence based on sexual orientation and gender identity, and the criminalization of same-sex sexual behaviour, hinder the availability, access and uptake of HIV prevention, testing, treatment and care and support services. Discrimination based on sexual orientation intersects with other forms of discrimination for different groups, including on the basis of race, gender identity and expression, age, HIV status, disability and socioeconomic status.

<sup>1</sup> While this publication uses the globally recognized terms gay and men who have sex with men, people may identify with or use other terms than those in this document. Please see the UNAIDS Terminology Guidelines 2015 for more information on terms used in this document.

## THE DATA



The risk of acquiring HIV in 2019 was

**26x higher**

for gay men and other men who have sex with men than for the rest of the adult male population.

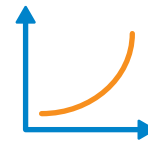
Twenty-three per cent of new HIV infections in 2019 globally were among gay men and other men who have sex with men (1).



Gay men and other men who have sex with men accounted for an estimated **64% of new HIV infections**

in western and central Europe and North America in 2019, an estimated 44% of new infections in Latin America and Asia and the Pacific and 26% in the Caribbean (1).

Approximately **67 COUNTRIES** have laws criminalizing same-sex sexual behaviour (8).



Between 2010 and 2019, the rate of new infections among gay men and other men who have sex with men rose by

**25%** (4).



**33.5%** of gay men and other men who have sex with men do not know their HIV status (1).

Less than half of gay men and other men who have sex with men were able to access at least two HIV prevention services in the past three months in 26 of 38 reporting countries (1).



Gay men and other men who have sex with men are at heightened risk of stigma, discrimination and violence compared with the rest of the population, violence that is often perpetrated due to their sexuality (5, 6).

## LINKING RIGHTS AND HEALTH OUTCOMES



Knowledge of HIV status among gay men and other men who have sex with men who are living with HIV was three times higher in countries with the least repressive lesbian, gay, bisexual and transgender people (LGBT) laws than in countries with the most repressive LGBT laws (8).



**2–5x**

Gay men and other men who have sex with men who live in countries that criminalize same-sex relations are more than twice as likely to be living with HIV as those living in countries without such criminal penalties, and those living in countries with severe criminalization are almost five times as likely to be living with HIV as those living in countries without such criminal penalties (9).



Surveys in sub-Saharan Africa found that between **10% and 40%** of gay men and other men who have sex with men delay or avoid health care due to fear of stigma (10).

Criminalization can also lead to the negation of the existence of gay men and other men who have sex with men. A 2017 study comparing population size estimates for men who have sex with men across 154 countries found that countries that criminalize same-sex sexual behaviour were more likely to report implausibly low numbers of gay men and other men who have sex with men compared to countries that do not criminalize such behaviour (11).

### GLOBAL AIDS SOCIETAL ENABLER TARGETS 2025

Less than 10% of countries criminalize same-sex sexual behaviour.

Less than 10% of gay men and other men who have sex with men report experiencing stigma and discrimination.

Less than 10% of gay men and other men who have sex with men lack mechanisms to report abuse and discrimination and seek redress.

Less than 10% of gay men and other men who have sex with men lack access to legal services.

Less than 10% of health workers and law enforcement officers report negative attitudes toward gay men and other men who have sex with men.

Less than 10% of gay men and other men who have sex with men experience physical and sexual violence.

# INTERNATIONAL RIGHTS OBLIGATIONS, STANDARDS AND RECOMMENDATIONS



## UNDER INTERNATIONAL HUMAN RIGHTS LAW,

discrimination on the basis of sexual orientation is a human rights violation (2).

States have an obligation to protect against such discrimination and to take positive steps to ensure the equal enjoyment of human rights for all gay men and other men who have sex with men, including in adolescence, and to protect them from violence and ill-treatment (12–14). This includes positive steps to prevent intersecting forms of discrimination and violence, including on the basis of gender identity and expression, race, disability and other factors.



International human rights mechanisms and experts have held that the **criminalization of same-sex sexual behaviour is a breach of the right to privacy and non-discrimination** and impedes the HIV response, and that states have an obligation to repeal such laws (2, 15, 16). States should introduce legal protections against discrimination on the basis of sexual orientation (12, 17). The World Health Organization (18), UNAIDS (19) and Global Commission on HIV and the Law (20) have made the same recommendations, as have the Office of the United Nations High Commissioner for Human Rights and several other United Nations (UN) agencies (21).

Unscientific and degrading practices, such as forced anal exams and so-called “conversion therapies,” should be prohibited. UN human rights bodies and UN agencies have held such practices to be a form of cruel, degrading and inhuman treatment that can rise to the level of torture (21–25).

Gay men and other men who have sex with men have the right to accessible, acceptable, affordable and quality HIV, sexually transmitted infection and other sexual and reproductive health services without stigma or discrimination, specific to their needs. This includes access to comprehensive HIV information and services (e.g. condoms, lubricants and pre- and post-exposure prophylaxis) and ensure counselling, testing and antiretroviral therapy (18, 26, 27).

The right to participation means that lesbian, gay, bisexual, transgender and intersex (LGBTI)-led community-based organizations have a right to be involved and partner in the development, implementation and monitoring of HIV programmes and interventions, including service delivery. States have a responsibility for ensuring that LGBTI-led community-based organizations are well-resourced to provide services and support to members of their communities.



All services should protect the rights to privacy and confidentiality (27).

## KEY RESOURCES FOR FURTHER INFORMATION

- UNAIDS, [Seizing the Moment: Tackling Entrenched Inequalities to End Epidemics](#), 2020
- UNAIDS, [Confronting Discrimination; Overcoming HIV-related Stigma and Discrimination in Health-care Settings and Beyond](#), 2017
- UNAIDS and OHCHR, [International Guidelines on HIV/AIDS and Human Rights](#), 2006 Consolidated Version
- WHO, [Consolidated Guidelines on HIV Prevention, Diagnosis, Treatment and Care for Key Populations](#), 2016 update
- UN [Joint Statement on Ending Violence and Discrimination against Lesbian, Gay, Bisexual, Transgender and Intersex \(LGBTI\) Adults, Adolescents and Children](#), September 2015
- OHCHR, [Born Free and Equal, Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law](#), 2019
- [Yogyakarta Principles \(2006\) and the Yogyakarta Principles plus 10 \(2017\)](#)
- UNFPA, The Global Forum on MSM and HIV, UNDP, UNAIDS, WHO, United States Agency for International Development, et al. [Implementing Comprehensive HIV/STI Programmes with Men Who Have Sex with Men: Practical Guidance for Collaborative Interventions](#), 2015.

*This policy brief is produced by UNAIDS as a reference on human rights and HIV in relation to gay men and other men who have sex with men. It does not include all recommendations and policies relevant to the issue covered. Please refer to the key resources listed above for further information.*

## REFERENCES

1. UNAIDS. Seizing the moment: tackling entrenched inequalities to end epidemics – global AIDS update. Geneva: UNAIDS; 2020.
2. UN Human Rights Committee. Toonen v. Australia, Communication No. 488/1992 (CCPR/C/50/D/488/1992) (1994).
3. UN Committee on Economic, Social and Cultural Rights. General comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2) (E/C.12/GC/20), 2009.
4. UNAIDS. Evidence review, implementation of the 2016-2021 UNAIDS strategy on the Fast-Track to end AIDS. UNAIDS: Geneva; 2020.
5. McManama O'Brien KH, Liu RT, Putney JM, Burke TA, Aguinaldo LD. Suicide and self-injury in gender and sexual minority populations. In: Smalley KB, Warren JC, Barefoot N, editors. *LGBT health: meeting the needs of gender and sexual minorities*. New York: Springer Publishing Company; 2017: pp. 181–198.
6. Blondeel K, de Vasconcelos S, García-Moreno C, Stephenson R, Temmerman M, Toskin I. Violence motivated by perception of sexual orientation and gender identity: a systematic review. *Bull World Health Organ*. 2018; 96(1): 29–41.
7. Penal Code (Amendment) Act of Bhutan 2021.
8. Stannah J, Dale E, Elmes J, Staunton R, Beyrer C, Mitchell KM, et al. HIV testing and engagement with the HIV treatment cascade among men who have sex with men in Africa: a systematic review and meta-analysis. *Lancet HIV*. 2019;6(11):e769–e787.
9. Lyons C. Utilizing individual level data to assess the relationship between prevalent HIV infection and punitive same sex policies and legal barriers across 10 countries in sub-Saharan Africa. In: 23rd Virtual International AIDS Conference, 6–10 July 2020, abstract OAF0403.
10. Integrated biological and behavioural surveillance reports in Burkina Faso, Côte d'Ivoire, Eswatini, Lesotho 2013–2016.
11. Davis SL, Goedel WC, Emerson J, Guven BS. Punitive laws, key population size estimates, and Global AIDS Response Progress Reports: an ecological study of 154 countries. *J Int AIDS Soc*. 2017;20(1):1–8.
12. UN Human Rights Committee. Concluding observations on the 7th periodic report on Sweden (CCPR/C/SWE/CO/7), 2016.
13. UN Human Rights Committee. Concluding observations on 3rd periodic report of the former Yugoslav Republic of Macedonia (CCPR/C/MKD/CO/3), 2015.
14. UN Committee against Torture. Concluding observations on the 3rd periodic report of Uruguay (CAT/C/URY/CO/3), 2014.
15. UN Human Rights Committee. Concluding observations on the third and fourth periodic reports of Jamaica (E/C.12/JAM/CO/3-4), 2013.
16. UN Committee on Economic, Social and Cultural Rights. Concluding observations on the initial report of Uganda (E/C.12/UGA/CO/1), 2015.

## REFERENCES

17. UN Committee on the Rights of the Child. Concluding observations on the combined third and fourth periodic reports of Poland (CRC/C/POL/CO/3-4), 2015.
18. WHO. Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations, 2016 update. Geneva: WHO; 2016.
19. UNAIDS and OHCHR. International guidelines on HIV/AIDS and human rights, 2006 consolidated version. Geneva: UNAIDS; 2006
20. Global Commission on HIV and the Law. Risks, rights & health. New York: United Nations Development Programme; 2012.
21. ILO, OHCHR, UNDP, UNESCO, UNFPA, UNHCR, et al. UN joint statement on ending violence and discrimination against lesbian, gay, bisexual, transgender and intersex (LGBTI) adults, adolescents and children. 2015.
22. UN Subcommittee on Prevention of Torture and Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Ninth annual report (CAT/C/57/4), 2016.
23. UN Human Rights Council. Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Practices of so-called "conversion therapy" (A/HRC/44/53), 2020.
24. UN Committee against Torture. Concluding observations on the 5th periodic report of China. (CAT/C/CHN/CO/5), 2016.
25. UN Committee against Torture. Concluding observations for the third periodic report of Tunisia. (CAT/C/TUN/CO/3), 2016.
26. UN Human Rights Committee. Concluding observations on the initial periodic report of Eswatini (CCPR/C/SWZ/CO/1), 2017.
27. UN Committee on Economic, Social and Cultural Rights. General comment No. 14: The right to the highest attainable standard of health (Art. 12) (E/C.12/2000/4), 2000.