



**LESSONS FROM THE EVALUATION OF  
THE GLOBAL COMMISSION ON HIV  
AND THE LAW**

**ISSUE BRIEF #4**

**Safe and open civic space for HIV responses**

*Drawing on the external evaluation of the Global Commission on HIV and the Law,<sup>i</sup> <sup>ii</sup> this issue brief shares lessons and reflections on the importance of safe and open civic space for advancing rights-based HIV responses and informing the implementation of key commitments in the 2021 Political Declaration on HIV and AIDS and the Global AIDS Strategy.*

## Introduction

Civil society is the heart of the HIV response, driving HIV responses at global, regional and national levels. The successes achieved so far are an example of the leadership and vital role that civil society and communities have played as advocates, watchdogs and providers of services. However, shrinking civic space threatens opportunities for civil society organizations, networks of people living with HIV and key populations to engage effectively in the HIV response.

The past few years have witnessed an erosion of human rights, splintering alliances and collaboration between civil society actors.<sup>iii</sup> The International Center for Non-Profit Law (ICNL) reported 265 legal measures in 91 countries between 2016 and 2021 impacting civic space. The large majority (72 percent) of these countries have restricted civic space and civil society actors, particularly in their ability to operate without undue restrictions. Civil society actors report various barriers to civic space, including restrictions on providing services to key populations (26 countries), restrictions on registration (22 countries) and cumbersome reporting restrictions (22 countries).<sup>iv</sup> Analysis from UNDP and ICNL shows that those working on sensitive issues such as the rights of key populations are most at risk from shrinking civic space and repression.<sup>v</sup>

In the 2021 Political Declaration on HIV and AIDS: Ending Inequalities and Getting on Track to End AIDS by 2030 (the Political Declaration), UN Member States committed

to “creating and maintaining a safe, open and enabling environment in which civil society can fully contribute to the implementation of the present declaration and the fight against HIV/AIDS”.<sup>vi</sup> They also endorsed the 30–60–80 targets for community-led responses, seeking to ensure that by 2025 community-led organizations deliver 30 percent of testing and treatment services; 60 percent of programmes to support the achievement of societal enablers; and 80 percent of HIV prevention services for populations at high risk of HIV infection. The Global AIDS Strategy 2021–2026: End Inequalities. End AIDS (the Global AIDS Strategy) notes that it is crucial to empower, enable and fund civil society, communities of people living with HIV and key populations to ensure that no one is left behind.<sup>vii</sup>

Open and safe spaces for civil society to operate are critical for community-led responses, as well as to monitor national HIV responses, safely highlight shortcomings, and help ensure the appropriateness and effectiveness of policies, programmes and practices.<sup>viii</sup> Resources and opportunities should be provided to communities of people living with HIV and key populations to enable them to work as leaders and fully integrated partners in HIV responses. Nonetheless, civil society space continues to shrink across the world.<sup>ix</sup> CIVICUS Global Alliance estimates that 87 percent of the world’s population live in countries rated as closed, repressed or obstructed.<sup>x</sup>

## **Key lessons from the Global Commission on HIV and the Law**

The following lessons from the Global Commission on HIV and the Law highlight strategies drawn from a variety of contexts on how to advance open and safe civic space in the context of the HIV response.

### **1. Early and broad engagement helps to facilitate the buy-in of key and diverse stakeholders**

Early engagement between civil society and government helps to ensure that voices at different levels of leadership are heard. It can instil a broad sense of ownership and collaboration throughout the planning, implementation and advocacy stages of actions to address HIV. The Global Commission held regional consultations with wide government and civil society participation, with particular attention to the inclusion and rights of people living with HIV and key populations. These consultations, both in person and through written submissions from around the world, were held with the intention of ensuring the inclusion of diverse voices including those from contexts where civic space was not open or safe for such engagements. There was diverse representation of stakeholders, from civil society and affected communities, to duty bearers such as parliamentarians, judges and law enforcement. For many, this was the first time they were provided with an opportunity to meet and engage with and learn from one another. These regional-level consultations enabled useful connections within and across regions and generated buy-in and a sense of ownership by a wide range of stakeholders. Importantly, they resulted in connections between unlikely stakeholders within countries and regions, sowing seeds for collaborative follow-up to implement the Commission's

recommendations at the national level. Some of the organizations and activists who participated in these regional consultations have been part of regional and national networks that have contributed to legal and policy reforms including the Asia-Pacific's APCOM, the Caribbean Vulnerable Communities Coalition (CVC) and the Kenya Legal & Ethical Issues Network on HIV and AIDS (KELIN).

### **2. Creating and maintaining safe, open spaces and enabling environments—from local to international—is critical for civil society to fully contribute to the HIV response**

The creation of safe spaces in which a range of stakeholders can engage in constructive dialogue can help establish useful connections regionally and within national contexts. This can take many permutations. It can mean bringing together civil society and government at the regional or national level and creating a safe space for civil society to speak about their lived experiences and for government representatives to understand how these discussions interface with their stated priorities. Building trust across different stakeholders who have not collaborated historically, and may even have been in conflict, can take time, highlighting the need for these safe spaces to be maintained. It can also mean bringing together judges, lawyers, parliamentarians, police or health workers from across a country or region who may be experiencing similar challenges in addressing the disconnect between the laws they are responsible for enforcing and their HIV-related targets, thereby creating supportive spaces for mutual learning and support. Equally, it can mean ensuring safe spaces where representatives of various key population groups might describe how

existing laws impede their access to HIV-related services, or where civil society can meet to develop advocacy strategies without government actors.

### **3. The relationships between governments and civil society are complex and require careful navigation**

Government and civil society relationships are dynamic. The ability to communicate effectively has been particularly important for national-level HIV responses, relying on political buy-in and community engagement. Given the heterogeneity of both government and civil society, it is important to leverage the varied strengths and competencies within civil society to take on different roles, while also assessing and using the various entry points of available government stakeholders. Collaborative relationships between civil society and government can foster consultation and help inform acceptable and effective actions.

Governments can create safe spaces for civil society and effective mechanisms for collaboration between government and civil society through laws, policies and governance structures. There are also many ways in which civil society can engage with governments to ensure that civil society space is protected, and that civil society voices are heard and respected. This includes the use of courts to protect and guarantee open and safe civic space. Ensuring broad collaborations and alliances with various stakeholders including within government is central to the successful implementation of positive judicial decisions. Alliances can open channels for communication and advocacy to help shape more positive legal and policy environments.

### **4. Capacity strengthening and sensitization of both civil society and government actors is needed for meaningful engagement**

Capacity-strengthening efforts aimed at both government and civil society partners are needed for them to effectively work together. Sensitization is an important component of fostering civil society engagement in the HIV response. For civil society, capacity strengthening may be needed to ensure people have the tools necessary to engage meaningfully in spaces with possible power differentials. The sensitization of duty bearers about their obligations on civil society engagement, as well as the intended but also unintended impacts of their actions on civil society actors, may also be needed. Creating fora where people living with HIV and key populations can talk about the impacts of HIV-related government actions on their lives can help humanise potential impacts, and lead to useful discussion towards better outcomes. Sustained efforts at sensitization and capacity strengthening for various duty bearers can help create and promote a more supportive legal and policy environment at national-level and more positive experiences for people living with HIV and key populations.

### **5. Partnerships and networks at local, national and regional levels can foster innovation and solidarity**

The HIV response has long relied on multi-stakeholder partnerships and global solidarity to mobilize resources and advance access to and the development of new health technologies. Bringing together and supporting a diverse range of stakeholders from different sectors can also help improve HIV-related legal and policy environments.

In recent years, this multi-stakeholder approach has become much more common around the world. Perhaps one of the most influential partnerships documented through the Global Commission process has concerned access to treatment through the UN Secretary-General's High-Level Panel on Access to Medicines, strengthening the advocacy for access to HIV treatment, and bringing together people living with HIV, other activists, health workers, researchers, policymakers and the private sector. Another key example, the Africa Key Populations Expert Group (AKPEG), formed in 2014 to advance engagement of key populations in HIV responses in sub-Saharan Africa, has allowed for solidarity and support among communities across countries in the development of strategies and activities. AKPEG was central to the development and implementation of the Economic Community of West African States and Southern African Development Community key population strategies. These sorts of partnerships are essential to centring communities in inclusive and equitable responses.

The Global Partnership for Action to Eliminate All Forms of HIV-related Stigma and Discrimination is another vehicle for multi-stakeholder engagement between governments, civil society, UN entities and other partners to advance enabling legal environments.<sup>xi</sup>

## **6. Effective, evidence-based and operational mechanisms of accountability are key to safeguarding civil society space**

It has long been recognized that civil society needs functional mechanisms to hold governments and other actors in the HIV response to account. Community engagement in accountability processes, for example through community-led monitoring,

is critical because community representatives often bring the collective experience and knowledge of communities of people living with HIV and key populations including as peer educators, counsellors and service providers. They can provide real-time evidence of impacts on laws, policies and practices on the ground. People living with HIV and key populations have used various supra-national accountability fora to safeguard civic space and civil society engagement. These include the universal peer review mechanism of the United Nations Human Rights Council,<sup>xii</sup> shadow reporting systems of global and regional human rights systems,<sup>xiii</sup> as well as NGO representation on the boards of global health institutions such as UNAIDS<sup>xiv</sup> and the Global Fund for AIDS, TB and Malaria.<sup>xv</sup> Personal testimony, which has traditionally been valued primarily in legal work rather than in public health, and policy, has proved to be a powerful accountability tool. Inclusion of personal testimony alongside quantitative data, peer-reviewed publications and legal judgments in the Global Commission's report provided a new approach to evidence. Many examples exist of court rulings and programming at national level that were influenced by community testimony as evidence and of the inclusion of accountability mechanisms built into initiatives from the start. Sensitization and partnerships as described above can help facilitate understanding of the importance of accountability mechanisms, thereby helping to ensure safe space for civil society, and ultimately working towards an effective HIV response.

## **Conclusion**

Shrinking civic space presents a serious threat to the global HIV response, the control of future pandemics and the achievement of the targets set out in the Sustainable Development Goals (SDGs), the Political

Declaration and the Global AIDS Strategy. The creation and maintaining of safe spaces for civil society engagement at the community, national, regional and global level is essential to ending AIDS as a public health threat by 2030. The Political Declaration and the Global AIDS Strategy highlight the relevance of civil society organizations' ability to advocate, network, implement, monitor and hold governments

and other institutions of power to account. Action and support for civil society engagement in each of these areas should be leveraged to identify areas for additional action and advocacy. Sustained support for meaningful civil society engagement in HIV responses and access to functional accountability mechanisms is key to achieving the SDGs and delivering on the pledge to leave no one behind.

UNDP is a founding co-sponsor of the Joint UN Programme on HIV/AIDS (UNAIDS). UNDP convenes the Joint Programme's work on rights, law, stigma and discrimination and co-convenes the work on key populations (with UNFPA). UNDP also serves as interim Principal Recipient for Global Fund HIV grants in challenging operating environments. UNDP is a co-convenor of the Global Partnership for Action to Eliminate All Forms of HIV-related Stigma and Discrimination which works with countries to address stigma and discrimination across six priority settings: the community, education, health care, humanitarian and emergency settings, the justice system and the workplace.

On behalf of UNAIDS, UNDP convened the Global Commission on HIV and the Law in 2010.<sup>xvi</sup> The Global Commission's 2012 Report and 2018 Supplement made recommendations to governments on a range of issues including criminalization, key populations, gender equality, rights-based service delivery, access to medicine and the use of digital technologies for HIV. The breadth and approach of follow-up activities to the Global Commission offer key lessons for what it will take to operationalize the ambitious commitments of the 2021 Political Declaration and the Global AIDS Strategy.

UNDP has worked with governments, civil society organizations and other partners to advance the recommendations of the Global Commission on HIV and the Law in 90 countries. In line with its Strategic Plan 2022–2025 and HIV and Health Strategy 2022–2025, UNDP supports countries and communities to create enabling legal and policy environments that respect human rights, and is committed to regaining lost ground on HIV, TB and malaria.

The external evaluation of the Global Commission on HIV and the Law was conducted by the University of Southern California (USC), Institute on Inequalities in Global Health in 2021. This issue brief was developed jointly by UNDP and the USC, Institute on Inequalities in Global Health.

## Endnotes

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- <sup>i</sup> Program on Global Health and Human Rights, Institute on Inequalities in Global Health, University of Southern California. *Evaluation of the Global Commission on HIV and the Law*. 2020. Available at: <https://hivlawcommission.org/wp-content/uploads/2021/06/Final-Report-Independent-Evaluation-Global-Commission-HIV-and-the-Law.pdf>.
- <sup>ii</sup> Program on Global Health and Human Rights, Institute on Inequalities in Global Health, University of Southern California. *Evaluation of the Global Commission on HIV and the Law: Executive Summary*. 2021. Available at: [https://hivlawcommission.org/wp-content/uploads/2021/06/Global-Commission\\_evaluation\\_ExecSummary.pdf](https://hivlawcommission.org/wp-content/uploads/2021/06/Global-Commission_evaluation_ExecSummary.pdf).
- <sup>iii</sup> CIVICUS. *2021 State of Civil Society Report: Overview*. (Johannesburg, South Africa, 2021).
- <sup>iv</sup> For more information, see the UNAIDS webpage on [Laws and Policies Analytics: Restrictions to registration/operation of civil society/CBOs affecting HIV service delivery](#), Global, Most recent data.
- <sup>v</sup> ICNL and UNDP. *Legal Frameworks for Civic Space: A Primer*. 2021. Available at: <https://www.undp.org/sites/g/files/zskgke326/files/2021-12/UNDP-ICNL-Legal-Framework-for-Civic-Space-A-Primer-EN.pdf>.
- <sup>vi</sup> UNGASS. *Political Declaration on HIV and AIDS: Ending Inequalities and Getting on Track to End AIDS by 2030*. 2021.
- <sup>vii</sup> UNAIDS. *End Inequalities. End AIDS: Global AIDS Strategy 2021–2026*. 2021.
- <sup>viii</sup> UNDP. *Strengthening civic space and civil society engagement in the HIV response*. 2022 (forthcoming).
- <sup>ix</sup> Freedom House, *Freedom in the World 2020 – A Leaderless Struggle for Democracy*. 2020. Available at: <https://freedomhouse.org/report/freedom-world/2020/leaderless-struggle-democracy>.
- <sup>x</sup> CIVICUS. *Civic Space in Numbers*. 2022. Available at: <https://monitor.civicus.org/quickfacts/>; CIVICUS. *2021 State of Civil Society Report: Overview*. (Johannesburg, South Africa, 2021).
- <sup>xi</sup> The Global Partnership is co-convened by UNAIDS, UNDP, UN Women, the Global Fund to Fight AIDS, TB and Malaria and the Global Network of People Living with HIV. It is working with governments across 30 countries and counting to take concrete action to address stigma and discrimination.
- <sup>xii</sup> OHCHR, Basic Facts About the UPR. Available at: [www.ohchr.org/en/hr-bodies/upr/basic-facts](http://www.ohchr.org/en/hr-bodies/upr/basic-facts).
- <sup>xiii</sup> AIDS and Rights Alliance of Southern Africa, *The how and why of shadow reporting for HIV activists*. 2021. Available at: [www.arasa.info/wp-content/uploads/2021/12/shadow-report-tool-proof-1.pdf](http://www.arasa.info/wp-content/uploads/2021/12/shadow-report-tool-proof-1.pdf).
- <sup>xiv</sup> For more information at the NGO Delegation to the Programme Coordinating Board of UNAIDS see [www.unaidspcbngo.org](http://www.unaidspcbngo.org).
- <sup>xv</sup> For information about the Communities Delegation to the Board of the Global Fund for AIDS, TB and Malaria, see [www.communitiesdelegation.org/about](http://www.communitiesdelegation.org/about).
- <sup>xvi</sup> Global Commission on HIV and the Law. [www.hivlawcommission.org/](http://www.hivlawcommission.org/).



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