



# **CRACKDOWN IN LOCKDOWN**

**HOW COVID-19 MITIGATION MEASURES ARE  
AFFECTING HIV-RELATED HUMAN RIGHTS  
VIOLATIONS AND HOW TO RESPOND**

Frontline AIDS wants a future free from AIDS for everyone, everywhere. Around the world, millions of people are denied HIV prevention, testing, treatment and care simply because of who they are and where they live.

As a result, 1.7 million people were infected with HIV in 2019 and 690,000 died of AIDS-related illness.

Together with partners on the frontline, we work to break down the social, political and legal barriers that marginalised people face, and innovate to create a future free from AIDS.

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**Cover photo:** Fernanda, a transgender sex worker, in Guayaquil, Ecuador, receives free HIV and COVID-19 tests and other sexual health services from Kimirina, a Frontline AIDS partner. © Frontline AIDS/Keoma Zec 2020

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**aidsfonds**

**FRONTLINE AIDS**



# INTRODUCTION

COVID-19 is having a devastating effect on action on HIV throughout the world. According to the United Nations Joint Programme on AIDS (UNAIDS), responses may have been set back by a decade<sup>1</sup>. The Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund) states that, in over 100 countries, up to 75% of lifesaving HIV, TB and malaria services have been seriously disrupted<sup>2</sup>.

The impact of the pandemic is felt particularly acutely on HIV-related human rights, where mitigation measures are *exacerbating* existing challenges, while at the same time *introducing* new ones. This advocacy brief analyses these impacts, as experienced by the partners of Frontline AIDS.

This brief is informed by a wide range of sources (see **Box 1**). It focuses on the impact of COVID-19 mitigation measures on the number and nature of human rights violations, as well as responses to them, in the context of HIV programmes.

The brief also draws conclusions and makes recommendations to national governments and decision-makers; national, regional and international human rights bodies; donors; and CBOs/CSOs engaged in human rights monitoring.



▲ Beneficiaries from LVCT Health DREAMS Kibagare site receive food donations from an LVCT Health staff. @LVCT

## BOX 1: SOURCES FOR ADVOCACY BRIEF

This brief is informed by the following sources of information and covers December 2019 – September 2020, a period that goes from the initial outbreak of COVID-19 to full implementation of mitigation measures:

- **Rights-Evidence-ACTION (REAct)**<sup>3</sup> – a mechanism developed by Frontline AIDS, and owned and implemented by local CBOs/CSOs, to document and respond to human rights violations against marginalised communities<sup>4</sup> in the context of HIV and health services. 1,871 cases were reported in a sample of eight countries<sup>5</sup> in the period December 2019 – September 2020; surveys were also conducted among REAct implementers<sup>6</sup>.
- **The Rapid Response Fund**<sup>7</sup> – a fund managed by Frontline AIDS to provide grants to CBOs/CSOs supporting marginalised communities to enable their continued access to HIV services, and to address violence and human rights violations in emergency situations. A total of 156 grants were allocated to 40 countries in the period, with an analysis conducted of a sample of 38 grants in 11 countries<sup>8</sup>.
- **Frontline AIDS<sup>9</sup> and Aidsfonds COVID-19 crisis funds** – provided to support partners to adapt and re-programme their HIV work, including related to human rights, in the context of COVID-19. These provided grants to 31 partners in 19 countries<sup>10</sup> and 65 projects in 35 countries (respectively).
- **Frontline AIDS and Aidsfonds COVID-19 partner surveys** – conducted to assess the impact of the pandemic on partners' HIV and human rights programmes, including those involved in PITCH. These produced 42 responses from 23 countries<sup>11</sup> and 37 responses from more than 13 countries<sup>12</sup> (respectively).

# BACKGROUND

COVID-19 is a communicable disease of pandemic proportions, with severe health impacts. Balancing human rights – as enshrined in the Universal Declaration of Human Rights<sup>13</sup> – with the need to protect public health has been challenging. Human rights violations drive HIV and related epidemics, with negative impacts in crisis situations like COVID-19.

As the pandemic took hold, Frontline AIDS and its partners identified a number of questions about human rights violations in the context of a pandemic. These included: *What rights are still protected? What mitigation measures and restrictions are justified? Which new laws, practices or policies are excessive? Which governments or government bodies are using COVID-19 as an excuse to repress their own people?*

Frontline AIDS looked to the analyses and statements of global leaders in HIV-related human rights for the answers, including UNAIDS<sup>14</sup>, the Global Fund<sup>15</sup>, the Office of the United Nations High Commissioner for Human Rights (OHCHR)<sup>16</sup>, the International Planned Parenthood Federation (IPPF)<sup>17</sup>, Accountability International<sup>18</sup>, Human Rights Watch<sup>19</sup> and the Global Network of People Living with HIV (GNP+)<sup>20</sup>.

## BOX 2: HUMAN RIGHTS AND PANDEMICS

“ Throughout history, people have faced pandemics: the bubonic plague, smallpox, influenza, HIV and now COVID-19. Pandemics affect people of every creed, color and class. But they do not affect everyone equally. These health crises expose the ugly fault lines within our societies. Inequality, marginalization, poverty and other human rights barriers to healthcare dictate who gets infected and who dies and have a devastating impact on vulnerable communities. ”

**Peter Sands and Antonio Zappulla, the Global Fund to Fight AIDS, Tuberculosis and Malaria**

## BOX 3: TEN AREAS FOR ACTION TOWARDS BUILDING RIGHTS-BASED COVID-19 RESPONSES<sup>23</sup>

### Laws and enforcements:

1. Avoid disproportionate, discriminatory or excessive use of criminal law.
2. Stop discriminatory enforcement against key populations.
3. Explicitly prohibit state-based violence and hold law enforcement and security forces accountable for disproportionate responses or actions when enforcing COVID-19 response measures.

### Access to services and support:

4. Include reasonable exceptions to ensure that legal restrictions on movement do not prevent access to food, water, health care, shelter or other basic needs.
5. Take proactive measures to ensure people, particularly from vulnerable groups, can access HIV treatment and prevention services and meet other basic needs.

6. Rapidly reduce overcrowding in detention settings and take all steps necessary to minimize COVID-19 risk, and ensure access to health and sanitation, for people deprived of liberty.
7. Implement measures to prevent and address gender-based violence against women, children and LGBTI people during lockdowns.
8. Designate and support essential workers, including community health workers and community-led providers, journalists and lawyers.

### Participation and rule of law:

9. Ensure limitations on movement are specific, time-bound and evidence-based, and that governments adjust measures in response to new evidence and as problems arise.
10. Create space for independent civil society and judicial accountability, ensuring continuity despite limitations on movement.

## BACKGROUND

As an example, UNAIDS articulated seven key lessons for COVID-19 responses, based on over 40 years of community-based responses to HIV<sup>21</sup>. These include the need to engage affected communities from the beginning in all measures and combat all forms of stigma and discrimination. They also include that any restrictions to protect public health must be of limited duration, proportionate, necessary, evidence-based and reviewable by a court. Subsequently, UNAIDS has set out 10 areas for action for governments to build effective, rights-based COVID-19 responses (see **Box 3**). These include taking proactive measures to ensure that people – particularly those in marginalised communities – can access HIV services.

Informed by the guidance of UNAIDS and other peers<sup>23</sup>, Frontline AIDS produced its own technical guidance on COVID-19 and HIV programming<sup>24</sup>. This cites human rights as a key principle of any response to the pandemic. Among other recommendations, it calls for empowering communities with knowledge about COVID-19 and their rights, and the denouncement of unfounded politically driven, restrictive, stigmatising and punitive measures for meeting public health objectives.

## 1. COVID-19 AND THE NUMBER OF HUMAN RIGHTS VIOLATIONS

In many contexts, COVID-19 has affected the number of HIV-related human rights violations being documented and/or experienced. For example, within REAct programmes, some countries – such as Tajikistan – saw an initial decrease in the number of cases reported. This reflected the fact that REActors (community members who document the cases) are themselves from marginalised populations and needed to self-isolate. Meanwhile, Mozambique saw an initial *increase* in cases reported to REAct. This reflected a rise in incidents taking place under the guise of government action on COVID-19. For example, people who use drugs experienced greater harassment by the police in Mozambique who claimed to be implementing mitigation measures.

The Rapid Response Fund – a mechanism already in high demand – experienced a three-fold increase in requests for emergency grants from mid-March to early November 2020, a period when mitigation measures were at their height<sup>25</sup>.

While some partners reported increases across all types of HIV-related human rights violations, others noted specific spikes. For example, REAct partners

in Kenya highlighted increases in arrests, intimate partner violence and family attacks<sup>26</sup>. Similarly, while the number of violations appears to have risen across all marginalised communities, some have suffered disproportionately. Aidsfonds' COVID-19 partner survey found specific increases in violence against men who have sex with men (Kenya), sex workers (Ecuador), and women living with HIV (Tajikistan).

The increase in the number of human rights violations most directly impacts on individuals in terms of their physical and mental wellbeing, and health-seeking behaviour. However, it also has a ripple effect with indirect impacts on the organisations that record and respond to violations against marginalised communities. Many of these were already overstretched and threatened – for example by hostile political environments and/or reduced resources – *before* COVID-19. Now, they face a more complex external environment, as well as increased demands on their internal capacity.



## 2. COVID-19 AND THE NATURE OF HUMAN RIGHTS VIOLATIONS

Frontline AIDS recognises that – subject to the conventions they are signatory to – a state has a duty to protect the right to health of every person. This includes in a crisis situation such as COVID-19. However, 'everyone' should mean 'everyone' – regardless, for example, of their sexual orientation, gender identity or drug use. As such, mitigation measures like lockdowns and restrictions on gatherings that were introduced for COVID-19 and are harming such communities, constitute a failure of the state to uphold the rights of all people. They are a violation of human rights.

Frontline AIDS divides HIV-related human rights violations in the context of COVID-19 mitigation measures into four categories (see **Box 4**).

### CATEGORY 1: STATE-SPONSORED REPRESSION USING COVID-19 REGULATIONS

Here, cases have been seen of:

- **Disproportionate application of lockdown measures.** Governments are sanctioning the use of COVID-19 restrictions – such as curfews and round-ups – to oppress marginalised groups. This is a denial of their freedom of movement, right to assemble and right to freedom from arbitrary arrest and detention. Meanwhile, those enforcing such measures often lack guidance or coordination<sup>27</sup>. In Mozambique, for example, people who use drugs have been harassed by police in the name of implementing lockdown<sup>28</sup>; and in Kenya, male sex workers have experienced increased violence due to government controls on social distancing<sup>29</sup>.
- **Inequitable transport restrictions.** Governments are applying transport restrictions (denial of freedom of movement) in a way that disproportionately affects marginalised communities. This, in turn, is resulting in such populations being unable to access essential services for HIV and other health conditions. This is a denial of right to health. In Zimbabwe, lesbian, gay, bisexual and transgender (LGBT) people have been assaulted by police while travelling to HIV facilities during lockdown<sup>30</sup>; and in Ukraine, people who use drugs have been ineligible for public transport permits, despite having urgent need to access harm reduction services<sup>31</sup>.

### BOX 4: THE NATURE OF HIV-RELATED HUMAN RIGHT VIOLATIONS IN THE CONTEXT OF COVID-19

Frontline AIDS articulates HIV-related human rights violations in the context of COVID-19 as four categories:

**Category 1:** State-sponsored repression using COVID-19 regulations.

**Category 2:** Increased stigma and discrimination.

**Category 3:** Increased gender-based violence and domestic violence.

**Category 4:** Increased pre-existing vulnerabilities due to lack of access to HIV or related services.

- **Breaches of confidentiality.** Community members have experienced increased surveillance and demands for private information – risking a lack of confidentiality about their health status or sexual orientation<sup>32</sup>. This is breach of their right to privacy. In Uganda, people living with HIV have had to disclose their HIV status to community leaders to receive travel passes<sup>33</sup>; and in Zimbabwe, people living with HIV have had police officers at roadblocks demand evidence of their HIV status<sup>34</sup>.
- **Closing of civil society space.** The political space for HIV civil society space has further shrunk in the time of COVID-19. Dissenting voices are often silenced and those calling for alternative approaches to the pandemic have been condemned – contravening their right to freedom of speech and to take part in the governance of their country; and making it dangerous for CSOs to serve their communities<sup>35</sup>. In many countries, community-based HIV programmes have not been classified as essential services, while CSOs supporting marginalised communities have not been consulted about COVID-19 action plans<sup>36</sup>.

While the *intent* of COVID-19 mitigation measures is acknowledged, CSOs report that their *application* has caused harm – with human rights violations conducted under the guise of protecting public health. This has been seen in Kenya where COVID-19 measures have been treated as justification for an increase in violence, even deaths, perpetrated by law enforcement officials against sex workers, people living with HIV, trans people and refugees<sup>37</sup>.

## 2. COVID-19 AND THE NATURE OF HUMAN RIGHTS VIOLATIONS

In such instances, the situation has been aggravated by confusion as to what constitutes a valid public health measure versus a human rights violation<sup>38</sup>. This risks the authorities having free reign to apply whatever steps they see fit 'for the public good'. It also risks COVID-19 serving as an excuse for the State and its mechanisms to perpetuate or escalate ongoing human rights violations, in particular against criminalised groups. In Kyrgyzstan, during March–August 2020, 32 human rights violations connected to COVID-19 were recorded through REAct<sup>39</sup>. Among these, 16 were carried out by the police and law enforcement bodies, 11 by public health care professionals and two by both these perpetrators (totalling 29). This was the same profile of perpetrators recorded by REAct during non-COVID-19 times highlighting that law enforcement officials and health care professionals are most likely to abuse human rights regardless of the broader events<sup>40</sup>.

Across countries, it is notable that the application of measures against marginalised communities does not seem to correspond to COVID-19 epidemiology – with such communities targeted even in countries with low numbers of confirmed cases.

### BOX 5: THE HARMFUL IMPACT OF COVID-19 MITIGATION MEASURES, SOUTH AFRICA<sup>41</sup>

In Cape Town, South Africa, providing a camp for people unable to self-isolate led to the council rounding up homeless people, many of whom are trans women and people who use drugs. Conditions at the camp put the community members at risk – with no social distancing, protective equipment or appropriate health services, including for those living with HIV or TB. A young woman was raped and two people who use drugs died, being unable to access opioid agonist therapy or clean needles. While people were told that they could leave the camp, the presence of 130 law enforcement and private security personnel indicated otherwise. Meanwhile, CSOs had very limited and irregular access in order to provide support.

### CATEGORY 2: INCREASED STIGMA AND DISCRIMINATION

In many contexts, the double stigma associated with HIV and being a member of a marginalised community has now become triple with the arrival of COVID-19. Marginalised communities have been indirectly associated with – or even directly blamed for – the introduction or spread of the pandemic in a range of countries. Examples of populations targeted by accusations and hate speech include migrants (in Ecuador<sup>42</sup>), trans people (in Rwanda<sup>43</sup>), and sex workers (in Latin America and the Caribbean<sup>44</sup>). This is a denial of their right to anti-discrimination.

This toxic cocktail of fear and prejudice can have severe consequences. For example, in India, a case was reported of a trans woman being beaten to death when going out into her community during lockdown to get milk for her family<sup>45</sup>. The impacts are being felt in a range of contexts. Applicants to the Rapid Response Fund have reported that since COVID-19 they have experienced greater stigma and discrimination, not only in communities but also at health facilities<sup>46</sup>. This has led to fear of being 'outed' at busy sites, contributing to reduced uptake of services<sup>47</sup>. In South Africa, there are reports of marginalised community clients being terrified to go to services, for fear of both contracting COVID-19 and how they will be treated by healthcare workers<sup>48</sup>. This is a denial of their right to health.

### BOX 6: HIV, COVID-19 AND DISCRIMINATION

“ They want to point us [sex workers] out as responsible for the spread of this virus, as it was with the HIV issue. ”

Ana Maria, REDTRASEX, Brazil

## 2. COVID-19 AND THE NATURE OF HUMAN RIGHTS VIOLATIONS

### CATEGORY 3: INCREASED GENDER-BASED VIOLENCE AND DOMESTIC VIOLENCE

One of the most pernicious indirect impacts of COVID-19 and its mitigation measures has been an increase in gender-based, intimate partner and domestic violence. This has been seen across the world as couples, families and households experience the emotional, physical and financial burdens of lockdown measures, combined with the threat of COVID-19 infection<sup>49</sup>. In some cases, the increase is due to people simply having to spend more time with the existing perpetrators of such violence, and under more pressure. In others, it is due to specific changes in people's circumstances due to COVID-19. An example of the latter is young LGBT people who have been forced to move back in with their families, due to being evicted from their accommodation. In such cases, marginalised communities often find themselves living with people who are unsupportive, or even overtly hostile to their gender identity and expression, HIV status or sexual orientation. This is a denial of their right to shelter and safety. Meanwhile, they lack access to their usual outlets of support like peer educators and self-help groups.

As an indication of the size of the challenge, further examples of populations affected by increases in these types of violence include trans people (Uganda)<sup>50</sup>, women living with HIV (Tajikistan)<sup>51</sup>, women who use drugs (Uganda)<sup>52</sup>, sex workers (Lebanon)<sup>53</sup>, men who have sex with men (India), women, girls and children (India)<sup>54</sup>, young people who use drugs (Uganda)<sup>55</sup>, refugees and asylum seekers (South Africa)<sup>57</sup>, and female partners of people who use drugs (India)<sup>58</sup>. All of these community members are being denied their right to health and security of person.

A survey of 635 community members conducted by Gays and Lesbians of Zimbabwe (GALZ) in May 2020 found that 19.3% of respondents had been the subject of intimate partner violence during lockdown with their partner<sup>59</sup>. Meanwhile, 47.5% of those staying with families said that it was psychologically stressful being with people who did not approve of their sexuality. The impact on the community members was such that 51% experienced anxiety and 39.2% depression, while 4.25% had suicidal thoughts. The situation led GALZ to reinforce the message that cases of gender-based violence are still human rights violations in the context of COVID-19, should still be reported and still warrant action (see Box 7).

In many cases, community members are experiencing these types of rights violations at a time when emergency services - notably shelters - have had to be reduced or closed, while pathways to referrals are also weakened<sup>60</sup>. Some of the spaces that have remained open are subject to overcrowding and poor hygiene - contrary to guidance for COVID-19 prevention.<sup>61</sup> Meanwhile, practical and legal support - such as from law enforcement agencies, legal aid organisations and the judiciary - is also extremely limited. In India, for example, increased gender-based violence against gender-diverse people - perpetrated by landlords, hijra gurus, regular partners and neighbours - is going unreported because people cannot access emergency care<sup>62</sup>.

The longer-term repercussions of increases in gender-based, intimate partner and domestic violence are also severe. For example, Transgender Equality Uganda has reported increased exposure to HIV among trans women<sup>63</sup>, and Education as a Vaccine in Nigeria has cited increased rapes, child marriage and maternal mortality among cis-gendered women and girls during the COVID-19 pandemic<sup>64</sup>.

#### BOX 7: RAISING AWARENESS ABOUT HUMAN RIGHTS AND COVID-19, ZIMBABWE

**HELP IS HERE!**  
COUNSELLORS AVAILABLE 24/7

**You are NOT alone!**

Even during this COVID-19 Lockdown period, it is always GALZ' mandate to protect your rights as an LGBTI person in case of gender based violence, intimate partner violence, physical harm and verbal abuse.

**REPORT** from anywhere.  
**REPORT** on time.

SMS/App 'HELLO' and a Counsellor will call you back.

We are there for you!

Hotline	0772 210836
Harare	0785 592 158
Bulawayo	0779 585 836
Mutare	0785 211 036
Masvingo	0785 075 042

**GALZ**  
AN ASSOCIATION OF LGBTI PEOPLE IN ZIMBABWE

## 2. COVID-19 AND THE NATURE OF HUMAN RIGHTS VIOLATIONS

### CATEGORY 4: INCREASED PRE-EXISTING VULNERABILITIES DUE TO LACK OF ACCESS TO HIV OR RELATED SERVICES

There is overwhelming evidence that COVID-19 mitigation measures are increasing the pre-existing vulnerabilities of marginalised communities in the context of HIV – violating people's rights to health, life and non-discrimination.

Among diverse countries, cultures and epidemiological contexts, the pandemic has decreased access to vital support across the HIV cascade - with services deprioritised, repurposed, scaled back or made unfeasible. Across Frontline AIDS and PITCH programmes, hundreds of examples are cited of people who were already vulnerable to or living with HIV now experiencing reduced or no access to HIV prevention information and commodities, HIV testing, antiretroviral therapy (ART), adherence support, psychosocial counselling, and specialist services<sup>65</sup>. An example of the latter is harm reduction for people who use drugs (see Box 8).

The REAct programme in Ukraine – which is part of the PITCH programme and supported by a national grant from the Global Fund – documented a total of 775 human rights violations from 1 November 2019 – 15 October 2020. Of these, 45.3% were among people who use drugs and 26.8% among people living with HIV. Here, 62 cases (8%) were directly related to COVID-19 mitigation measures. The most common types of incidents were refusal to provide health services and take-home doses for opioid agonist therapy clients. The most common perpetrators were government, health workers and drug treatment doctors (see Box 9).

### BOX 8: SUPPORTING PEOPLE WHO USE DRUGS DURING COVID-19, INDIA<sup>66</sup>

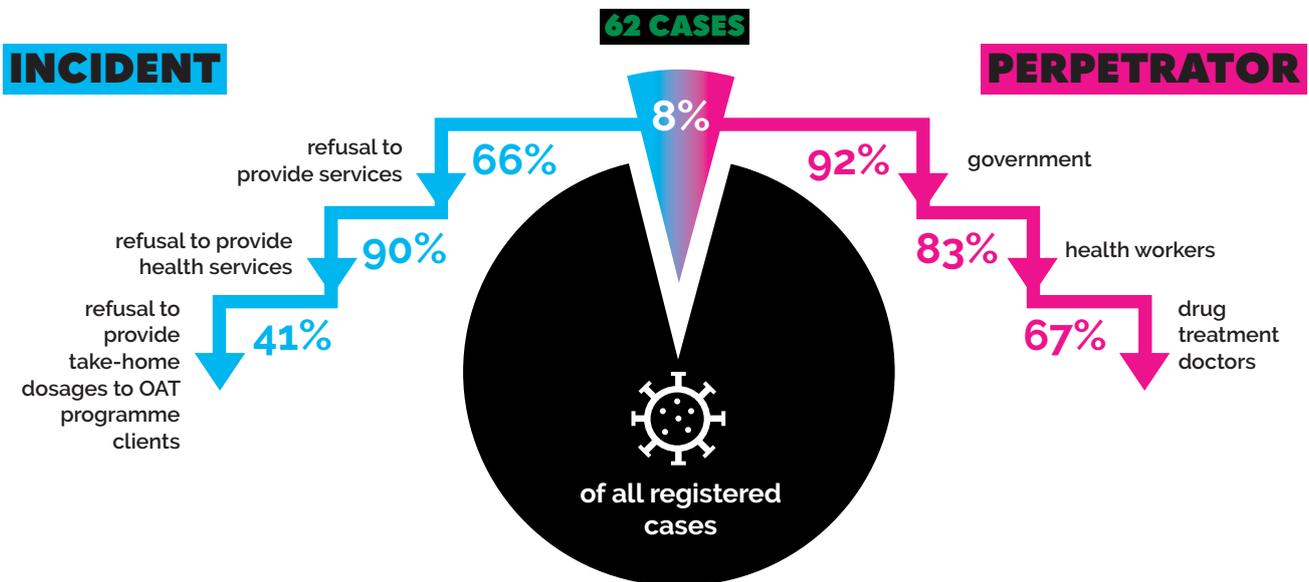
In India, the pressures of COVID-19 on health systems led to opioid agonist treatment and other harm reduction services being stopped, reduced or reluctant to take on new clients. As a result, community members struggled to access drugs safely, resulting in more undergoing sudden withdrawal. In response, India HIV/AIDS Alliance scaled up its existing support to state and national-level drug user forums – supporting six new ones as a means of defending human rights and improving access to services. As an example, the Mizoram Drug Users Forum set up a helpline managed by experienced community leaders and advertised widely through local TV stations and social media. The Forum also arranged for buprenorphine (which relieves opioid withdrawal symptoms) to be delivered directly to the hardest-to-reach people who use drugs and advocated to the National AIDS Control Organization to allow take-home doses of methadone. Meanwhile, afraid of a spike in fatal overdoses post-lockdown, India HIV/AIDS Alliance is supporting the forums to be able to quickly provide Naloxone (an overdose reversal treatment) and conducting local advocacy for the rights of people who use drugs in their respective states.



▲ Provision of needles and syringes to women who use drugs in Manipur. @Alliance India

## 2. COVID-19 AND THE NATURE OF HUMAN RIGHTS VIOLATIONS

### BOX 9: HUMAN RIGHTS VIOLATIONS RELATED TO COVID-19 DOCUMENTED BY REACT IN UKRAINE FROM 1 NOVEMBER 2019 – 15 OCTOBER 2020



The full impact of COVID-19 on the vulnerability and rights of marginalised communities can be seen by focusing on a specific example in one region - sex workers in sub-Saharan Africa. In their response to a Frontline AIDS COVID-19 survey, the African Sex Workers Alliance (ASWA) articulates how its members have experienced reduced work opportunities, for example due to the closure of venues (such as bars and brothels), bans on street work, social distancing measures and travel restrictions<sup>67</sup>. An ASWA survey, conducted in June 2020, found that most sex workers were unable to feed themselves or their families. A further survey, by the Kenya Sex Workers Alliance, found that more than 65% of 884 respondents could not get condoms or ART due to price hikes on public transport. ASWA also reports that individuals have experienced increases in law enforcement measures, such as arrests, fines, violence and compulsory deportation. Some sex workers are continuing their work, but with increased risk (such as having to operate in clients' homes where they may experience gender-based violence). Others have stopped work and relocated, returning from urban to rural areas where they face intense stigma and may be rejected by their families and become homeless. Those living with HIV can experience particularly complex situations, for example undocumented migrant sex workers living with HIV in Botswana have found themselves unable to return to their home country of Zimbabwe for ART refills due to the border being closed.

### BOX 10: COVID-19, HIV AND CRIMINALISATION

“ Due to criminalization, sex workers have been greatly disadvantaged by laws and policies. As African governments respond to effects of COVID-19, those most marginalized, stigmatized and criminalized have been pushed further into poverty, to the grave detriment of their health and human rights. Sex workers have not only been seriously impacted by the COVID-19 pandemic, but also by governments' emergency responses that, in many contexts, have been punitive, overbroad, and/or discriminatory ”

African Sex Workers Alliance

In many contexts, COVID-19 mitigation measures have affected the livelihoods and wellbeing of everyone. However, for those affected by HIV, the impacts are that much harsher. This is because these community members are *already* excluded from society, living life on the edge and with precarious work situations and weak support networks. It is

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also because, due to discrimination, they have few alternatives like earning an income, and are criminalised (and so unable to access government benefits including food and money – thereby denying their right to social security).

All of these challenges are occurring at a time when HIV and health services that are 'friendly' towards marginalised populations are limited or non-functioning, with many forced to close or reduce their hours of operation<sup>68</sup>.

There is strong evidence that, within the context of HIV-related human rights, pre-existing vulnerabilities due to COVID-19 are having a catastrophic effect on people's wellbeing, denying their right to health and life. This evidence comes from Frontline AIDS' own partners, as well as other strategic stakeholders (such as those cited previously). Examples include

- ➔ **late diagnosis of HIV and STIs; increased risk taking (such as with sex workers not having access to contraception or condoms)<sup>69</sup>;**
- ➔ **reduced adherence to ART (such as with people living with HIV unable to access support groups);**
- ➔ **and increased deaths or ill health among people who use drugs (such as with overdose cases among people who have less control – and peer support – about the type and strength of drugs they are purchasing and/or lack access to Naloxone to reverse overdose)<sup>70</sup>.**

While the impacts are felt on all marginalised communities, some groups in some contexts can be especially vulnerable. Examples cited by partners include people who are newly diagnosed with HIV (who are in urgent need of access to treatment and psychosocial support)<sup>71</sup>; prisoners (who are living in conditions that facilitate the spread of COVID-19 yet may have access to minimal services)<sup>72</sup>; and asylum seekers and refugees (who may live in conditions that make them vulnerable to COVID-19, but, without formal status where they are, may have little access to support)<sup>73</sup>.

Across all sources of information, food shortages stand out as a particularly urgent crisis - one that not only affects people's daily wellbeing but also their ability to successfully take and adhere to ART<sup>74</sup>. This denies their right to health.

In addition, there are indications that the social and political exclusion of HIV-marginalised communities (breaching their right to information) has increased during COVID-19 – with such groups not fully incorporated into or enabled to engage with responses to the pandemic. For example, there are reports of information for sex workers being excluded from guidance on COVID-19 in Latin America<sup>75</sup>; trans people being legally unable to access COVID-19 social welfare payments in India; sex workers being ineligible for government schemes to support small businesses in some African countries<sup>76</sup>; and people who use drugs being denied access to government provisions such as food and face masks in Uganda<sup>77</sup>. Additionally, youth-led organisation Peer to Peer Uganda found that young people were being left out of planning and decision-making about the response to COVID-19. With a crisis response grant from Frontline AIDS, they responded by taking the initiative and providing tailored information and protective equipment to their community members.<sup>78</sup>

### BOX 11: HUMAN RIGHTS VIOLATIONS RELATED TO COVID-19 MITIGATION MEASURES DOCUMENTED THROUGH REACT

In Uganda, REAct partners documented a raid on an LGBT centre for young people, committed by the police in the name of imposing a Presidential Decree on COVID-19. This led to the arrest of 23 people, and the incarceration of 20, without full access to legal support or to medical services.

In Tajikistan, REAct partners documented a situation where people living with HIV were being blamed by community members for the presence of COVID-19 in the local area.

In Kenya, REAct partners received an increased number of reports of gender-based violence, family attacks and forced conversion therapy for LGBT people.

In Mozambique, REAct partners received reports of people who use drugs experiencing a total loss of income, while also struggling to access essential harm reduction support because services were closed or reduced due to COVID-19. This contributed to women who use drugs engaging in high-risk behavior, such as sex work, as a means of survival – increasing their already high levels of vulnerability.

### 3. COVID-19 AND RESPONSES TO HUMAN RIGHTS VIOLATIONS



▲ Provision of opioid substitution therapy on clients' doorstep in Chennai, amidst COVID-19 related restrictions. © Alliance India

COVID-19 mitigation measures have had a predominantly negative effect on responses to HIV-related human rights violations at all levels.

At the **community level**, the challenges of the pandemic have often made it difficult, even impossible, to ensure the speed and nature of responses needed. This reflects both ongoing challenges to partners' work (such as hostile legal environments and low resourcing), combined with COVID-19 specific challenges. Examples of the latter include restrictions on operating hours, movement and gatherings; reluctance among community members to report violations during lockdown; and hostility to staff, such as outreach workers and peer educators, by law enforcement officials.

In many cases, organisations on the ground have rallied to try to continue their responses. This has often required significant innovation and agility. In some cases, partners have had to change what they provide – as seen with the Rapid Response Fund where 30% of applications have included food

distribution in their work. In other cases, partners have had to change how they work. There are multiple cases of CSOs involved in human rights work modifying outreach methods to be COVID-safe (such as with outreach workers reducing the number of clients seen at one time); changing in-person services to online (to report human rights violations); and providing longer-term allocations of drugs and commodities (such as for harm reduction). In turn, these have helped to both address specific human rights incidents and to protect people's general rights (such as to health, non-discrimination and engagement).

While implementing responses, CSOs have also been acutely aware of the need to protect the rights and health of their own staff and volunteers. For example, many have needed to ensure that staff in human rights-related work – whether office-based or outreach – have the necessary personal protective equipment to protect their rights to life and safety.

#### BOX 12: ADAPTING A COMMUNITY-LEVEL HUMAN RIGHTS PROGRAMME TO COVID-19, UGANDA<sup>9</sup>

The Uganda Harm Reduction Network works to protect the rights of people who use drugs, who often face abuse from health workers and law enforcers. During COVID-19, the CSO has adapted its work by providing bicycles, smart phones and airtime to its paralegals (who are themselves people who use drugs) to enable them to communicate with community members, and to track, document and follow up human rights violations. Some types of abuses – such as gender-based violence against women who use drugs – have increased during the pandemic. Arrests and detentions have also risen, with paralegals recording 265 such cases which are associated with possessing drugs or breaking COVID-19 mitigation measures. With the paralegals now able to continue their work, from June to September 2020 they were able to follow up all cases, including securing the release from custody of 165 people who use drugs.



### 3. COVID-19 AND RESPONSES TO HUMAN RIGHTS VIOLATIONS

▼ Tatiana, a transgender beautician and sex worker, in Guayaquil, Ecuador, receives free HIV and COVID-19 tests and other sexual health services from Kimirina, a Frontline AIDS partner. @ Frontline AIDS/Keoma Zec 2020



At the **national level**, CSOs that manage country programmes and mechanisms supported by Frontline AIDS and PITCH have also had to change how they work on human rights – again, becoming more innovative in order to respond to COVID-19. As an example, REAct implementers in countries such as Ukraine (**see Box 13**) have strengthened their online communication with community groups, learned how to work as a virtual team, and built their understanding of what constitutes a human rights violation during an emergency.

Whilst presenting immense challenges, COVID-19 has also provided opportunities for innovative or reinvigorated work. For example, national organisations report devoting time to working on internal policies; working with new donors (who want to reach marginalised communities); strengthening methods for online working; accessing government funds for COVID-19; and conceptualising more integrated programming that continues to address longer-term HIV-related human rights issues while also addressing the immediate issues related to COVID-19<sup>80</sup>. Some partners report that COVID-19 has served as a catalyst for addressing communities' priority needs. For example, Transgender Equality Uganda has gained impetus from the pandemic and used a Frontline AIDS crisis fund grant to produce a kit on mental health and rights for trans people, long identified as a need in the community<sup>81</sup>.

#### **BOX 13: ADAPTING A NATIONAL-LEVEL REACT PROGRAMME TO COVID-19 MITIGATION MEASURES, UKRAINE<sup>82</sup>**

In Ukraine, the Alliance for Public Health (APH) is the Principal Recipient for a regional Global Fund grant that supports CSOs in Georgia, Moldova, Kyrgyzstan and Tajikistan to use REAct. When COVID-19 emerged, their usual channels of communication became difficult and they risked losing contact with both the people implementing the mechanism and the people experiencing human rights violations. The challenges included the closure of hotspots and outreach points, reduced possibilities for face-to-face work, and reduced availability of government referral services. In response, APH mobilised by ensuring that all outreach workers, street lawyers and community activists had mobile phones and internet access so that they could contact clients and hold online meetings. They also set up hotlines and used social media apps like Tinder to identify clients and offer HIV and legal services. APH faced challenges along the way, as Victoria Kalyniuk explains: **"Neither clients nor staff could identify new types of human rights violations. They were unsure what rights and rights violations are in emergencies, what police and governments should do and what they should not do"**. In response, APH provided training sessions and briefing papers to provide up-to-date information and build a strong understanding about how rights should still be protected during emergencies.

### 3. COVID-19 AND RESPONSES TO HUMAN RIGHTS VIOLATIONS

At the **international level**, Frontline AIDS and PITCH have also had to change the way they work to address human rights in the context of COVID-19 mitigation measures<sup>83</sup>. As an example, Frontline AIDS collaborated with the Elton John AIDS Foundation to bolster the capacity of the Rapid Response Fund. This new partnership provided emergency grants to people living with and affected by HIV (**see Box 14 for examples**) and extended the remit of the Fund to include (in addition to LGBT people) sex workers, people who use drugs and people living with HIV, and Southeast Asia<sup>84</sup> (in addition to sub-Saharan Africa and the Caribbean). Frontline AIDS also engaged with regional and global networks for marginalised communities to ensure that the Rapid Response Fund was known to its members, and that all priority populations were covered.

A further example is that Frontline AIDS has moved all of its REAct training online, using webinars, an online training manual and a set of virtual tools (such as guidance on identifying human rights violations during an emergency<sup>85</sup>). In response to reports received during the pandemic, the REAct training now has a supplementary module on sexual and gender-based violence.

Both Frontline and Aidsfonds have provided and monitored crisis grants to address partners' urgent needs during COVID-19. As an example, Aidsfonds allocated grants to 65 projects in 35 countries. Its preliminary results show that these have been used to both directly address human rights violations (such as responding to 177 cases of gender-based violence), and indirectly support people's wider rights and wellbeing (with psychosocial support provided to 4,100 people and ART delivered to the homes of 8,776 people living with HIV).



#### **BOX 14: RAPID RESPONSE FUND GRANTS IN THE CONTEXT OF COVID-19 MITIGATION MEASURES**

In **Zambia**, Dignitate used a grant to provide mobile services to LGBT people living with HIV, including HIV care and support, food, counselling and action on increased levels of gender-based and intimate partner violence.

In the **Philippines**, Youth Voices Count used a grant to provide protective equipment to HIV motivators for marginalised communities and relief packs for young people living with HIV (with supplies such as condoms).

In **Eswatini**, Health Plus 4 Men used a grant to rent a car to transport 286 people living with HIV to ART clinics, with local law enforcement officials allowing their passage due to the organisation's branding on the vehicle.

In **Zimbabwe**, Zimbabwe Civil Liberties Union used a grant to distribute protective equipment and sexual and reproductive health commodities to 2,500 people who use drugs, and to buy airtime to connect with volunteers.

In **Kenya**, HIAS Refugee Trust used a grant to support 286 refugees relocated to a camp due to stigma. This ensured their access to essential HIV and other medical supplies, as well as their needs related to COVID-19.

In the **Democratic Republic of Congo**, MOPREDS used a grant to move a trans man who had been raped to a suitable hospital and, due to COVID-19 extend their stay with medical support and counselling.

# CONCLUSIONS

A crackdown in lockdown is taking place, with human rights violations related to HIV increasing and diversifying as a direct or indirect result of mitigation measures for COVID-19. This is hitting marginalised communities hardest. The impact is severe – not only on the health and wellbeing of individuals, but the organisations that provide them with support and services and is driving HIV, TB and other co-infections. A wide range of human rights are being denied, from health to privacy, non-discrimination and engagement.

Even during the most challenging of times and pressures on public health, all human rights violations are unacceptable and require action.

In many cases, governments – strained by the multi-faceted demands of COVID-19 – are playing catch-up on human rights in terms of fulfilling their obligations and updating their relevant laws and policies. However, there also appear to be cases where governments are deliberately thwarting their responsibilities as duty bearers – using COVID-19 mitigation as an opportunity to further harmful practices, in particular against marginalised and criminalised populations.

On the ground, the partners of Frontline AIDS and PITCH are still reeling from the impact of COVID-19 – a pandemic that exacerbates existing poor environments for human rights, responses to HIV and civil society. However, they are also demonstrating remarkable resilience – not only surviving the crisis but fighting back with innovation. They are adapting their programmes and organisations to a 'new normal', making them fit for purpose to document and respond to a new era of human rights violations. They bring a wealth of experience in promoting and protecting HIV-related human rights. This can be adapted to the threats, but also opportunities, presented by the COVID-19 pandemic.



▼ Pop-up COVID-19 testing clinic for sex workers by Frontline AIDS partner Kimirina, Ecuador. @ Frontline AIDS/Keoma Zec 2020



# RECOMMENDATIONS

Based on the analysis presented in this advocacy brief – and the experiences of Frontline AIDS and PITCH partners – a series of recommendations follow.

## NATIONAL GOVERNMENTS AND DECISION-MAKERS SHOULD:

- 1. Urgently review national laws and policies to ensure that – while protecting public health – COVID-19 mitigation measures do not result in human rights violations, in particular against marginalised communities.** This should be followed up with the provision of guidance and standard operating procedures for the enforcers of such laws and policies – notably the police – to ensure that the pandemic is not used as justification to commit abuses within communities.
- 2. Ensure that the processes to design, implement and monitor public health strategies and protocols – such as those for COVID-19 – meaningfully engage marginalised communities and respond to their needs, including in terms of the steps needed to address human rights violations caused by mitigation measures.** Human rights must be a core component of health policies, including for HIV, TB and COVID-19.
- 3. Address the ‘unfinished business’ of decriminalising behaviours associated with marginalised communities – such as sex work, same-sex sexual relations and drug use – based on the lessons learned from responding to COVID-19 and the need to reduce human rights violations against such communities during future crises.**

## NATIONAL, REGIONAL AND GLOBAL HUMAN RIGHTS BODIES SHOULD:

- 4. Publish statements and recommendations which condemn human rights violations against marginalised communities - including in contexts such as COVID-19 - and highlight the negative impact on HIV and co-infections. Suggest corrective measures to prioritise public health focussed interventions during the COVID-19 emergency.** Continue to learn from four decades’ experience of the HIV response to understand how abuses against marginalised communities deny multiple human rights (such as the rights to life and health) and worsen their existing vulnerability.
- 5. Advocate to national governments and relevant regional and global bodies to urgently review laws and policies to ensure that – while protecting public health – COVID-19 mitigation measures do not result in human rights violations, in particular against marginalised communities.**
- 6. Build partnerships and work with and fund CSOs to gain and use ‘real life’ evidence of how measures such as criminalisation deny the human rights of marginalised communities, in particular during a crisis like COVID-19.** This work should include supporting CSOs to build a case for advocating for the decriminalisation of marginalised groups in their country.

## RECOMMENDATIONS

### DONORS SHOULD:

- 7. Financially, technically and politically support existing civil society mechanisms to continue to document and respond to human rights violations, while also adapting to COVID-19.** Such mechanisms should be enabled to adapt and/or expand their existing remits and working practices to respond to both ongoing HIV-related human rights violations and new abuses taking place due to the pandemic's mitigation measures.
- 8. Resource ongoing efforts to build resilience and sustainability among community-based HIV programmes to respond to human rights violations, to adapt to and survive crises, and to enhance their overall sustainability.** Measures of sustainable resourcing should go beyond funding to also include metrics on skills, systems and policy environments.
- 9. Recognise, and resource the unique added-value of community-based and people-centred HIV services that can reach and support marginalised people who experience gender-based violence or other human rights violations.** Such services should be integrated into wider, multi-sectoral health systems to ensure uninterrupted and tailored services, in particular for those most vulnerable.
- 10. Donor governments can work alongside national governments and decision-makers to support implementation of the recommendations for governments outlined above, and share peer learning where requested.**

### CBOS/CSOS ENGAGED IN HUMAN RIGHTS MONITORING SHOULD:

- 11. Civil society who implement community-based systems to document human rights violations must also strengthen the analysis, formulation and use of the resulting data to support national advocacy for the decriminalisation of marginalised communities.** This work should aim to share the 'real life' experiences of people such as sex workers, LGBT people and people who use drugs, providing evidence of how their decriminalised status is used to further abuse their rights during crises like COVID-19.
- 12. Advocate that all efforts to address human rights violations within the contexts of HIV and COVID-19 maximise the lessons learned from over four decades of community responses to HIV.** These include the importance of taking a human rights-based, people-centered and gender equitable approach; maximising community-based and community-led interventions; and meaningfully engaging those most directly affected - including people living with HIV, people living with or recovering from COVID-19, and marginalised communities - in all stages of the responses.
- 13. Advocate for the meaningful engagement of marginalised communities and CSOs in all aspects of responses to crises like COVID-19 (including in national COVID-19 response mechanisms), to ensure that any negative impacts of mitigation measures on their rights are identified immediately and addressed promptly.**

#### BOX 15: LEARNING FROM THE HIV RESPONSE

“Forty years of responding to the HIV epidemic has generated significant experience and lessons learned on the importance of a human rights-based approach to ensuring effective and proportionate responses to epidemics. Key among them is the need to have a community-centred and informed response, one that embraces solidarity and kindness, that prioritizes the most vulnerable and that empowers people to be able to take action to protect themselves and others”

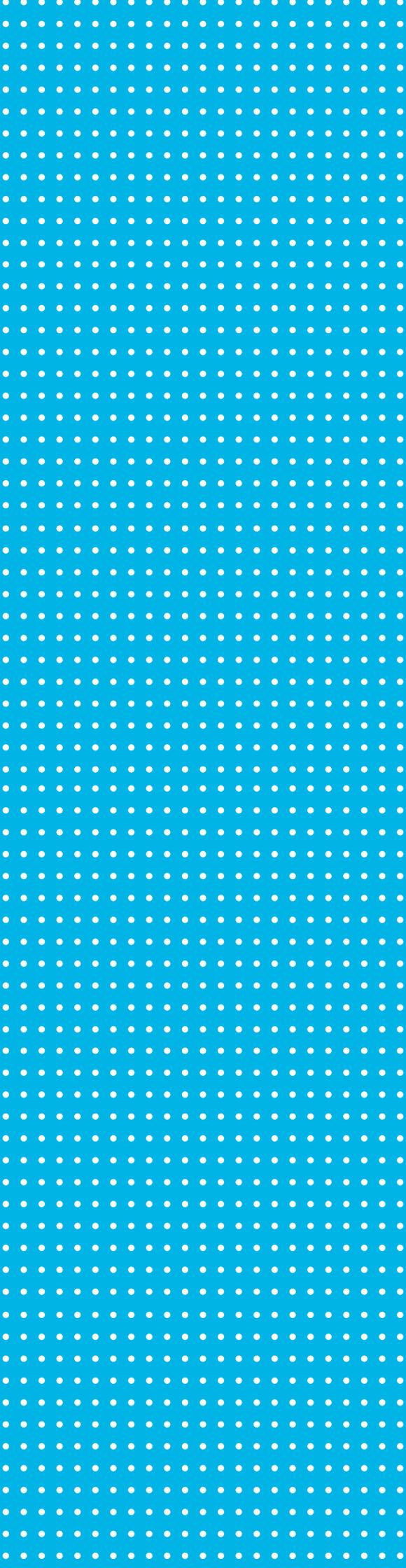
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