

# HIV-RELATED HUMAN RIGHTS CRISES

*Excerpt from the*  
UNDG Guidance Note on Human  
Rights for Resident Coordinators  
and UN Country Teams

2017



---

UNITED  
NATIONS  
DEVELOPMENT  
GROUP

---

# HIV-Related Human Rights Crises

## Key points and messages that the Resident Coordinator should know about the issue

Two broad types of HIV-related human rights crises which require UN Country Team action are:

- **A human rights crisis involving individuals, groups or organizations:** Such a crisis usually involves actions such as harassment, surveillance, detention, disappearance, abuse, blackmail, discrimination, compulsory treatment, forced labour, physical violence or threats targeted against individuals, groups or organizations affected by or working in relation to HIV, that endanger their safety and well-being. Those affected may be people living with HIV or members of key population groups (or populations disproportionately affected by HIV, including gay men and other men who have sex with men [MSM], people who use drugs, sex workers and transgender people), their families or associates, or people or organizations who promote or provide HIV prevention, treatment, care and support services to these groups. Such a crisis may be characterized as “acute” and may warrant urgent and immediate action, potentially followed by longer term efforts to ensure that such crises do not recur;
- **A human rights crisis involving laws, policies or programmes:** Such a crisis may involve existing or emerging laws, policies, practices or programmes that jeopardize or hinder an evidence- informed, rights-based response to HIV. Examples include laws or practices that criminalize the behaviours of key populations or their organizations, or that comprise barriers to their access to HIV prevention, treatment, care or support services; laws or practices that allow testing, treatment or other medical interventions without informed consent or confidentiality; laws, policies or practices that allow detention without due process; laws or practices that fail to protect against gender-based violence and gender inequality in the context of HIV; laws and policies that deny people in prisons and other closed settings access to HIV prevention and treatment equivalent to the access allowed the general community or that segregate people living with HIV; laws or policies indicating forced or coerced sterilization or abortion of women who inject drugs; and overly broad criminalization of HIV transmission. Such a crisis may be characterized as reflecting “chronic” issues in the country that require concerted attention over an extended period of time;
- **A human rights crisis may be considered HIV-related when:** a) it directly involves people living with or affected by HIV or AIDS, and key population groups and/or individuals or groups/organizations advocating on their behalf or that promote or provide HIV prevention, treatment, care and support; and/or b) it creates, perpetuates or increases vulnerability to HIV infection among individuals or groups, or has the potential to do so; and/or c) it jeopardizes or hinders an effective national or local HIV response, including access to HIV-related prevention, treatment, care and support services for people who need them, or has the potential to do so.

## Relevant international standards

- In 2001, all UN Member States committed to strengthening legal and policy frameworks with the objective of eliminating stigma and discrimination against people living with HIV, and vulnerable groups, and ensuring the full enjoyment of their human rights and their equal access to education, health care, employment, social services and legal protection (UN General Assembly, [Declaration of Commitment on HIV/AIDS “Global Crisis – Global Action”](#): Resolution adopted by the General Assembly, 2 August 2001, A/RES/S-26/2).
- Such approaches were affirmed in subsequent political declarations on HIV/AIDS in 2006 (UN General Assembly, [Political Declaration on HIV/AIDS](#): Resolution adopted by the General Assembly, 15 June 2006, A/RES/60/262) and 2011 (UN General Assembly, Political Declaration on HIV and AIDS:

Intensifying our Efforts to Eliminate HIV and AIDS: Resolution adopted by the UN General Assembly, 8 July 2011, A/RES/65/277).

- Human Rights Council Resolution on [the protection of human rights in the context of HIV and AIDS](#) (A/HRC/19/37) calls on States to ensure respect, protection and fulfilment of human rights in the context of HIV, and encourages them to eliminate HIV-specific restrictions on entry, state and residence, as well as the use of HIV-related deportations. It also urges States to remove laws that hinder the HIV response, to eliminate gender inequalities and violence, to increase the capacity of women to protect themselves from HIV and to promote reproductive rights.

## **Role that the Resident Coordinator and UN Country Team can play in promoting the issue**

- UN Country Teams have supported [Stigma Index](#) research led by communities of people living with HIV in over 70 countries, which provides evidence of discrimination experienced by people living with HIV and affected by HIV, and have used that data for rights-based AIDS strategies.
  - In Thailand, following reports of people living with HIV being denied health care, the UN Country Team has provided technical support to the National AIDS Strategy, which has as one of its key outcomes reducing stigma and discrimination.
  - In Tajikistan, UNDP, UNAIDS, and UNFPA have led the UN Country Team joint action on the arbitrary arrest of more than 500 alleged sex workers in June 2014, and the UN Country Team's interventions with the Ministry of Interior and the National AIDS Commission have stopped the police raids as well as alleged mandatory HIV and sexually transmitted infection (STI) testing. UNFPA has led operational research on effects of the abusive law enforcement on HIV prevention programmes for key populations.
- In South East Asia, in 2012, 10 UN agencies called for the closing of “compulsory drug detention and rehabilitation centres”. Since 2011, UNODC, together with UNAIDS and the Economic and Social Commission for Asia and the Pacific (ESCAP) has organized consultations with governments in the region to support the closing of compulsory treatment detention centres for drug users.
- In Senegal, in late 2008, nine gay men who were members of a group providing condoms and HIV treatment support were arrested and subsequently convicted and imprisoned for acts against nature and criminal association. A crisis committee was formed in the country consisting of Senegalese organizations, UN agencies, and NGOs, which worked to coordinate the national and international response. Senior staff of UN agencies reached out to senior government officials, the UN facilitated the recruitment of lawyers to represent the accused, and financial support was provided to MSM groups. UNAIDS released a global press release condemning the arrests. Actions were also taken to protect members of the MSM community from violent attacks. Largely as a result of these national and international efforts, the convicted men were released in April 2009.

## **Support and tools available from the United Nations system**

- Preventing and Responding to HIV-related Human Rights Crisis: Guidance for UN Agencies and Programmes (forthcoming).