

**NATIONAL HIV/AIDS ACCESS TO JUSTICE GUIDELINES  
AND  
CAPACITY BUILDING MANUAL**

**NATIONAL AGENCY FOR THE CONTROL OF HIV/AIDS**

**ABUJA**

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# Forewords

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Access to justice is a basic principle of the rule of law. In the absence of access to justice, people are unable to have their voices heard, exercise their rights, challenge discrimination or hold decision-makers accountable thus; lack of access to justice perpetuates violations of rights of individuals.

The 2016 United Nations Political Declaration on HIV and AIDS: On the Fast Track to Accelerating the Fight against HIV and to Ending the AIDS Epidemic by 2030 reaffirmed that the full realization of human rights and fundamental freedoms for all is an essential element in the global response to HIV. The enactment of laws to protect the human rights and dignity of People Living with HIV (PLHIV) and key populations at higher risk of HIV is essential to creating an enabling environment for effective HIV responses. Furthermore, effective implementation of the 2030 Agenda for Sustainable Development would not be plausible without the strengthened mechanisms for access to justice in the National HIV/AIDS response.

Consequently, the National HIV/AIDS Guidelines and Access to Justice and Capacity Building Manual was developed under the leadership of the National Agency for the Control of AIDS to provide strategic guidance towards the attainment of more functional and effective justice system as it pertains to the national HIV/AIDS response. It is obvious that the Agency takes seriously the fundamental values of promoting inclusion, equity, justice, peace, poverty reduction and security by upholding human rights and fundamental freedoms amongst people living with and affected by HIV and AIDS.

I am confident that the application of this document would be important for the improvement of normative legal protection, legal awareness, legal aid and counsel, adjudication, enforcement of HIV and AIDS related laws and other instruments. This would lead to a safer and more equitable world with sustainable peace while affording the population more attractive alternatives to violence in resolving personal or institutional disputes as it pertains to the HIV and AIDS response nationally and by extension globally.



**Dr Gambo Aliyu**

*Director General,*

*National Agency for the Control of AIDS (NACA) 2020*

The focal point of any meaningful rights-based programme are laws, policies and practices that can guarantee respect for human rights and access to service delivery in a dignifying manner. Everyone including people living with, vulnerable to or affected by HIV are entitled to enjoyment of all human rights and exercising equal participation in civil, political, social, economic and cultural life, without prejudice, stigma or discrimination of any kind. Nonetheless, achieving this can only be possible if the legal and policy environment of the country is clearly understood by all stakeholders.

Access to justice is a vital mechanism for the protection of human rights; conversely, the justice system in Nigeria is often weakened by severe precincts in obtainable remedies provided either by law or in practice. Furthermore, the dearth in awareness/ information of the *modus operandi* of the justice system in the country is one of the colossal gaps in accessing it by the citizenry. Thus, in order to attain efficient legal system, there is the need for the replication of exemplary, precautionary, appropriate, non-discriminatory, deterrent and unprejudiced remedies to cases of violation of rights. Of equal importance, is availability of laudable extrajudicial structures such as the National Human Rights Commission (NHRC). The NHRC is a mechanism that protects citizens (including people living with HIV) against rights' violations. The institution is an extrajudicial structure established for the enhancement of access to justice and the enjoyment of human rights. As part of its mandate, NHRC is poised to use its structure across the country for better response to access to justice for HIV related stigma, discrimination and other human rights violations.

I am pleased to recommend the National HIV/AIDS Access to Justice Guidelines and Capacity Building Manual to empower all concerned persons to take actions when their rights are violated.



**Anthony Ojukwu Esq.**  
*Executive Secretary*  
*National Human Rights Commission, Nigeria*

# Preface

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The 2020 National HIV/AIDS Access to Justice Guidelines and Capacity Building Manual for the response has been developed within the framework of Section 42 of the Nigeria Constitution, which guarantees right to freedom from discrimination and equality of all persons irrespective of ethnic groups, place of origin, sex, religion or political opinions. It also falls within the framework of different global, regional, and national policy commitments to Access to Justice. These include the 2030 Agenda for Sustainable Development, the United Nations Political Declaration on HIV/AIDS (2011), the National HIV and AIDS Anti-Discrimination Act (2014), the Violence Against Persons Prohibition Act (2015) and the Administration of Criminal Justice Act (2015) - amongst other legal instruments.

In 2014, there was a Legal Environment Assessment for HIV/AIDS Response in Nigeria; this assessment was led by National Agency for the Control of AIDS. The assessment revealed among other things, the gaps in the legal environment for HIV response in Nigeria as experiences of discrimination were abundant with little or no access to justice for many. These gaps however, were not due to lack of laws, but the fact that the available legal provisions were not well utilized; as affected individuals or institutions were either unaware of the laws or were oblivious of how to seek redress. Consequently, the assessment necessitated the development of a National Plan of Action. The Plan of Action guides coordinated efforts towards the removal of legal and human rights barriers to HIV services in Nigeria, especially among key and vulnerable populations thereby fast-tracking the achievement of the 90-90-90 targets and ending AIDS by 2030. Unfortunately, though there is increased awareness of the existing justice systems in the HIV and AIDS response in Nigeria, the level of engagement between relevant agencies and people infected and affected by HIV and AIDS is still low; hence the importance of the National HIV/AIDS Access to Justice Guidelines and Capacity Building Manual.

I am certain that if appropriately employed, this document would strategically strengthen individuals, institutions and systems at all levels on the dynamics and utilization of national justice systems for related HIV/AIDS human rights violations.



**Alex Ogundipe, B. Pharm, MPH**

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# Acknowledgements

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The 2020 National HIV/AIDS Access to Justice Guidelines and Capacity Building Manual is the first edition; it offers a methodology to assess barriers in accessing justice on HIV and AIDS related violations and designs tailored responses. It also displays the existence, provisions, implementation and achievements of some legal instruments in Nigeria especially the national HIV and AIDS Anti-Discrimination law, 2014. This law makes provisions for the prevention of HIV and AIDS related discrimination and protects the fundamental human rights and dignity of people living with and affected by HIV and AIDS in Nigeria.

The National Agency for the Control of AIDS (NACA) appreciates the support and collaborations of all her partners who were instrumental to the development of the Access to Justice Guidelines and Capacity Building Manual. Our government partners, the National Human Rights Commission's (NHRC) commitment to provide requisite leadership in ensuring respect for human rights of all Nigerians including those living with or affected by HIV/AIDS is respected and appreciated. The financial support and technical expertise the Global Funds and UNDP are recognised and appreciated. My special thanks go to the consultants and members of the Gender and Human Rights Technical Committee (GHRTC) for their hardwork and technical scrutiny. Noteworthy also are the relentless work and continuous sacrifices of the members of staff of the Gender, Human Rights and Care Support Services (GHRC&S) Division of the Community Prevention and Care Services (CPCS) Department of NACA and the technical sagacity of the Director, Community Prevention and Care Services.

I am convinced that the document would greatly contribute towards the protection of rights and promotion of access to HIV and AIDS related justice and services through a strengthened judicial system fostered by awareness creation, implementation and enforcement of relevant laws, regulations and policies and other instruments.



**Dr. 'Yinka Falola-Anoemuah**  
Deputy Director and Head  
Gender, Human Rights and Care Support Services  
NACA

# Acronyms and Abbreviations

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ACJA	Administration of Criminal Justice Act
AIDS	Acquired Immune Deficiency Syndrome
ANC	Ante Natal Care
ART	Antiretroviral Therapy
ARV	Antiretroviral
ASWHAN	Association of Women Living with HIV/AIDS in Nigeria
ATM	AIDS, Malaria and Tuberculosis
AYP	Adolescents and Young People
CHEW	Community Health Extension Worker
COLAHR	Coalition of Lawyers on Human Rights
CDC	Centre for Disease Control
CPCS	Community Prevention and Care Services
CSOs	Civil Society Organization
ECOWAS	Economic Community of West African States
FCT	Federal Capital Territory
FGM	Female Genital Mutilation
FGN	Federal Government of Nigeria
FIDA	International Federation of Women Lawyers
FMOH	Federal Ministry of Health
FMWA	Federal Ministry of Women Affairs
FCT SACA	Federal Capital Territory AIDS Control Agency
FSW	Female Sex Workers
GARPR	Global AIDS Response, Country Progress Report
GBV	Gender Based Violence
GF	Global Funds
GHRC&S	Gender Human Rights, Care and Support
GHR-SRT	Gender and Human Rights State Response Team
GHRTC	Gender and Human Rights Technical Committee

HCT	HIV/AIDS Counselling and Testing
HEAP	HIV/AIDS Emergency Action Plan
HIV	Human Immunodeficiency Virus
HRI	Harm Reduction International
IBBSS	Integrated Biological and Behavioural Surveillance Survey
IEC	Information, Education, Communication
ILO	International Labour Organisation
JSC	Justice of the Supreme Court
JUNTA	Joint United Nations Team on AIDS
KAP	Key and Affected Populations
KP	Key Populations
LACA	Local Government Action Committee on AIDS
LEA	Legal Environment Assessment
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex
LRRDC	Legal Research and Resource Development Centre
MDAs	Ministries, Departments and Agencies
MICS	Multiple Indicator Cluster Survey
MPPI	Minimum Prevention Package Intervention
MTCT	Mother To Child Transmission
MSM	Men who have Sex with Men
NACA	National Agency for the Control of AIDS
NAIIS	Nigeria HIV/AIDS Indicator and Impact Survey
NAPTIP	National Agency for Prohibition of Traffic in Persons
NARHS	National HIV/AIDS Reproductive Health Survey
NBBFSW	Non Brothel Based Female Sex Worker
NETCUSA	Network to Curb Sexual Abuse
NDHS	Nigeria Demographic Health Survey
NDLEA	National Drug Law Enforcement Agency
NEPWHAN	Network of People Living With HIV/AIDS in Nigeria
NGOs	Non -Governmental Organizations
NHRC	National Human Rights Commission

NPC	National Planning Commission
NPF	Nigeria Police Force
NPoPC	National Population Council
NSP	National HIV/AIDS Strategic Plan
OHCHR	Office of the High Commissioner for Human Rights
OPD	Office of the Public Defender
PABA	People Affected By AIDS
PCRPP	President's Comprehensive Action Plan on HIV
PEP	Post Exposure Prophylaxis
PHC	Primary Health Care
PLHIV	People Living With HIV
PMTCT	Prevention of Mother to Child Transmission
PRAWA	Prisoners Rehabilitation and Welfare Action
PReP	Pre-exposure prophylaxis
PWID	People Who Inject Drugs
RH	Reproductive Health
SACA	State Agency for the Control of AIDS
SFH	Society for Family Health
SGBV	Sexual and Gender Based Violence
SRH	Sexual and Reproductive Health
STIs	Sexually Transmitted Infections
TB	Tuberculosis
TBA	Traditional Birth Attendant
TPs	Trafficked Persons
TWG	Technical Working Group
UDHR	Universal Declaration of Human Rights
UKAID	United Kingdom Aid for International Development
UN	United Nations
UN WOMEN	United Nations Entity for Gender Equality and the Empowerment of Women
UNAIDS	Joint United Nations Program on HIV/AIDS
UNDP	United Nations Development Programme

UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
VAPPA	Violence Against Persons Prohibition Act
VAW	Violence against Women
VCT	Voluntary Counselling and Testing
VVF	Vesico-Vagina Fistula
WHO	World Health Organisation
WLWHA	Women living with HIV/AIDS
WWD	Women with Disabilities

*GUIDELINES FOR ACCESS TO JUSTICE IN THE NATIONAL  
HIV/AIDS RESPONSE*

# Executive Summary

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The document is made up of two parts: Guidelines on access to justice for PLHIV, AYPLHIV, Key populations and other vulnerable groups and training manual to build the capacity of claim holders and duty bearers on knowing and respecting rights as well as redress mechanism available for accessing justice when rights are violated.

The guidelines contain step-by-step guide on how PLHIV, AYPLHIV, PABA, Key populations and vulnerable groups can know their rights and take action when those rights are violated. Areas covered include the examination of the justice system in Nigeria made up of the formal and informal system of justice. Legal instruments including local, regional and global treaties on human rights approach to HIV/AIDS programming were discussed.

Furthermore, the status of access to justice in the National HIV Response as well as barriers such as stigma and discrimination among others were discussed. HIV-related legal models and approaches to increase access to justice were highlighted. The approaches include empowering communities and building legal literacy, enabling access to legal assistance and support, strategic litigation, monitoring and strengthening or reforming existing laws, building capacity of partners and reduction of stigma and discrimination. Access to justice in emergency settings such as COVID 19 pandemic was also discussed.

The capacity building manual is made up of six modules. Module 1 is on training preliminaries while module 2 treats laws and human rights and the connection with HIV/AIDS. Module 3 looks into access to justice for key and vulnerable populations; module 4 is on stigma and discrimination while module 5 focuses on advocacy techniques needed to ensure access to justice for PLHIV, AYPLHIV, Key populations and vulnerable groups. Module 6 deals with monitoring and evaluation including indicators that can be used to monitor accessibility of the justice system by all stakeholders.

## Introduction

### Background

*Justice delayed is justice denied* is a legal maxim that aptly describes the situation of PLHIV, AYPLHIV, Key populations and other vulnerable groups. Though there are national and international laws that speaks to the enjoyment of fundamental human rights by every human being, the reality on ground is that some people are left behind in this enjoyment advertently or inadvertently. Access to justice is a basic principle of the rule of law. In the absence of access to justice, people are unable to have their voice heard, exercise their rights, challenge discrimination or hold decision-makers accountable.<sup>1</sup>

Lack of access to justice perpetuates violations of rights of individual. Access to justice involves normative legal protection, legal awareness, legal aid and counsel, adjudication, enforcement, and civil society oversight. It supports sustainable peace by affording the population a more attractive alternative to violence in resolving personal and political disputes. It covers rights to access the court as a fundamental human right such as freedom of speech. Access to justice is based upon the basic principle that people should be able to rely on the correct application of law.<sup>2</sup>

It is estimated that 1.9 million Nigerians are living with HIV as at 2019.<sup>3</sup> Data also shows that women especially adolescent and young women, key population groups such as Female Sex Workers (FSW), Men having Sex with Men (MSM) and People Who Inject Drugs (PWID) are disproportionately affected.<sup>4</sup> In line with the UNAIDS vision of zero new HIV infections, zero discrimination and zero AIDS-related deaths, and a principle of leaving no one behind; access to justice by the aforementioned groups is a critical enabler to achieving the vision.

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<sup>1</sup> (United Nations, 2019)

<sup>2</sup> (Brenninkmeijer, 2007)

<sup>3</sup> (NACA, 2019 (A))

<sup>4</sup> (NACA, 2019 (B))

Furthermore, although the recently concluded Nigeria HIV/AIDS Indicator and Impact Survey (NAIIS) reveals that Nigeria has moved from the 2nd to 4th position in the global HIV prevalence rate; with a prevalence of 1.5% among adults 15-64 years, however, a huge gap still persists in the area of HIV- related stigma and discrimination and access to justice. This gap has the ability to reverse the recorded gains in the management of the HIV epidemic in Nigeria.

Globally, key populations and their sexual partners now account for more than half (62%) of new HIV infections while HIV infections among young women aged 15-24 years are 60% higher than among young men of the same age.<sup>5</sup> In a similar vein, the 2020 global AIDS update entitled *Seizing the moment* indicates that stigma and discrimination, together with other social inequalities and exclusion, are proving to be key barriers. Marginalized populations who fear judgement, violence or arrest struggle to access sexual and reproductive health services, especially those related to contraception and HIV prevention. Stigma against people living with HIV is still commonplace. At least 82 countries criminalize some form of HIV transmission, exposure or non-disclosure, sex work is criminalized in at least 103 countries and at least 108 countries criminalize the consumption or possession of drugs for personal use.<sup>6</sup> The report also noted that the progress made by many needs to be shared by all communities in all countries. Stigma and discrimination and widespread inequalities are major barriers to ending AIDS and countries need to listen to the evidence and step up to their human rights responsibilities.”<sup>7</sup>

People living with, vulnerable to or affected by HIV are entitled to enjoyment of all human rights and exercising equal participation in civil, political, social, economic and cultural life, without prejudice, stigma or discrimination of any kind. Unfortunately, these people are either unaware of their rights and responsibilities or lack the capability to seek redress thus the need for the Access to Justice Guidelines for the National HIV response.

The Guidelines also contain a set of referral standards, that are expected to serve as a step by step guide for action in cases where the rights of people living with and affected by HIV and AIDS have actually been violated. The use of this document alongside a manual is expected to empower PLHIV, AYPLHIV, PABA, Key populations and vulnerable groups to take action if and when their rights are violated as well as

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<sup>5</sup> (UNAIDS, 2020)

<sup>6</sup> (UNAIDS, 2020)

<sup>7</sup> *ibid*

strengthen systems, institutions, communities and individuals to tackle the challenge of HIV and AIDS related stigma and discrimination as well as barriers to access to justice.

## Specific Objectives of the Guidelines

These Guidelines seeks to achieve:

- Increased legal literacy for the general population; especially the HIV and AIDS key and vulnerable groups
- Institutional, technical and operational guidance for involvement of private and public sector institutions in access to justice services as it pertains to the HIV and AIDS related stigma and discrimination.
- Awareness creation for, recognition of, demanding for and provision of justice remedies by relevant parties in the national HIV and AIDS response.
- Strengthening capacities of private, public institutions and community organizations to foster collaborations, partnerships, and improved community involvements for access to justice programmes and activities.
- Guidance for the utilization of quality data to improve programme planning implementation, monitoring and evaluation of HIV and AIDS related access to justice interventions

## Guiding Principles for HIV-related Legal Services

While respect for human rights is the foundational principle upon which all other principles rest, the following are important in providing access to justice for PLHIV, AYPLHIV, Key populations and other vulnerable groups:

1. Client-Centred Services-This means that the client, fully informed about the pros and cons of the situation at hand is able to decide how to utilize the legal services to be provided. Client's needs, concerns and best interest should always be at the centre of everything. Legal service providers should lay all options on the table so as to enable the client make informed and independent decisions
2. Non Discrimination- Legal service providers should adopt a non-judgemental and non-discriminatory attitudes towards clients regardless of their gender, age, HIV status, sexual orientation particularly PLHIV, AYPLHIV, PABA, FSW, MSM, PWID, PWD, prisoners among others

3. Participation-Creating channels for meaningful involvement and participation of PLHIV, AYPLHIV, Key populations and vulnerable groups in the design, planning and management of legal service programmes is essential.
4. Gender Equality-Legal services should be accessible, affordable, equitable and safe for all regardless of gender identity.
5. Confidentiality-This is a right that must be respected and protected in delivering legal services. Personal and sensitive information such as HIV status and sexual orientation must not be disclosed to a third party without the consent of the client.
6. Transparency and Accountability- Legal service providers should be transparent and accountable to the individuals and communities they serve
7. Sustainability-Legal services should develop capacities of both right holders and right bearers at the community, state and national level in a sustained manner to ensure the scale-up of legal services to PLHIV, AYPLHIV, PABA, Key populations and other vulnerable groups
8. Do No Harm-The principle of do no harm emphasises the fact that though possibility of harm may occur in the process of seeking justice, it might be justifiable to seek redress despite the risks involved if the benefits outweigh the harm. In essence, it is a situation of maximising possible benefits and minimising possible harms. This however has to be done with the full consent of informed clients. Steps in securing all available protection where there are risks of harm involved should also be taken.<sup>8</sup>

### *Access to Justice using Human Rights Based Approach (HRBAP) in the context of HIV/AIDS Programming*

Access to justice as defined by UNDP is the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards while human rights based approach is about ensuring that both the standards and the principles of human rights are upheld. It is about empowering people to know and claim their rights on one hand (claim holders) as well as increasing the ability and accountability of individuals and institutions who are responsible for respecting, protecting and

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<sup>8</sup> Adapted from *Toolkit on Scaling up HIV related Legal Services*, (2009).

fulfilling rights. (duty bearers). In essence, it is about ensuring that justice is served and inequalities and discriminatory practices are addressed and redressed.

Human rights are rights, which belong to each human being by virtue of being human. It does not matter one's nationality, class, sex, gender, sexual orientation, race, religion, health status or any other unique characteristic. A rights-based approach to HIV/AIDS programming "means locating the needs of those infected and affected by HIV/AIDS in human rights that can be claimed and asserted, whatever an individual's, a community's or a government's view on AIDS might be. It means using the language of rights to name and to understand certain practices".

Reports have shown that a rights-based approach to HIV/AIDS offers the best way to respond to the challenges posed to the society by the disease. A rights-based approach to HIV/AIDS addresses not just the infection but all issues and circumstances surrounding it. A checklist of rights ensures 'a greater chance of preventing a skewed response to the pandemic'. In addition to this, a rights-based approach will put at the centre of any response programme, the human beings involved and thereafter the infection.<sup>9</sup>

Furthermore, a rights-based approach to HIV also includes programmes that strengthen community systems. These programmes focus on enabling environments, including community, engagement and advocacy, to improve policy, legal and governance environments and address the social determinants of ill health. Many programmes that address HIV-related human rights and legal issues also strengthen community systems, as well as government, governance and justice systems.

In summary, the centrality of human rights to any HIV/AIDS response cannot be over emphasized.<sup>10</sup> Failure to address the violation of human rights of people living with HIV/AIDS can cause a lot of harm. The UNAIDS Reference Group on HIV and Human Rights (2013) has emphasized the 'critical need for human rights leadership in a number of areas, such as consistent support for harm reduction, as well as addressing HIV-related stigma and discrimination, and criminalization (i.e., the criminalization of HIV exposure, drug use, sex work and homosexuality)

Universal Human Rights include:

- The right to life

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<sup>9</sup> (Kisoon et al, 2002)

<sup>10</sup> (UNAIDS, 2013)

- The right to non-discrimination, equal protection and equality before the law
- The right to the highest attainable standard of physical and mental health
- The right to liberty and security of person
- The right to dignity and integrity of the person
- The right to freedom of movement
- The right to seek and enjoy asylum
- The right to privacy
- The right to freedom of opinion and expression
- The right to freely receive and impart information
- The right to freedom of association
- The right to work
- The right to marry and to found a family
- The right to equal access to education
- The right to an adequate standard of living
- The right to food
- The right to adequate housing
- The right to social security, assistance and welfare
- The right to share in scientific advancement and its benefits;
- The right to participate in public and cultural life; and
- The right to be free from torture and cruel, inhuman or degrading treatment or punishment.<sup>11</sup>

### [International and Regional Instruments and Obligations to ensure Access to justice](#)

Nigeria's obligation to promote and protect HIV/AIDS-related human rights are defined in existing international treaties. Nigeria operates a dualist legal system in operationalizing international treaties and conventions. Section 12 (1) of the 1999 Constitution provides for the domestication of all treaties before they can become law within the country. The section provides thus: "No treaty between the Federation and any other Country shall have the force of law except to the extent to which any such treaty has been enacted

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<sup>11</sup>(United Nations, 1948)

into law by the National Assembly'. In other words, it must be passed by both Chambers of the National Assembly and assented to by the President to become law.

In Nigeria, there are two known ways in which international treaties can be transformed into domestic law. These are by re-enactment or by reference. To re-enact a treaty is to either adopt the whole law as it is in form of a schedule or pass some part of it into law. The other way is to refer to the treaty in another Statute. Reference to a treaty 'could be contained either in the long and short title of the statute or in the preamble or the schedule, although such a treaty does not appear to be an implementing law as such.<sup>12</sup>

Hence, subject to the Nigerian Constitution, upon domestication, treaties and international convention are at par with other Nigerian statutes. The implication of domestication of an international treaty or convention is that it can be pleaded directly in a court of law in pursuing a breach of human right. The point must be made however, that non-domestication of a Convention does not absolve the nation of its obligations under the Convention that it has ratified. Some relevant international and regional human rights treaties that Nigeria is a party to are:

- Universal Declaration of Human Rights, 1948
- International Covenant on Civil and Political Rights, 1966
- International Convention on the Elimination of All Forms of Racial Discrimination, 1969
- Convention on the Elimination of All Forms of Discrimination against Women, 1979
- Code of Conduct for Law Enforcement Officials, 1979
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1985
- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), 1985
- Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1988
- Convention on the Rights of the Child, 1989
- Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, 1989

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<sup>12</sup>(Oyebode, 1988)

- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, 1990
- Guidelines on the Role of Prosecutors, 1990
- United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), 1990
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1991
- Declaration on the Elimination of Violence against Women, 1993
- Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, 1997
- Declaration on the Protection of All Persons from Enforced Disappearance, 2010
- United Nations Resolution on Strengthening crime prevention and criminal justice responses to violence against women, 2011
- United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems 2013
- United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, 2014
- United Nations Guidance on Access to Justice for Persons with Disabilities, 2020
- International Labour Organisation (ILO) Discrimination (Employment and Occupation) Convention<sup>153</sup>

It is however to be noted that at the global level, the development of the International Guidelines on HIV/AIDS and Human Rights in 1996 and the adoption of several UN General Assembly Political Declarations on HIV and AIDS were important milestones in the recognition of HIV-related human rights.<sup>13</sup>

Nigeria's ratification of agreed international community goals includes:

- Programme of Action of the International Conference on Population and Development ICPD (1994)
- Beijing Declaration and Platform for Action (2000)
- Political Declaration at the World Summit for Social Development (1995)

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<sup>13</sup> (UNAIDS, 2018)

- The United Nations Millennium Declaration (2000) which target 2015 for the reversal of the epidemic trajectory
- Greater Involvement of People with AIDS (GIPA) and Meaningful Involvement of People with AIDS (MIPA) principles
- The Abuja Declaration and Framework for Action for the Fight Against HIV/AIDS, Tuberculosis and other related diseases in Africa (2001)
- United Nations General Assembly Special Session on HIV/AIDS (UNGASS) (2001).
- 2005 Gleneagles G8 Universal Access Target
- 2006 United Nations Political Declaration on HIV/AIDS
- 2011 UNGASS Political Declaration on HIV/AIDS: Intensifying our Efforts to Eliminate HIV/AIDS
- African Union's Abuja Call for Accelerated Action towards Universal Access for HIV/AIDS (2006)
- Brazzaville Commitment on scaling up towards Universal Access to HIV and AIDS prevention, treatment, care and support services in Africa by 2010
- African Union Roadmap on Shared Responsibility and Global Solidarity for AIDS, TB and Malaria Response in 2012

At the regional level, the under listed guarantee critical protections in the context of HIV:

- The African Charter on Human and Peoples' Rights (African Charter)
- The African Charter on the Rights and Welfare of the Child (African Children's Charter)
- The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol).

Additionally, in Africa, the 2010 adoption of Resolution 163 on the Establishment of a Committee on the Protection of the Rights of People Living With HIV (PLHIV) and those at Risk, vulnerable to and affected by HIV, which established the HIV Committee, was a critical breakthrough that localized HIV-related human rights within the work of the African Union.<sup>14</sup>

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<sup>14</sup> (UNAIDS, 2018)

## Justice System in Nigeria

The Nigeria legal system is characterised by multiple regime of laws. There are four distinct legal systems namely English Law (statutory laws), Common Law (case law), Customary Law (indigenous traditional beliefs, norms and practices) and Sharia (Islamic) Law. The Constitution is however the grundnorm as all other laws derive their validity from it. Any law that is inconsistent with the Nigerian Constitution is void to the extent of its inconsistency - Section 1(3).

The multiplicity of laws within the legal system means that women, men, boys and girls have different levels of enjoyment of their rights depending on their culture or religion. It also means different levels of vulnerability to HIV infection. The Constitution of the country, however, does not condone discrimination in principle (Section 42 of the 1999 Constitution as amended).

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## Nigerian Framework for Human Rights

The framework for human rights in Nigeria involves human rights laws and institutions in place that recognize and protect human rights in the country.

### Legal Instruments

The most important of the laws in Nigeria is the 1999 Constitution of Nigeria (as amended). There are other laws that are part of Nigeria's human rights framework. A few of those laws are discussed here but it is to be noted that other laws including those governing gender-based violence, protection of PLHIV, protection of children, and protection of persons with disabilities exist. Also, in addition to the laws of the federation, states also have laws intended to protect the rights of citizens.

#### 1. Nigerian Constitution (1999 as amended)

The grundnorm in Nigeria is the 1999 Constitution of the Federal Republic of Nigeria (as amended). Section 1 (1) states that 'the Constitution is supreme and its provisions shall have binding force on the authorities and persons throughout the country'. It goes further in sub section (3) to state that 'If any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail, and that other law shall, to the extent of the inconsistency, be void'. Section 17 states that "*every citizen shall have equality of rights, obligations and opportunities before the law*" while Section 42 also forbids discrimination of any sort against Nigeria

citizens. Chapter II of the constitution also articulated the need for the sanctity of citizens to be recognised and human dignity maintained and enhanced. It also upholds the socio-economic rights of all citizens.

## **2. National Human Rights Commission (NHRC) Act, 1995**

In order to guarantee protection of fundamental human rights and in compliance with the United Nations General Assembly resolution, which enjoins states to establish National Human Rights Commission (NHRC), the government of Nigeria passed the National Human Rights Commission (NHRC) Act in 1995. The NHRC Act 1995 established the NHRC. The 1995 Act was amended in 2010 giving it more independence and powers to promote and protect fundamental human rights.

The commission has express powers to enforce its decisions. The decisions of the Governing Council can be registered as decisions of the High Court. This is a good window of opportunity for MSM, PWID and FSW to seek the protection of their rights. A thorough examination of the mandate reveals that the commission is in the right position to protect HIV positive persons as well as people referred to as key populations if their rights are violated. However, the 2015 LEA revealed that reports were hardly received by the commission from this group of people.

## **3. National Health Insurance Scheme Act 35, 1999**

Nigeria has a National Health Insurance Scheme (NHIS) that was established by the Federal government in 2005 under the National Health Insurance Scheme Act of 1995. It seeks to regulate financing and delivery of healthcare services to the general populace. By virtue of section 16 (1) of the Act, every ‘employer who has a minimum of ten employees may, together with every person in his employment, pay contributions under the Scheme, at such rate and in such manner as may be determined, from time to time, by the Council’. Coverage of the scheme is currently limited to the formal sector. In relation to HIV positive persons, it is only those that are in formal employment that can benefit from it. Unfortunately, apart from the fact that the scheme does not cover HIV drugs, so far the scheme is said to cover only about 3% of the Nigerian population,<sup>15</sup> the implication of which is a health care system that is extremely weak and highly unfavourable to PLHIV. ‘Without adequate financing mechanisms such as insurance, people living with HIV are usually unable to afford treatment at private facilities. Even those who manage to pay out of pocket for services at private facilities run the risk of going into debt and not being able to continue treatment.’<sup>16</sup>

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<sup>15</sup> (NACA, 2015)

<sup>16</sup> (Talib, 2013)

#### **4. Child Rights Act 2003**

The Child's Rights Act was passed in 2003 and following that, 24 States of the Federation have adopted the law. Despite this, the Nigerian child has not been able to benefit from the seeming viable legal environment. The Child's Rights Act addresses different issues such that have links with the intersections between HIV/AIDS and Gender Based Violence. The Act addresses issues of rights and protection such as right to freedom from discrimination, right to dignity of the child, right to health and health services, prohibition of child marriage, hawking or begging for alms or prostitution, unlawful sexual intercourse with a child, prohibition of recruitment of children into the armed forces etc. According to UNICEF 'this landmark legislative achievement has not yet translated into improved legal protection throughout the Federation. Nigeria has been unable to deal with several issues hindering the protection of rights of children such as children living on the streets, children affected by communal conflict, drug abuse, human trafficking and the weaknesses of the juvenile justice system amongst others'.<sup>17</sup>

#### **5. Legal Aid Act, 2011**

The Legal Aid Act, 2011 repealed the Legal Aid Act Cap. L9, Laws of the Federation of Nigeria, 2004, It provides for the establishment of legal aid and access to justice fund into which financial assistance would be made available to the Council on behalf of the indigent citizens to prosecute their claims in accordance with the Constitution and further to empower the existing Legal Aid Council to be responsible for the operation of a scheme for the grant of legal aid and access to justice in certain matters or proceedings to persons with inadequate resources in accordance with the provision of the Act.

Section 10(1) of the Act makes legal aid only accessible to a person whose income does not exceed the national minimum wage. The Board may however (in exceptional circumstances), grant legal aid service on a contributory basis to a person whose earning exceeds the national minimum wage. This may be unrealistic in view of the high cost of litigation in Nigeria; even those who earn twice the minimum wage may not necessarily be able to access justice without the support of institutions like the legal aid council.

Another major provision of the Act is the one that gave a nod to paralegal in the justice system. Section IV (17) on Non-governmental organization law clinic and paralegal submits that:

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<sup>17</sup> (UNICEF, 2007)

- 1) The Council shall maintain a register of non-governmental organizations and law clinics that are engaged in the provision of legal aid or assistance to persons who are entitled to legal aid under this Act.
- (2) The Council may partner with or otherwise engage the services of such organizations in a manner consistent with the mandate of the Council.
- (3) The Council may grant licenses to persons who have undergone a prescribed course in paralegal services to render such services in appropriate situations.

The importance of paralegals in enhancing access to justice cannot be overemphasized. Paralegals make the work of lawyers easier and improve access to justice. When members of PLHIV, AYPLHIV, Key populations and vulnerable groups are trained as paralegals, they are in a better position to defend breach of rights being part of the communities themselves.

### **Administration of Criminal Justice Act, 2015**

The ACJA provides for the administration of criminal justice and for related matters in the courts of the Federal Capital Territory and other Federal Courts in Nigeria. The law repeals the erstwhile Criminal Procedure Act (as applied in the South), the Criminal Procedure Act (as applied in Northern states), and the Administration of Justice Commission Act and now stands as a unique, unified law applicable in all federal courts with respect to offences contained in Federal Legislations. However, the Criminal Procedure Code (Penal Code) is still applicable in the North.

An essential feature of the ACJA is the focus on restorative justice as its end goal against retributive justice and pays serious attention to the needs of the society, the victims, vulnerable persons and human dignity generally. The major aspects of the ACJA 2015 are prevention of unlawful arrest, opportunity for plea bargain, trial of corporations, suspended sentence, speedy dispensation of justice, women as sureties, **electronic recording of confessional statements, prosecution of offences, remand time limit and compensation to victims:**

- ***Prevention of unlawful arrest***- ACJA prevents arrest of persons in lieu of suspects (section 7), where actual arrest is carried out; a suspect is entitled to notification of cause of Arrest (*section 6*) and shall be accorded humane treatment, having regard to dignity of his person (*section 8(1)*). Added to this, arrest of persons over civil wrongs and contracts (*section 8(2)*).
- ***There's opportunity for plea bargain*** – This act enables defendant and the prosecution to work out a mutually acceptable disposition of the case subject to the Court's approval (section 494). Hence, quick dispensation of justice is achieved while time and resources are saved.
- ***Corporations can now be tried*** - Section 477 makes provision for a corporation to be tried for criminal matters through its representative. A company is now treated as an adult 'defendant' 'for any offence' without exception.
- ***Suspended sentence and community service*** - The ACJA, in pursuance of its reformatory and restorative approach, provided that a court, having regard to the need to reduce congestion in prisons; rehabilitate prisoners by making them to undertake productive work; and prevent convict who commit simple offences from mixing with hardened criminals; may with or without conditions, suspend a convict's sentence in which case, the convict shall not be required to serve the sentence in accordance with the conditions of the suspension or the convict may be sentenced to specified service in his community or such community or place as the court may direct. Provided however, that the offence for which the convict was tried does not involve the use of arms or offensive weapon, or for an offence which the punishment exceeds imprisonment for a term of three years (section 460).
- ***Mandates speedy dispensation of justice*** - The ACJA in amplifying the provisions of the constitution to ensure speedy dispensation of justice makes the following provisions among others. This mandate involves no allowance for *Stay of proceedings on criminal matters* (section 306), ***Day-to-day trial*** (section 396) **commences with no more than five adjournments and intervals not exceeding two weeks each.** ***Assignment of information and issuance of notice of trial*** (section 382 (2)) **within record time and Objection to the validity of charge** (section 396(2)) **will only be considered with** the substantive issues and a ruling thereon made at the time of delivery of judgement.
- ***Women can now be sureties*** - The ACJA provides that "no person shall be denied, prevented or restricted from entering into any recognition or standing as surety for any defendant or application on the ground only that the person is a woman" (section 167(3)).

- ***Electronic recording of confessional statements*** - The ACJA, in conformity with the provision of the Evidence Act 2011, Section 29, now provides that a confessional statement may be made by means of an electronic recording in a retrievable video compact disc or such other audio-visual means (**section 15(4)**).
- ***Prosecution of offences***- Only lawyers are to handle the prosecution. The police prosecutors are no longer allowed to handle prosecution.
- ***Remand time limit*** - By the provision of ACJA, section 296 thereof, remand of a suspect is limited to not more than 14 days at first instance and renewable for a time not exceeding fourteen days where “good cause” is shown.
- ***Compensation to victims of crime***- Generally in criminal matters where the defendant is found guilty of the alleged crime; the only ‘remedy’ was sentencing of the defendant and no compensation to victims. By the ACJA, courts can now award commensurate compensation in deserving cases to victims of crime (section 314).

## **6. VAPP 2015**

The Violence Against Persons Prohibition Act (VAPP) is a clear improvement on the penal and criminal code in relation to violence; it also makes provision for compensation to victims as well as the protection of their rights. The content of the Act encompasses forms of violence ranging from physical violence; psychological violence; sexual violence; harmful traditional practices; and socio-economic violence and designates the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) as the service provider (section 44). The following are major aspects of the VAPP 2015:

- ***Rape*** – The definition of rape according to VAPP 2015 Act is when a person intentionally penetrates the vagina, anus or mouth of another person with any other part of his or her body or anything else without consent, or where such consent is obtained by force or means of threat or intimidation of any kind or by fear of harm or by means of false and fraudulent representation as to the nature of the act or the use of any substance or additive capable of taking away the will of such person or in the case of a married person by impersonating his or her spouse (section 1(1)). *This definition is more inclusive and offers protection against rape to both males and females.*
- ***Prohibition of Female Circumcision or Genital Mutilation (section 6)***- VAPP prohibits the practice of circumcision and genital mutilation regardless of culture. It puts liability to a prison sentence (maximum of four years), fine (200,000Naira) or both on anyone who performs circumcision and

genital mutilation, engages another to carry it out, incites, aids or abets and counsels another to commit the offence.

- ***Domestic Offences***- The VAPP Act has now made it an offence to *abandon children, spouse and other dependants without means of sustenance, commit spousal battery, forcefully eject a spouse from his/her home, and to have an indecent act or an act which cause penetration with a person who is to his/her knowledge his/her daughter or son, granddaughter/son or son, sister or brother, mother or father, niece or nephew, aunt/uncle, grandmother or granduncle (incest).*
- ***Compensation to Victims*** - The Act provides that the Court shall award appropriate compensation to the victim as it may deem fit in the circumstance (section 1). In addition to the rights provided for under chapter IV of the Nigerian Constitution, victims and survivors of violence are entitled to comprehensive medical, psychological, social and legal assistance by accredited service providers and government agencies or non-governmental agencies providing such assistance; information on the availability of legal, health and social services and other relevant assistance and be readily afforded access to them; rehabilitation and re-integration programme (section 38).
- ***Protection of Victims***- Victims of abuse are protected from being expelled, disengaged, suspended or punished in any form whatsoever by virtue of the action of compliance with the provisions of this Act (section 38). It offers further protection to victims (complainants) during court hearing and against harm by the respondent.
- ***Attempt as an offence***- In the Act, an attempt to commit an offence is an offence too. The Act thus provides for appropriate punishment for the attempt of commission of offences under the Act (sections 2,4,5,6).
- ***Provision for smooth operation of the law***- VAPP makes it an offence for any person to defraud or conceal an offence or frustrate the investigation and prosecution of offenders. Also, a deliberate attempt to mislead the court by false statements is punishable under this law.
- ***Socio –economic violence***- Prohibition of abduction, harmful widowhood practices, abuse, harmful traditional practice, attack with harmful substances, date rape, damage to property with intention to cause distress, deprivation of liberty, forced financial dependence or economic abuse, forced isolation or separation from family and friends, stalking, coercion, intimidation etc are some of the socio-economic violence prohibited by the Act.
- ***Sexual offender’s Record*** - The Act has provided for a register for convicted sexual offenders, which is to be maintained and accessible to the public (section 1) and where a person has more than one

conviction of sexual offence, the court may declare such a person a dangerous sexual offender (section 43).

- **Political Violence** - The Act defines political violence to mean ‘any act or attempted act of violence perpetrated in the course of political activities, such as elections, and including thuggery, mugging, use of force to disrupt meetings or the use of dangerous weapons that may cause bodily harm or injury’(section 46). Political violence comes with a penalty of fine (1,000,000 Naira maximum) or four years imprisonment

## **7. Patient’s Bill of Rights (PBoR)**

The PBoR is an aggregation of Patients’ Rights by the Consumer Protection Council (CPC) that are enshrined in the constitution, and covered by the Consumer Protection Council Act, Freedom of Information Act, National Health Act among others. A patient’s bill of rights is a list of guarantees for those receiving medical care and guarantees patients information, fair treatment, and autonomy over medical decisions, among other rights. The 12 rights every patient is entitled to according to the document are:

1. Right to relevant information,
2. Right to timely access to medical records,
3. Right to transparent billing
4. Right to privacy
5. Right to clean healthcare environment
6. Right to be treated with respect.
7. Right to receive urgent care
8. Right to reasonable visitation
9. Right to decline care
10. Right to decline or accept to participate in medical research
11. Right to quality care
12. Right to complain and express dissatisfaction regarding services received.

## Justice Institutions in Nigeria

Laws governing human rights do not operate in isolation. For a law to have effect and for citizens to have the benefit of the law, there are institutions that help to give effect to the law. These institutions include the courts, commissions and the legislature. The Constitution makes it clear that if the rights of any person are being violated or are likely to be violated, that person may apply to the court for redress or a remedy. The Institutions of the Justice System could be formal or Informal.

The formal system include:

1. Ministry of Justice responsible for policies and procedures,
2. Institutions such as NHRC, Legal Aid Council and Office of the Public Defender (OPD) serve as ombudsman in providing oversight, advocacy and investigative functions function
3. The Court System including customary courts, magistrate courts, high courts, appeal courts and the Supreme Court
4. The Prosecutors-Lawyers
5. The Enforcement arm such as the Police and Correctional services.
6. The Parliamentarians and CSOs who provide oversight function

The informal Justice System, which refers to processes of resolving disputes outside of formal court systems, is made up of:

1. Alternative Dispute Resolution (ADR): Refers to processes that are available for the resolution of disputes outside the formal courts of justice. This includes not only state-sanctioned ADR such as court-annexed ADR, but also community-level ADR mechanisms and ADR services provided by other non-state actors (e.g., civil society). In essence ADR could either be state, community or CSO controlled. ADR typically includes:
  - Arbitration - A simplified version of a trial involving less strict rules of evidence. Decisions made in arbitration hearings are usually binding, even if the disputing parties don't agree with them. Arbitration is often used to resolve commercial and business disputes.
  - Neutral evaluation – A non-binding process where a third party with expertise in the subject matter hears the arguments of the disputing parties and suggests a likely outcome of a court hearing. This process may encourage disputing parties to come to a settlement.
  - Mediation/conciliation – The terms ‘mediation’ and ‘conciliation’ are often used interchangeably. Mediation involves a third-party intervention (the mediator or a panel of

mediators) in which the disputing parties meet and negotiate face-to-face and where the mediator may advise on, or determine the process of, mediation. Mediation is frequently used in the community as a form of ADR

2. Traditional and Indigenous Justice Systems (TIJS): This consists of pre-existing methods of resolving disputes within communities. Government needs to engage with TIJS to promote the positive aspects of TIJS and ensure that they function in accordance to national laws and international human rights standards.

On a general note, ADR and TIJS are most preferred by vulnerable groups when it comes to accessing justice for the following reasons:

- Faster than court settlements
- Lower cost/free of charge
- Less time consuming than the formal system
- Easy to get to
- Can use their own language and speak out freely
- Community leaders understand the context of the conflict
- Amicable settlement
- Simpler procedure
- Less nepotism/corruption than in the formal system<sup>18</sup>

### **National Human Rights Commission**

The National Human Rights Commission is the foremost body with a mandate to promote human rights, protect citizens from violation, monitor and investigate violations, promote access to justice as well as assist individuals whose rights have been violated. Below is the detailed mandate of the commission.

*(a) deal with all matters relating to the promotion and protection of human rights guaranteed by the Constitution of the Federal Republic of Nigeria, the United Nations Charter and the Universal Declaration on Human Rights, the International Convention on Civil and Political Rights, the International Convention on the Elimination of all forms of Racial Discrimination, the International*

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<sup>18</sup> (IDLO and UNAIDS, 2009)

*Convention on Economic, Social and Cultural Rights, the Convention on the Elimination of all forms of Discrimination Against Women, the Convention on the Rights of the Child, the African Charter on Human and Peoples' Rights and other international and regional instruments on human rights to which Nigeria is a party; (b) monitor and investigate all alleged cases of human rights violations in Nigeria and make appropriate recommendations to the Federal Government for the prosecution and such other actions as it may deem expedient in each circumstance; (c) assist victims of human rights violations and seek appropriate redress and remedies on their behalf; (d) undertake studies on all matters pertaining to human rights and assist the Federal, State and Local Governments, where it considers it appropriate to do so, in the formulation of appropriate policies on the guarantee of human rights; (e) publish and submit, from time to time, to the President, the National Assembly, the Judiciary, State and Local Governments, reports on the state of human rights promotion and protection in Nigeria; (f) organize local and international seminars, workshops and conferences on human rights issues for public enlightenment; (g) liaise and cooperate, in such a manner as it considers appropriate, with local and international organizations on human rights for the purpose of advancing the promotion and protection of human rights; (h) participate, in such manner as it considers appropriate, in all international activities relating to the promotion and protection of human rights.*

Unfortunately, however, as reported in the Legal Environment Assessment for HIV Response in Nigeria, this body rarely receives complaints from PLHIV including key populations. The reason may be that these groups simply do not know that NHRC exist or may not know how to access services offered by NHRC

### **Status of Access to Justice and HIV/AIDS in the National HIV Response**

At the United Nations General Assembly Special Sessions on HIV/AIDS in 2001, Member States committed to: “Enact, strengthen or enforce as appropriate legislation, regulations and other measures to eliminate all forms of discrimination against, and to ensure the full enjoyment of all human rights and fundamental freedoms by **people living with HIV/AIDS and members of vulnerable groups**; in particular to ensure their access to, inter alia education, inheritance, employment, health care, social and health services, prevention, support, treatment, information and legal protection, while respecting their privacy and confidentiality; and develop strategies to combat stigma and social exclusion connected with the epidemic.”

(Declaration of Commitment on HIV/AIDS (2001) clause 58). This statement of commitment to human rights means little without access to affordable legal services.

In Nigeria, a lot of efforts are in place to ensure access to justice especially in addressing stigma and discrimination. Efforts by government and partners in ensuring that stigma and discrimination is tackled include the development of laws, action plans and surveys. These interventions include:

- Mapping of laws, policies and services on gender based violence and its intersections with HIV in (2014);
- National Plan of Action (2017-2022) on removing legal and human rights barriers to HIV and AIDS response in Nigeria;
- National HIV and AIDS Stigma reduction strategy;
- The National HIV and AIDS Anti-Discrimination Act (2014);
- The Violence Against Persons Prohibition Act (2015) and
- The Administration of Criminal Justice Act (2015)
- Legal Environment Assessment for HIV Response in Nigeria (2014)
- Popularization of the positive laws such the HIV and Anti-Discrimination Act (2014), The Violence against Persons Prohibition (VAPP) Act (2015), Administration of Criminal Justice Act (ACJA) (2015).
- The establishment of Gender and Human Rights Technical Committee (GHRTC)
- The establishment of Gender and Human Rights State Response Team (GHR-SRT) in five (5) States and the FCT
- Availability of the popular version of the HIV/AIDS Anti-Discrimination Act (2014) with translation into Nigerian languages
- Training of paralegal persons among key and vulnerable populations
- Capacity building for judicial institutions and human rights administrators on HIV, key and vulnerable populations
- Engagement and capacity building to the members of the parliament at federal and state levels
- Support for alternative dispute resolution and litigation such as Coalition of Lawyers on Human Rights (COLAHR) and Lawyers supporting drug related issues
- Compilation of compendium of cases on abuse and human rights violations

- Dedicated funding for KP organizations for advocacy, capacity building for their members and peer support group interventions including “know your rights” training and education for their peers.

However, a lot still needs to be done especially in the areas of punitive laws. Reviewing and reforming legislations that may create barriers to access to health, social services and reduce stigma and discrimination is needed. Most of HIV and AIDS related abuse; stigma and discrimination go unreported, undocumented and unpunished. The need to establish an effective and sustainable mechanism to address cases of discrimination faced by PLHIV and PABA therefore becomes imperative.

### Barriers to Access to Justice

Research continues to show that human rights violations have serious implications for the spread and impact of HIV on individuals and communities. A lack of respect for human rights fuels the spread and exacerbates the impact of HIV. The nexus between HIV and human rights is demonstrated in its disproportionate incidence and spread among certain groups which, depending on the nature of the epidemic and the prevailing social, legal and economic conditions include women, men who have sex with men, people who inject drugs and female sex workers.

From the user’s perspective, the justice system is frequently weakened by<sup>19</sup>:

- Long delays; prohibitive costs of using the system;
- Lack of available and affordable legal representation, that is reliable and has integrity; abuse of authority and powers, resulting in unlawful searches, seizures, detention and imprisonment; and weak enforcement of laws and implementation of orders and decrees.
- Severe limitations in existing remedies provided either by law or in practice. Most legal systems fail to provide remedies that are preventive, timely, non-discriminatory, adequate, just and deterrent.
- Gender bias and other barriers in the law and legal systems: inadequacies in existing laws effectively fail to protect women, children, poor and other disadvantaged people, including those with disabilities and low levels of literacy.
- Lack of de facto protection, especially for women, children, and men in prisons or centres of detention.
- Lack of adequate information about what is supposed to exist under the law, what prevails in practice, and limited popular knowledge of rights.

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<sup>19</sup> (UNDP, 2004)

- Lack of adequate legal aid systems.
- Limited public participation in reform programmes.
- Excessive number of laws.
- Formalistic and expensive legal procedures (in criminal and civil litigation and in administrative board procedures).
- Avoidance of the legal system due to economic reasons, fear, or a sense of futility of purpose.

In Nigeria, the following have been established as Human Rights Violations and Access to Justice issues affecting the HIV/AIDS Response:

1. **HIV related Stigmatization and Discrimination:** HIV-related stigma and discrimination exists worldwide and manifests itself in Nigeria through many institutions, communities, religious groups and individuals, though the basic elements are surprisingly common across cultures. Stigma often lies at the root of discriminatory actions; thus HIV-related discrimination refers to the unfair and unjust treatment (act or omission) of an individual based on his or her real or perceived HIV status. Stigmatized individuals may also internalize stigma. Stigma and discrimination pose the major barriers to the right to desire to know one's status and the right to live freely and openly irrespective of one's status. Due to stigma and discrimination, people avoid HIV Testing Services (HTS) for fear of being labelled negatively in case they test positive. Discrimination against PLHIV/PABA and key populations causes the abuse of all human rights and this is a driver of the HIV epidemic in Nigeria.
2. **Lack or inadequate knowledge and identification of rights and laws by survivors, victims, perpetrators and implementers:** The legal environment for HIV response in Nigeria is weak as experiences of discrimination abound with little or no access to justice for many. Weakness of the legal system is not due to lack of laws, but the fact that the laws are not well implemented. People are either not aware of the laws or are not aware of how to go about seeking redress. Some victims of human rights violations lose their lives in the process.
3. **Low level of engagement by relevant parties:** The level of engagement between relevant actors and people infected and affected by HIV is adjudged low in Nigeria and could be improved.
4. **Poverty:** Poverty is a major factor that hinders the desire to seek redress when violated, coupled with the absence of safety nets.

5. **Non-application of some provisions of ACJA/other laws:** Magistrates/judges are not adventurous and ready enough to apply innovation in the existing laws especially the innovations in the ACJA.
6. **Lack of enlightenment:** Using education as an instrument of enlightenment through the introduction of basic human right issues into the curriculum at both primary and secondary school level.
7. **Weak mechanisms for monitoring the implementation of existing laws:** There is weak compliance and monitoring system for proper implementation of existing laws in the legal environment such as the National HIV/ AIDS Anti-discrimination law (2014), Violence Against Persons Prohibition Act (2015) and the Administration of Criminal Justice Act (2015).
8. **Existence of Laws, Policies and Practices that hinder the enjoyment of human rights:** HIV related stigma and discrimination can be institutionalized through existing laws, policies and practices that negatively target marginalized groups amongst whom are PLHIV, AYPLHIV, PABA, Key populations and other vulnerable groups. Among such are:
  - a. **Laws that promote violation of human rights**
    1. *Same Sex Marriage Prohibition Law, 2014 (Law on Same Sex Marriage in Nigeria):* Many individuals misunderstand the content of the law on Same Sex Marriage, as many people including the police have been given the impression that the law is aimed at arresting homosexuals. The law reduces support for PLHIV who are members of the MSM community as so many of them have gone into hiding.
    2. *The Abuja Environmental Protection Law (Law on Female Sex Work):* This is a law for ensuring a safe and clean Abuja city but has been used by the police to arrest female sex workers (FSWs). The implication of which is that the sex workers go underground and they cannot be reached with the services that they need or require for HIV prevention and other interventions. There is also a policy in Abuja that supports arrest of FSWs because of the beatification of the city.
    3. *Law on Drug Abuse:* Nigeria has enacted one major drug law - the National Drug Law Enforcement Agency (NDLEA) Act, CapN30, Law of the Federation of Nigeria of 2004 in response to illicit drugs. Its provisions are substantive, procedural, administrative, and regulatory. The provisions are set out with a reasonable degree of clarity and precision. The NDLEA Act criminalizes every kind of activity connected with the production, processing, distribution, sale, use and concealment of illicit drugs. The law does not include a categorization of drugs but rather refers to illicit drugs as

“the drugs popularly known as cocaine, LSD, heroin or other similar drugs” (Section 11). It is to be noted that because of this law, drug users prefer to remain underground and refuse to access health services.

***b. Policies that promote violation of human rights***

1. *Age of Consent:* Current laws, policies and guidelines on the permitted age of consent for access to Sexual and Reproductive Health (SRH) services including HIV treatment, hinders the ability of adolescents below age 18 living with HIV to independently access essential HIV/SRH services. There is on-going advocacy on reviewing the age of consent to increase early access to HTS, care and treatment. The ages at which health care worker can disclose an adolescent or child's HIV status is also being reviewed. The reality is that young people are sexually active and they do not take permission from their parents before becoming sexually active.<sup>20</sup>

***c. Practices that promote violation of human rights***

1. *Gender inequality:* Gender inequality is a major driving force of the HIV/AIDS epidemic, especially amongst adolescent girls and young women (AGYW). It is a key driver in health outcomes influencing the vulnerability of women and girls to human rights violation, HIV infection and HIV-related outcomes. In addition to key drivers such as socio-cultural, religious, economic, political, and environmental factors, gender norms and values often result in behaviour that put girls/women and boys/men at risk of HIV infection as well as violate their rights.
2. *Gender Based Violence:* Women and girls constitute a majority of the victims of this form of violence. Gender-based violence affects boys, girls, men and women irrespective of their race, ethnicity, class, age, economic or educational status, religious or cultural divide etc.<sup>21</sup> GBV is one of the driving forces of the HIV/AIDS epidemic worldwide<sup>22</sup>. Boys and men may also experience GBV because of their sexuality. For instance, MSM are often at risk of attacks in communities where such practice is seen as unnatural or where the law of the land forbids it. GBV include rape, child marriage, wife inheritance, female genital mutilation (FGM) and so on. It is recognized as a direct cause of injury, poor health, and sometimes death. It indirectly affects the health of victims through

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<sup>20</sup> (NACA, 2016)

<sup>21</sup> (NACA, 2015)

<sup>22</sup> (NACA, UNAIDS, WHO, 2008)

unwanted pregnancies and attendant health risks, mental illness, sexually transmitted diseases, and HIV/AIDS. Studies have also continued to suggest that intimate partner violence is an important contributor to women's vulnerability to HIV and STIs<sup>23</sup>.

3. *Illegal HIV screening by employers:* Contrary to national guidelines on HIV screening, some employers carry out compulsory pre-employment HIV screening. Some employers also carry out routine medical screening of employees that generally include HIV test.
4. *Wrong Practices within the health sector and poor attitude of health care providers:* Subtle discriminatory practices against PLHIV, AYPLHIV, Key populations and other vulnerable groups and PABA persist in several hospitals in Nigeria. In spite of the awareness creation and other remarkable changes that have taken place within the health sector in relation to HIV and AIDS response, subtle forms of HIV related stigma and discrimination still exist. This is the bedrock of the violation of key human rights such as the right to health, right to freedom of association and right to non-discrimination, equal protection and equality before the law etc.
5. *Religious and Cultural Practices with Implication for HIV Infection:* Many religious and cultural practices perpetuate actions that violate various human rights including women's right to bodily autonomy and integrity. These practices increase vulnerability to HIV infection. Nigerian cultural traditions have included some practices, which tend to perpetuate violence against women and girls such as rape, female genital mutilation, early and forced marriage, harsh widowhood rites (including hair-shaving and restriction to the home), wife inheritance<sup>24</sup>, marital rape<sup>25</sup>, forced prostitution and other forms of violence.

Furthermore, cultural norms of masculinity that promote male dominance and unhealthy social behaviours often serve as serious barriers to HIV prevention interventions. They hinder men from seeking information, treatment and support or assuming their share of the burden of care. Also, some religious organizations enforcement of myths such as perceiving the use of condoms as sin even when it is for birth control and discouraging marriage between discordant couples borders on the infringement of human rights.

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<sup>23</sup> ibid

<sup>24</sup> (Nwosu –Juba et al, 2007)

<sup>25</sup>(Olateru-Olagbegi, 2004)

**9. Abuse/ Violation of Human Rights:** HIV related stigma and discrimination have birthed the diverse abuse of the human rights of PLHIV, AYPLHIV, Key populations and other vulnerable groups and PABA. Typical examples of these violations include:

- a. *Abuse of Rights to Health:* PLHIV, especially the key and vulnerable population- often face various degrees of violation of their right to health. For example, there is the high level of discrimination against Men who have sex with men (MSM) at the health facilities due to their sexual orientation as well as their status; as such many MSM who live with HIV prefer self-medication and only visit hospitals when self-medication fails.
- b. *Abuse of Rights to Work/ Employment:* Many employers of labour secretly subject unsuspecting employees and job applicants to HIV tests without their consent and therefore lay off/ disqualify those that test HIV- positive without informing the employees/ applicants of the real reason behind this action/ decision.
- c. *Abuse of Rights of Equal Access to Education:* Many students/ pupils have been denied admission into institutions of learning at various levels and others have had their admissions revoked because of their positive HIV status. Additionally, many students who are living with HIV are not accommodated in school hostels or campuses due to discrimination or have refused to seek accommodation in the schools for fear of HIV- related discrimination and other inhuman treatments.
- d. *Abuse of Rights to Inheritance:* The HIV positive women and children are often denied inheritance rights when their husbands/ fathers die from AIDS or AIDS related causes. They are often sent away from their homes and dispossessed of their family properties upon the demise of their husbands/ fathers, this leads to economic hardship and poverty/ deepened poverty levels.
- e. *Abuse of Rights to Marry and to found a family:* One of the major pre-wedding requirements in most religious institutions is a number of medical tests amongst which is a HIV test. Unfortunately, most religious gate- keepers and opinion leaders kick against the marriage of HIV discordant couples even when there is informed consent between the couples involved. This leads to a gross violation of the individuals' rights to marry and found a family.
- f. *Abuse of Rights to Privacy:* Forcing anyone to undergo medical testing of any kind is an invasion of privacy and a violation of human rights. Additionally, lot of cases of unauthorized disclosure of a client's or another individual's HIV status has been recorded in Nigeria. This

practice is often recorded among health care practitioners; it is a bridge of confidentiality and is punishable by the 2014 HIV and AIDS Anti-Discrimination Law.

## *Guidelines for Access to Justice in the National HIV/AIDS Response*

The enactment of laws to protect the human rights and dignity of People Living with HIV (PLHIV) and key populations at higher risk of HIV is essential to creating an enabling environment for effective HIV responses. Accordingly, the 2016 United Nations Political Declaration on HIV and AIDS: Section 63(b) commits to strengthening measures at the international, regional, national, and local and community levels to prevent crimes and violence against, and victimization of, people living with, at risk of and affected by HIV. Existing HIV-related legal services are generally small in scale and in coverage. Achievement of universal access to HIV prevention, treatment, care and support requires an equal commitment to universal access to legal services. This is critically important given the high levels of social marginalization and of discrimination against people living with and affected by HIV and key populations. Legal services should be accessible and affordable to all communities affected by the epidemic. This requires an expansion of quality HIV-related legal services to improve the coverage of services, alongside efforts to expand access to HIV prevention, treatment, care and support services.

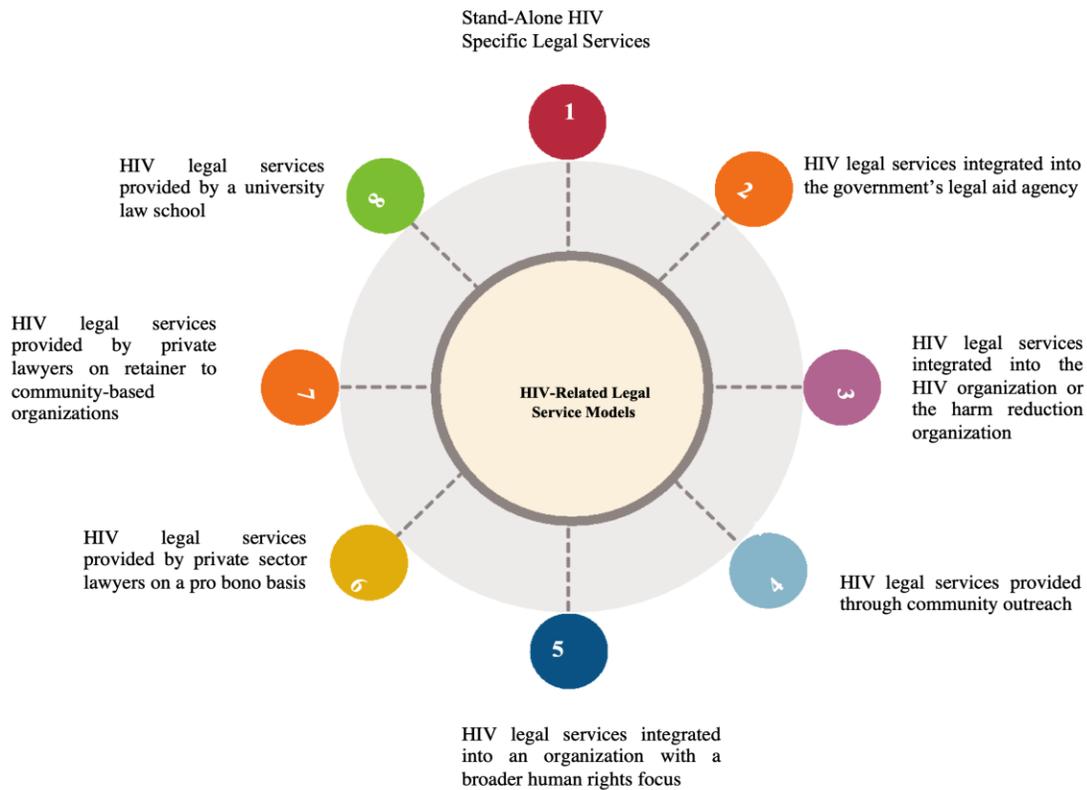
### **HIV Related Legal Service Models**

HIV-related legal services are legal services for people living with HIV, people affected by HIV and key populations that directly relate to legal issues that affect their vulnerability to HIV and/or increase the impact of HIV in their lives. They may be delivered in a variety of settings. For example in conjunction with HIV prevention, treatment, care and support services, in conjunction with other legal services addressing other needs (not necessarily HIV-related) or on a stand-alone basis.<sup>26</sup>

There are eight models for providing HIV-related legal services and this include: Stand-alone HIV-specific legal services, HIV legal services integrated into the government's legal aid Agency, HIV legal services integrated into the HIV organization or the harm reduction organization, HIV legal services provided through community outreach, HIV legal services integrated into an organization with a broader human rights focus, HIV legal services provided by private sector lawyers on a pro bono basis, HIV legal services provided by private lawyers on retainer to community-based organizations and HIV legal services provided by a university law school.

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<sup>26</sup> (IDLO and UNAIDS, 2009)



Source: IDLO (2017): *Equal Rights, Equal Treatment, Ending AIDS: Strengthening and Expanding HIV-Related Legal Services and Rights*<sup>27</sup>

## Approaches to Increase Access to Justice in the National HIV Response

In the context of HIV, accessing justice is defined as ensuring that policies and programmes enable key and vulnerable population to know their human rights, to mobilize around protective laws, to be protected by police and able to access the justice system if they have been harmed. It can also include removing discriminatory laws; elimination of HIV related stigma and discrimination in various sectors, such as health care, education and employment, and encouraging police and law enforcement to be supportive of key and vulnerable populations' access to HIV services. Core legal services required are legal information and referral, legal advice and legal representation.

<sup>27</sup> (IDLO, 2017)

Settings where barriers to access to justice is prevalent in line with the tripartite need of PLHIV (medical, economic and psychosocial) are:

- Healthcare
- Education
- Workplace
- Community

### **Healthcare**

Barriers created in health care settings for PLHIV, AYPLHIV, Key populations and other vulnerable groups include lack of respect, judgmental attitude, confidentiality breach, provision of substandard care or even delay or outright denials in providing care. Thus, stigma and discrimination impacts negatively on the principle of universal health coverage and health for all and block uptake of and retention in HIV prevention, treatment and care and support services.

Particularly, adolescents, young women and girls due to age are prone to negative attitudes from health workers. As a result of this many GBV victims/survivors fail to report and seek appropriate health services. This also goes for key population who due to their sexual orientation or behaviours which is not in tandem with the “norms” as perceived by the society are stigmatized in such a way that coming out to access health care services becomes a daunting task.

### **Education**

Educational setting is another area where barriers are created because of HIV status. Teachers and students alike are stigmatized and discriminated against once their HIV status is known. Children infected or affected by HIV often drops out of school either due to stigma and discrimination or the share burden of care for affected loved ones. While in school, performance may be affected because of isolation from others. Some PLHIV may even prefer to seek accommodation outside of the one provided by the school for fear of discrimination.

### **Workplace**

Most organizations/employers require medical report from a prospective employee in designated health institutions dictated by the organization. More often than not, HIV testing is part of the medical routine, the

result of which is disclosed to the Human Resource (HR) arm of the organization thereby compromising the confidentiality of the result. This practice fuels stigma and discrimination and could lead to non- promotion or loss of job for PLHIV. Report has it that PLHIV have higher unemployment rates than the national average, and lack of access to work increases the vulnerability of people living with HIV and affected communities. It is also reported that some countries exclude PLHIV from participating in certain types of employment, such as serving in the armed forces, law enforcement and the prison service.

## **Community**

The community is the court of public opinion regulated by beliefs, norms, culture and practice. The culprits in most cases at the community level are religious institutions and families. Stigma and discrimination is fuelled by beliefs of promiscuity on the part of those infected or even worse still judgments from the gods. This beliefs manifest in rejecting individuals living with HIV and their families and sometimes ostracization.

In order to achieve access to justice in an equitable manner, the following approaches are required:

1. Empower Communities and Build Legal Literacy
2. Enable Access to Legal Assistance and Support in Seeking Redress
3. Strategic Litigation
4. Monitor and Strengthen/Reform existing Laws, Regulations and Policies
5. Build the Capacity of Partners in both HIV Science and Law
6. Reduce Stigma and Discrimination

### **1. Empower Communities and Build Legal Literacy**

When individuals, networks and communities are legally empowered, their capacity to seek and demand remedies from the justice system is strengthened. Legal empowerment includes legal awareness. Legal awareness is critical to seeking redress for more often than not, PLHIV, AYPLHIV, key populations and other vulnerable groups do not seek redress because they do not know that those laws exist or that they have rights that should be respected. Lack of legal awareness on the part of those infected and affected by HIV is a powerful barrier to accessing justice.

For people to be aware of their rights and capacity built to seek remedies, sufficient information has to be put out there in languages that people can understand. Strategies that may be employed to ensure that individuals and networks of PLHIV know their rights, recognize when those rights are violated and decide on whether or not and how to seek redress include education in various forms. Strategies that may be

employed are:

- ✓ A demand-driven approach in which the specific laws are produced in user-friendly formats taking language, culture and literacy into consideration, proactive dissemination of information on rights and laws through fliers, posters, radio, television, films, social media, peer outreach, telephone hotlines as well as traditional means of accessing information.
- ✓ Use of networks and support groups to mobilize members to know their rights and seek remedies
- ✓ Provide a forum for coordinated legal and HIV information and training especially on human rights to all key stakeholders in the National HIV response. (These should include legal officers from institutions such as Ministries of Health, Justice, Labour and Employment, Humanitarian Affairs, Disaster Management and Social Development among others. Networks of PLHIV, AYPLHIV, Key populations and other vulnerable groups should also be included)

## **2. Enable Access to Legal Assistance and Support in Seeking Redress**

Even when rights of PLHIV are violated and they know, the will to seek redress may have been weakened by some factors among which are financial, time frame and the cumbersomeness of the whole process/traumatic consequences. It is however to be noted that not all cases have to get to court as there are mediation mechanisms outside of the court system. Access to legal assistance and support can be enhanced by:

- ✓ Creating access to legal counsel and other forms of legal aid especially on pro bono basis and in remote areas and communities
- ✓ Expansion of paralegal activities. Paralegals are persons with specialized training who provide legal assistance and when they are part of the groups affected, they have the added advantages of understanding the concerns of “clients” and also earn their trust and more importantly with little or no cost.
- ✓ Use social media to publicise cases such as the shaming of people through the Sex Offenders register.
- ✓ Provide psychosocial support throughout the period of litigation/mediation/arbitration because there is always fear of reprisal or social ostracism especially at the community level

## **3. Strategic Litigation**

Strategic litigation involves cases that challenge the status quo especially as it relates to punitive laws that hinder enjoyment of human rights as well as stigma and discrimination deeply rooted in beliefs, norms and cultures. They are significant in two ways. First, it takes courage and a lot of support for plaintiff to seek redress because of the challenging and intimidating social, cultural and legal environment. Secondly, if won, it could set a good precedence and lead to positive review and reforms of policies and laws. Strategic litigation when properly resourced and documented especially among key populations could serve as a

#### X v Brink and Others

In this case, an employee of a private security firm based in Nigeria sued on the basis of discrimination against him when his employer required that he undergoes an HIV test and then fired him when he tested HIV-positive. This occurred even though the HIV and AIDS Anti-Discrimination Act (2014) prohibits such actions. Finding that the employee was discriminated against, the Court awarded over five years' salary to him as compensation.

The lawyers from Lawyers Alert who represented the employee had previously taken part in a number of capacity-strengthening workshops on strategic litigation and human rights over the past three years under the "Africa Regional HIV Grant on Removing Legal Barriers". To bolster the case, Lawyers Alert reached out to SALC for technical assistance, and to Enda Santé for advocacy support. The court ruling sets a precedent and should deter such discrimination at the hands of other employers.

*Culled from Global Fund Technical Brief: HIV, Human Rights, and Gender Equality (2019)*

veritable tool for advocacy to revise the criminalization of some behaviours and promote universal access to health. Strategic litigation can be enhanced if:

- ✓ Dedicated resources are available both financial and human
- ✓ Cases of human rights violation documented and popularised through mainstream and social media.

#### **4. Monitor and Strengthen/Reform existing Laws, Regulations and Policies**

There are national legislations and policies that promote human rights and access to justice. Such include the Anti-Discrimination Act 2014, VAPP 2015, NSP 2017-2021 among others. All these should be strengthened and monitored for proper implementation. There are however laws that are punitive in nature and negatively impact the National HIV Response. For example, Same Sex Marriage Prohibition Law, The Abuja Environmental Protection Law, Law on Drug Abuse and Policy on Age of Consent are pieces of legislations used to hound MSM, FSW, PWID and AYPLHIV and as such hinder them from accessing health and other social services-these laws need to be reviewed and reformed through strategies such as:

- ✓ Advocacy and lobbying for reform of punitive laws (Strategic litigation outcomes can be used as tools)
- ✓ Engage Top government officials at the executive, legislative and judicial arm
- ✓ Promote laws, regulations and guidelines that prohibit stigma and discrimination and support access to HIV prevention, treatment, care and support for all PLHIV groups

#### **5. Build the Capacity of Partners in both HIV Science and Law**

Responding to the medical, economic, psychosocial and legal needs of people living with HIV will entail building the capacity of the various partners involved especially on the human rights angle of HIV. There

is a need to enhance the capacity and promote networking and professional collaboration among multiple stakeholders. Capacity building will be needed for:

- ✓ Lawyers, paralegals, judiciary, nongovernmental organizations, prosecutors and police about HIV, human rights and the law as well as effective provision of HIV-related legal services.
- ✓ Media, health-care workers, employers, trade unions and other groups about HIV, human rights and the law etc.

## **6. Reduce Stigma and Discrimination**

HIV-related stigma and discrimination refers to prejudice, negative attitudes and abuse directed at people living with HIV and AIDS. In 35% of countries with available data, over 50% of men and women report having discriminatory attitudes towards people living with HIV.<sup>28</sup> The consequences of stigma and discrimination are wide-ranging. Family, peers and the wider community, shun some people while others face poor treatment in healthcare and educational settings, erosion of their rights, and psychological damage. These all limit access to HIV testing, treatment and other HIV services.<sup>29</sup> The People Living with HIV Stigma Index indicates that roughly one in every eight people living with HIV is being denied health services because of stigma and discrimination.<sup>30</sup> Strategies that may be employed include:

- ✓ Use of media, including edutainment
- ✓ Integration of non-stigmatizing messages into TV and radio shows
- ✓ Engagement with religious, community leaders and celebrities
- ✓ Workplace and Educational policies on non-discrimination
- ✓ Mobilization of peers and support group on human rights issues among PLHIV, AYPLHIV, Key populations and other vulnerable groups

## **Stakeholders and their Responsibilities in Ensuring Access to Justice**

**National Human Rights Commission:** The National Human Rights Commission of Nigeria was established by the National Human Rights Commission Act of 1995, as amended in 2010 for the promotion and protection of all human rights. By 2010 amendment, the Commission now has quasi-judicial powers to summon persons, evidence and to award compensation and enforce its decisions. It also has power to visit any place of detention with a view to ensuring that detainees' rights are not violated. The NHRC has a national presence in all the thirty-six states in Nigeria.

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<sup>28</sup> (UNAIDS, 2015)

<sup>29</sup> (Stangl, et al 2013)

<sup>30</sup> *ibid*

**National Agency for the control of AIDS:** have a coordinating function concerning HIV/AIDS/STDs interventions in Nigeria; Coordinating and sustaining advocacy by all sectors and at all levels for HIV/AIDS/STDs expanded responses in Nigeria; collaborating and drawing support from all stakeholders for a multi-sectoral and multi-disciplinary response to HIV/AIDS in Nigeria among other purposes but the agency is not involved in litigation. The agency is present at the state and local government level.

**Ministry of Justice:** The Ministry of Justice encompasses the courts system, the prosecuting office, the offices of the executing authority, the Attorney General, legal advice to all government departments and is responsible for the enforcement of criminal law by means of the Prosecutor General's office.

**Legal Aid Council of Nigeria:** The enabling law expanded the scope of the mandate of LAC to provide free legal assistance and representation, Legal advice and Alternative Dispute Resolution (ADR) to indigent Nigerians in conflict with the law as to enhance access to Justice in Nigeria.

**UNDP:** UNDP's approach to justice sector programmes follows funding capacity development of stakeholders involved to access justice. A capacity development approach opts for building on existing strengths, rather than substituting them:

- **Capacity to seek a remedy** (*legal empowerment of the vulnerable group*): Legal awareness, legal counsel, capacity to access formal and informal justice services.
- **Capacity to provide an effective remedy** (*adjudication, enforcement and oversight*): Effective adjudication and due process: judicial, quasi-judicial, informal and traditional systems, Enforcement: Police and Prisons, Civil society oversight.

**UNAIDS:** supports country based stakeholders to advance human right programming, advocacy, policy reforms etc.

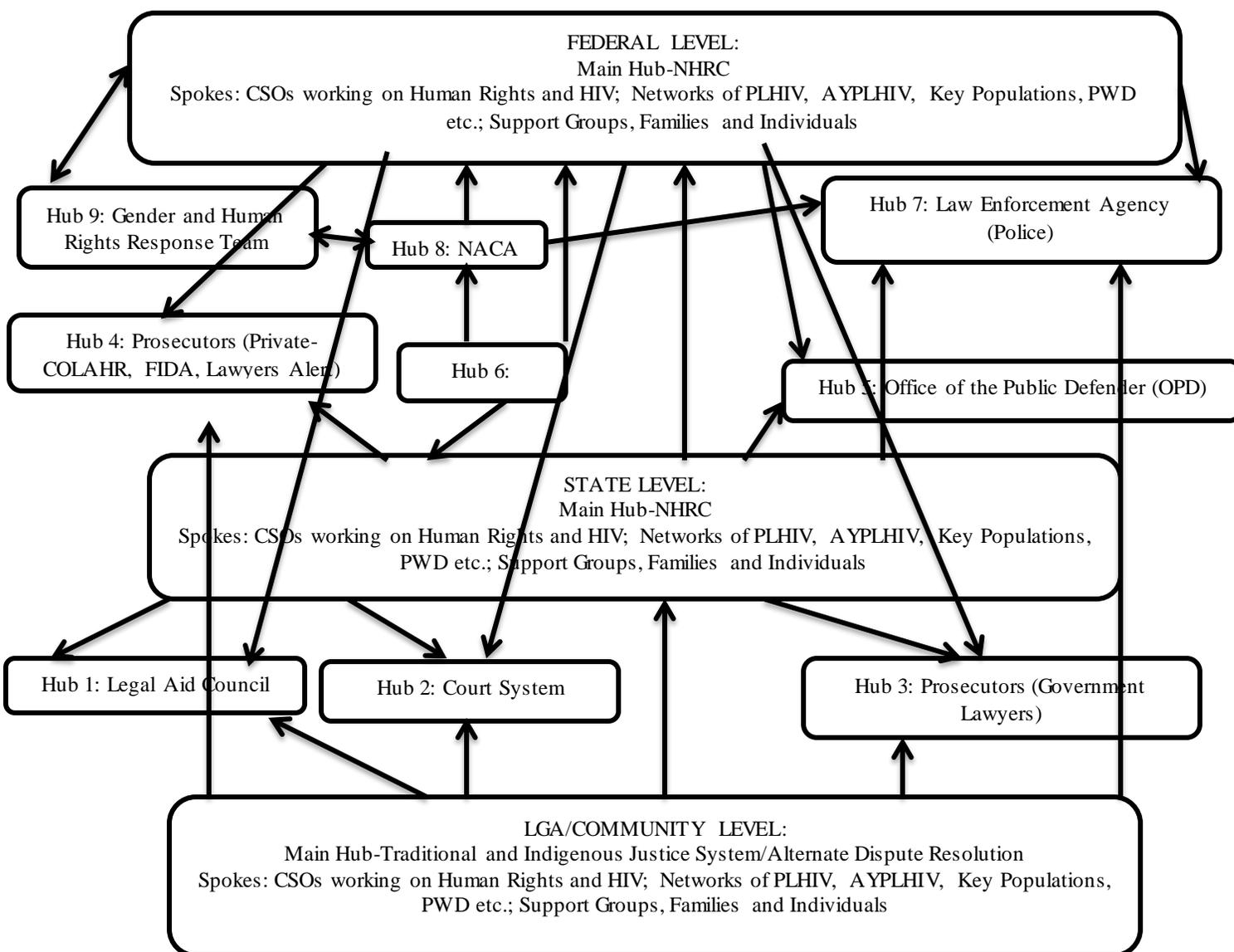
**International Organizations:** generally provide support to strengthen government structures, parliamentarians and CSOs to carry out their oversight functions as it relates to access to justice.

**PLHIV networks, key and other vulnerable groups networks:** A platform that educates and support PLHIV, KP and other vulnerable populations.

**Human rights CSOs: Lawyers Alert, COLAHR, FIDA etc.** - builds the capacity of vulnerable and excluded groups/communities to demand and enjoy their rights including the provision of free legal services, among others.

Other institutions important for collaboration include Ministry of Labour and Employment; Ministry of Humanitarian Affairs, Disaster Management and Social Development, National Agency for the prohibition in Persons (NAPTIP)

### Flowchart of Guidelines on Access to Justice in Nigeria



## **Access to Justice Procedure/Redress Mechanism**

PLHIV, AYPLHIV, Key populations have a right to seek and obtain remedy through formal or informal institutions of justice, and in conformity with human rights standards. Not all cases have to go to court, as there are provisions in the justice system for Alternative Dispute Resolution (ADR). Government sanctioned ADR include NHRC, OPD, Citizen's Mediation Centre etc. Also CSOs and other non-state actors can also set up ADR mechanism. TIJS is also a mechanism for dispute resolution without going to court, however, government need to engage with TIJS to promote the positive aspects of TIJS and ensure that they function in accordance with national laws and international human rights standards.

When there is a violation of human right, the core legal services required are legal information and referral, legal advice and legal representation. An individual aware that his/her right has been breached can approach ADR centres available at LGA, State and Federal or through the support of CSOs, Networks, Support groups etc. for mediation/conciliation. If justice is not served, legal representation at court can be pursued either on pro bono basis (FIDA, COLAHR, lawyers Alert etc) or through legal Aid Council until justice is served. It is also to be noted that toll free lines are available and open for people to lodge complaints. Staff in these mediation centres more often than not have been trained to maintain confidentiality of complainant even when unresolved issues have to be taken to court.

## *Access to Justice in Emergency Settings such as COVID 19 pandemic*

COVID-19 has disrupted not only the health sector but also justice systems. Courts around the world have had to respond quickly to the challenges presented by the pandemic and the associated social distancing restrictions. This has created significant challenges for the justice system and such challenges are likely to be further compounded in the post-pandemic era as there is a 'tsunami' of COVID-19-related disputes predicted<sup>31</sup>.

Nigerian judiciary had also adopted virtual court hearing but slowly due to infrastructural and behavioural factors of conservative lawyers, judges and court clerks after the Supreme Court had supported the notion that a virtual court is within the confines of the Nigerian constitution. Best practice should be encouraged and strengthened to ensure equal access to justice that is fair, timely and effective. However, there are few

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<sup>31</sup> (Sourdin et. Al 2020)

difficult challenges which may be associated with this technology shift such as tackling digital divide due to illiteracy, rural dwellers, aged and economic factors.

Many forms of stigma and discrimination have surfaced since the identification of COVID-19. In several countries, people living with HIV report being required to disclose their HIV status when seeking HIV services during lockdowns, especially adolescents, women and transgender people. Efforts to eliminate both existing and COVID-19-related stigma and discrimination are urgently needed and should be an integral component of global efforts to respond to the pandemic.<sup>32,33</sup> Issues of GBV, especially domestic violence was also said to have increased as a result of COVID 19 necessitated lockdown especially among women and girls<sup>34</sup>

To achieve access to justice during restrictive and state of emergency situations especially as relates to HIV violations and abuses, the following are recommended:

1. Popularization of toll- free line among PLHIV and KP.
2. Establishment of an online national referral path from the communities (support groups) to NHRC and other related bodies which has several pro bono lawyers and ADR services to fast track remedies

These online services should be widely advertised to generate demand and trust

3. Upgrading of the technology of the courts at all levels for virtual court hearing
4. Developing the capacity of judges, lawyers, law enforcement agents to adopt new behaviour to embrace the new norm.

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<sup>32</sup> (UNAIDS, 2020)

<sup>33</sup> (UNODC and UNDP, 2020)

<sup>34</sup> (UN WOMEN, 2020)

## Appendices

### Appendix 1: Definition of Key Terms in Access to Justice and HIV/AIDS Programming

- ❖ **Access to justice:** UNDP defined it as the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards.
- ❖ **Act:** refers to legislation that has passed both Houses of the National Assembly and has been assented to by the President or passed over his veto.
- ❖ **Adjudication:** Describes the process of determining the most adequate type of redress or compensation. Means of adjudication can be regulated by formal law, as in the case of courts and other quasi-judicial and administrative bodies, or by traditional legal systems. The process of adjudication includes a series of stages such as (i) investigation, (ii) prosecution, and (iii) decision.
- ❖ **Bill:** refers to a proposed law, introduced during a session for consideration by the legislature and identified numerically in order of presentation. Also refer to Joint and Concurrent Resolutions and Constitutional Amendments
- ❖ **Capacity development for access to justice:** UNDP defines “capacity” as “the ability to solve problems, perform functions, and set and achieve objectives”. A capacity development approach promotes activities building on existing strengths.
- ❖ **Civil Society and Parliamentary oversight:** Includes watchdog and monitoring functions that civil society actors (or parliamentary bodies) perform with regard to the justice system. Strengthening the overall accountability within the system is critical in many cases.
- ❖ **Demand for remedies–** This relates to the key skills people need to seek remedies through formal and informal systems, including legal awareness, legal aid, and other legal empowerment capacities.
- ❖ **Discrimination:** Refers to any form of arbitrary distinction, exclusion, or restriction affecting a person, usually but not only by virtue of an inherent personal characteristic or perceived belonging to a particular group—in the case of AIDS, a person's confirmed or suspected HIV-positive status—irrespective of whether or not there is any justification for these measures.
- ❖ **Enforcement:** Relates to the implementation of orders, decisions, and settlements emerging from formal or traditional adjudication. Enforcement systems are key to ensure accountability and minimize impunity, thus preventing further injustices.
- ❖ **Female Sex Workers (FSW):** Females who engage in transactional sex. Adults and young people over the age of 18 who receive money or goods in exchange for sexual services, either regularly or occasionally (UNAIDS, 2011).
- ❖ **Gender Based Violence:** This is the violence that occurs based on gender roles, expectations, limitations etc. Gender-based violence includes any physical, mental or social abuse which is

directed against a person on the basis of gender or sex and has its roots in gender inequality. This refers to violence meted out to women and men mainly because of the roles assigned to them by the society.

- ❖ **HIV-related legal services:** These are legal services for people living with HIV, people affected by HIV and key populations that directly relate to legal issues that affect their vulnerability to HIV and/or increase the impact of HIV in their lives.
- ❖ **Human Rights-Based Approach (HRBA):** Is a conceptual framework for the HIV response that is grounded in international human rights norms and principles, both in terms of process (e.g. right to participation, equality and accountability) and outcome (e.g. rights to health, life and scientific progress). HRBA addresses discriminatory practices and unjust distributions of power that impede progress in the HIV response by strengthening the capacities of rights-holders to claim their rights and the ability of duty-bearers to meet their obligations.
- ❖ **Justice remedies:** are legal remedies that typically involve a third party (the justice institution, or mechanism) whose functioning is also regulated by norms, in settling dispute.
- ❖ **Justice systems:** serve to recognize people's entitlement to remedies when these are in dispute
- ❖ **Key Population:** Those most likely to be exposed to HIV or to transmit HIV – their engagement is critical to successful HIV response i.e. they are key to the epidemic and key to the response. In all countries, key populations include people living with HIV. In most settings, men who have sex with men, transgender persons, people who inject drugs, sex workers and their clients, and seronegative partners in sero-discordant couples are at higher risk of HIV exposure to HIV than other people (UNAIDS, 2011).
- ❖ **Legal Aid and counsel:** Includes capacities (from technical expertise to representation) that people need to initiate and pursue justice procedures. Legal aid and counsel can involve professional lawyers (such as in the case of public defence systems and pro bono lawyering), laypersons with legal knowledge, who are often members of the community they serve (paralegals) or both.
- ❖ **Legal Awareness:** Degree of people's knowledge of the possibility of seeking redress through the justice system, whom to demand it from, and how to start a formal or traditional justice process.
- ❖ **Legal protection:** Provision of legal standing in formal or in traditional law, or both. It involves the development of capacities to ensure that people's rights are recognized within the scope of justice systems, thus giving entitlement to remedies either through formal or traditional mechanisms.
- ❖ **Legal remedies:** when remedies are guaranteed by law or by customary norms.
- ❖ **Men who have Sex with Men:** Men who have Sex with Men (MSM) are males who have sex with males, regardless of whether or not they have sex with women or have a personal or social gay or

bisexual identity. This concept is useful because it also includes men who self-identify as heterosexual but have sex with other men. (UNAIDS, 2011).

- ❖ **Normative protection** – Normative protection refers to individual, institutional and collective capacities to ensure that justice remedies to disadvantaged people are legally recognized, either by formal laws or by customary norm.
- ❖ **Remedies:** are measures that redress the harm caused by others when involved in a dispute or conflict, for instance, through restitution or compensation.
- ❖ **Self-stigma:** Refers to feelings of hatred, shame and blame towards oneself. Individuals may believe that they may be judged by others and may refuse to disclose their HIV status for fear of possible negative reactions from family and friend.
- ❖ **Stigma:** Stigma can be described as a dynamic process of devaluation that significantly discredits an individual in the eyes of others. Within particular cultures or settings, certain attributes are seized upon and defined by others as discreditable or unworthy (UNAIDS, 2011).
- ❖ **Supply of remedies** – Includes capacities enabling adjudication of decisions, enforcement of remedies and accountability of the process through civil society and parliamentary oversight.

## Appendix 2: HIV/AIDS Programme Documents

<ul style="list-style-type: none"> <li>• National Policy on HIV/AIDS, 2009</li> </ul>
<ul style="list-style-type: none"> <li>• National Gender Policy Nigeria, 2006</li> </ul>
<ul style="list-style-type: none"> <li>• Workplace Policy on HIV/AIDS, 2020</li> </ul>
<ul style="list-style-type: none"> <li>• Revised National HIV/AIDS Strategic Framework 2019-2021</li> </ul>
<ul style="list-style-type: none"> <li>• National HIV/AIDS Strategic Plan 2017 - 2021</li> </ul>
<ul style="list-style-type: none"> <li>• NAWOCA- Five-Year Strategic Plan and Programme Implementation Framework 2010 -2015</li> </ul>
<ul style="list-style-type: none"> <li>• National HIV/AIDS Prevention Plan</li> </ul>
<ul style="list-style-type: none"> <li>• National Guidelines for the Integration of Reproductive Health and HIV Programmes in Nigeria, 2008</li> </ul>
<ul style="list-style-type: none"> <li>• National Guidelines for Prevention of Mother to Child Transmission, 2010</li> </ul>
<ul style="list-style-type: none"> <li>• Gender Assessment of the National Response to HIV/AIDS in Nigeria. 2013</li> </ul>
<ul style="list-style-type: none"> <li>• National Guidelines for Implementation of HIV Prevention Programme for Female Sex Workers in Nigeria, 2020</li> </ul>
<ul style="list-style-type: none"> <li>• Prevention Package Intervention Implementation Guide (MPPI), 2014</li> </ul>
<ul style="list-style-type: none"> <li>• National Guidelines for HIV/AIDS Care &amp; Support, 2014</li> </ul>
<ul style="list-style-type: none"> <li>• Gender Based Violence in Nigeria National Guidelines &amp; Referral Standards, 2014</li> </ul>
<ul style="list-style-type: none"> <li>• Mapping of Laws, Policies and Services on Gender Based Violence and its intersections with HIV in Nigeria, 2014</li> </ul>
<ul style="list-style-type: none"> <li>• National Plan of Action: Addressing Gender Based Violence and HIV/AIDS (GBV/HIV/AIDS) Intersections 2015 – 2017</li> </ul>
<ul style="list-style-type: none"> <li>• Guidelines for Gender Mainstreaming in the National HIV/AIDS Response &amp; Training Manual For Capacity Building for Gender Mainstreaming in the National HIV/AIDS Response, 2015</li> </ul>
<ul style="list-style-type: none"> <li>• Rapid Appraisal of Gender Management System for National HIV/AIDS Response, 2015</li> </ul>
<ul style="list-style-type: none"> <li>• Legal Environment Assessment for HIV and AIDS Response in Nigeria, 2015</li> </ul>
<ul style="list-style-type: none"> <li>• National HIV Strategy for Adolescents and Young People 2016-2020</li> </ul>
<ul style="list-style-type: none"> <li>• Facts Sheet on Women, Girls, Gender Equality and HIV, 2016</li> </ul>
<ul style="list-style-type: none"> <li>• Policy Brief on Gender Responsive Budgeting: Milestones in HIV/AIDS Programming, 2016</li> </ul>

<ul style="list-style-type: none"><li>• Household Economic Assessment Form</li></ul>
<ul style="list-style-type: none"><li>• Promoting Gender Responsive Budgeting in the National Response on HIV and AIDS in Nigeria, 2016</li></ul>
<ul style="list-style-type: none"><li>• National HIV/ AIDS Stigma Reduction Strategy, 2016</li></ul>
<ul style="list-style-type: none"><li>• National Plan of Action on “Removing Legal &amp; Human Rights Barriers to HIV and AIDS Response In Nigeria” (2017-2022)</li></ul>

## Appendix 3: Terms of Reference for Gender and Human Rights Technical Committee (GHRTC)

### 1.1 AIM OF THE NATIONAL GENDER AND HUMAN RIGHTS TECHNICAL COMMITTEE

The overall aim of the GHRTC is to support the mainstreaming of gender equality, women empowerment and human rights into the National Response as outlined in the HIV /AIDS Policy and National Strategic Framework and Plan (NSF & NSP).

### 1.2 KEY OBJECTIVES

**The specific objectives of the GHRTC include but are not limited to:**

- Provide guidance and capacity building to all stakeholders including people living with disability on mainstreaming gender and human rights (HR) issues in HIV & AIDS response at all levels.
- Advocate for HIV/AIDS prevention and gender equality among member organizations, key stakeholder constituencies and self-coordinating entities under the auspices of NACA.
- Share information on gender analysis and gender mainstreaming amongst member organizations and institutions and other key stakeholders.
- Support monitoring and evaluation of the achievement of gender- related NSF objectives.
- Provide guidance for resource mobilization and logistics for gender mainstreaming.

### ROLES AND RESPONSIBILITIES OF THE GHRTC

- Provide technical assistance on gender and HR to stakeholders including but not limited to: NACA, MDAs, SACAs, CSOs and other TWGs for the development and implementation of strategies, policies and plans.
- Promote the conduct of gender analysis and research to inform gender and HR responsive programming.
- Support the conduct of advocacies to policy makers, key influential people, gate keepers, program managers and implementers on gender equality and women empowerment, male engagement for inclusiveness and HR.
- Advocate for appropriate allocation of resources in a gender responsive manner.
- Convene regular meetings and promote same at sub national levels for generation of ideas on current and emerging issues, technical input and information sharing.
- Promote and support gender responsive monitoring systems at various levels.
- Support the periodic evaluation of gender and HR mainstreaming efforts within the national response.

- Make recommendations for interventions related to current and emerging gender and HR issues identified by the GHRTC.
- Promote networking and foster relationships amongst gender and HIV & AIDS stakeholders at the National, Regional and International levels.
- To identify, adapt and disseminate tools and training materials for gender analysis and mainstreaming.
- To develop indicators for monitoring and evaluation of gender and HR mainstreaming efforts including the evaluation of the achievements of gender and HR related NSF objectives.
- Conduct trainings for relevant stakeholders on mainstreaming gender and HR issues.
- Review, update and disseminate existing directories that support gender and HR mainstreaming efforts.
- Promote gender mainstreaming as appropriate as members of other technical working groups.

## **2. COMPOSITION**

The GHRTC is composed of representatives from the Nigerian Government Ministries Departments and Agencies (MDAs), UN Agencies, International Development Agencies, Nigerian CSOs/ Networks, the Media, Academia, Private sector, Implementing Partners and other Experts. Each representative is responsible for disseminating information, within his or her Agency/Organization/Institution, related to the work and findings of the GHRTC; reviewing documents and providing constructive feedback on material produced by GHRTC members and consultants; and, where possible, providing technical support to NACA related to gender mainstreaming and HR within the National Response. The GHRTC will strive toward greater collaboration with a long term view of mobilizing and pooling resources. Thirty (30) persons should constitute the GHRTC core team.

### **2.1 STANDING SUBCOMMITTEES:**

Subcommittees will facilitate the strategic activities as defined in the objectives. The roles of these subcommittees include but are not limited to:

**I. Advocacy and Policy Influencing Committee:** Lobbying and creating of enabling environment; push for more gender based studies to enhance gender mainstreaming, awareness creation and sensitization:

## **KEY MEMBERS**

FIDA, NCWS, FMOH, ASWHAN, UNAIDS, NAWOJ, ACTIONAID, FMWASD, NACA, UN, NEPHWAN, FBOs, Law Enforcement Agencies (*NACA, NCWS and Action AID to lead*)

**II. Resource Mobilization and Logistics Committee:** Assist in sourcing for funding, human and material resources, arrange meetings of GHRTC etc.

## **KEY MEMBERS**

FMWARD, CIDA, SFH, FMWASD, NACA, UNAIDS, FMOY, UNDP, UNWOMEN and UNFPA. (*UNWOMEN, UNAIDS and SFH to lead*).

**III. Coordination and Capacity Building Committee:** This committee has the responsibility of providing oversight for coordination of gender, HR and HIV/AIDS programmes at National, State and local levels; provide strategic direction on the management of capacity gaps for effective implementation at National, State and local levels.

## **KEY MEMBERS**

NACA, SFH, FMWASD, FMARD, NPF, FMOH, WERHC, FME and USG partners. (*NACA and FMWASD to lead*).

**IV. Monitoring, Mentoring and Supervision Committee:** This committee should ensure at least one quarterly report on monitoring, mentoring and supervision activities at all levels; lead in development of checklists and tools. Also they will provide oversight in implementation at all levels.

## **KEY MEMBERS**

FMOH, NPS, FMARD, SFH and NACA. (*FMOH and NACA to lead*).

**V. Human Rights Committee:** This committee is to popularize, advice on and monitor the implementation of national laws, policies and international treaties which Nigeria is signatory to.

## **KEY MEMBERS**

FMOJ, FMWASD, NACA, HRC, JONADPWD, FIDA, NAWOJ, UN, USG. (*FMOJ, HRC and NACA to lead*).

### **3. STRUCTURE**

The national GHRTC will have a chair and co-chair. In addition, NACA will serve as the secretariat of the meeting; NACA therefore shall be the convener of the GHRTC meetings.

#### **MEETINGS**

- The GHRTC shall meet on quarterly basis; however extraordinary meetings may be called between regular meetings as required.
- Subcommittees will meet as occasion demands to carry out specific tasks. Other communication methods e.g. email, telephone, etc. are encouraged to ensure that tasks are completed promptly.
- Minutes representing the views of the GHRTC and follow-up actions shall be noted and circulated to all present and non- present members after each meeting.
- When appropriate, the committee will request an agenda item at Expanded Theme Group meetings.

## Appendix 4: Term of Reference of Gender and Human Rights Response Team at National and State levels

### 1) AIM OF THE GENDER AND HUMAN RIGHTS STATE RESPONSE TEAM (GHR-SRT)

The overall aim of the GHR-SRT is to support the mainstreaming of gender equality and human rights into the State response as outlined in the HIV /AIDS Policy and National Strategic Framework and Plan (NSF & NSP) and other national guidelines and standards.

### 2) KEY OBJECTIVES

The specific objectives of the GHR-SRT include but are not limited to:

- Provide guidance and capacity building to all stakeholders including people living with disability on mainstreaming gender and human rights (HR) issues in HIV & AIDS response at the state levels.
- Advocate for HIV/AIDS prevention and gender equality among member organizations, key stakeholder constituencies and self-coordinating entities.
- Share information on state specific gender and human rights analysis and mainstreaming among member organizations and institutions and other key stakeholders.
- Provide guidance for resource mobilization and logistics for state specific gender and human rights mainstreaming.
- Document and share best practices and lessons learnt on gender human rights responsive programming at state level
- Support monitoring and evaluation of the achievement of gender and HR related NSF objectives.

### 3) ROLES AND RESPONSIBILITIES OF THE GHR-SRT

- Advise relevant stakeholders on how to prevent and remedy human rights violations at all levels in the State
- Domesticated and popularize the 2014 HIV and AIDS Anti-Discrimination Act, the State HIV and AIDS Anti-Discrimination laws, Violence Against Persons Act and its equivalent at the state levels
- Promote and facilitate appropriate law reviews and reforms
- Facilitate access to justice for survivors of gender based violence, human rights violation or HIV/AIDS related stigma and discrimination

- Provide technical assistance on gender and HR to stakeholders including but not limited to: state MDAs, CSOs and other TWGs for the development and implementation of gender and human rights responsive strategies, policies and plans.
- Promote the conduct of gender analysis and research to inform gender and HR responsive programming in the States.
- Support the conduct of advocacies to policy makers, key influential people, gate keepers, program managers and implementers on gender equality and women empowerment, male engagement for inclusiveness and HR.
- Advocate for appropriate allocation of resources in a gender and human rights responsive manner.
- Convene regular meetings to promote the generation of ideas on current and emerging issues, technical input and information sharing at the State level.
- Promote and support gender and human rights responsive monitoring systems at various levels.
- Promote networking and foster relationships amongst gender and HIV & AIDS stakeholders at the state levels.
- Identify, adapt and disseminate tools and training materials for gender and human rights analysis and mainstreaming.
- Conduct trainings for relevant stakeholders on mainstreaming gender and HR issues.
- Review, update and disseminate existing directories that support gender and HR mainstreaming efforts in the state.
- Develop indicators for monitoring and evaluation of gender and HR mainstreaming efforts including the evaluation of the achievements of gender and HR related NSF objectives.

#### **4) COMPOSITION**

The GHR-SRT would be composed of representatives from the state Ministries Departments and Agencies (MDAs), UN Agencies, Development and Implementing Partners in the States, Nigerian CSOs/ Networks, the Media, Academia, Private sector and other relevant Experts.

Each representative is responsible for disseminating information, within his or her Agency/Organization/Institution, related to the work and findings of the GHR-SRT; reviewing documents and providing constructive feedback on material produced by GHR-SRT members and consultants; and, where possible, providing technical support related to gender mainstreaming and HR within the state

response. The GHR-SRT will strive toward greater collaboration with a long term view of mobilizing and pooling resources.

#### 5) **STRUCTURE**

The state GHR-SRT will have a chair and co-chair. In addition, the State Human Rights commission or any other organisation the team may select will serve as the secretariat for the team;

#### 6) **MEETINGS**

- The state GHR-SRT will hold its meetings at regular intervals as agreed by the team.
- Sub teams will meet as occasion demands to carry out specific tasks.
- Different relevant communication methods e.g. email, telephone, etc. will be used by the team members to maintain regular and timely information sharing in order to ensure that tasks are executed promptly.
- Minutes of meeting documenting decisions of the GHR-SRT and follow-up actions shall be noted and circulated to all present and non-present members after each meeting.
- When appropriate, the team will request an agenda item at state Expanded Theme Group meetings.

## Appendix 5: Roles and responsibilities of a Human Rights Focal Person (HRFP)/Gender Focal Person (GFP) in HIV programming

- Provide technical support to the organization on how to prevent and remedy human rights violations.
- Support the organization to facilitate, domesticate and popularize the HIV and AIDS Anti-Discrimination Act (2014) and Violence Against Persons Act (2015)
- Facilitate access to justice for survivors of gender based violence, human rights violation or HIV/AIDS related stigma and discrimination
- Network with external bodies, partners and stakeholders on human rights issues that are of interest to the organization (including international agencies, national institutes and NGOs);
- Work closely with the HRFPs of related organizations
- Advocate for appropriate allocation of resources in a gender and human rights responsive manner.
- Convene regular meetings to promote the generation of ideas on current and emerging issues, technical inputs and information sharing.
- Promote and support gender and human rights responsive monitoring systems at various levels.
- Conduct trainings for relevant stakeholders on mainstreaming gender and HR issues.
- Stimulate further deepening of the knowledge base on human rights aspects of the work of the organization;
- The GFP will liaise closely and keep the Senior Management fully informed about emerging trends and expectations, including through written reports.

## Appendix 6: Normative Framework for Access to Justice

[The International Covenant on Civil and Political Rights](#) enshrines the principles of equality before the law and the presumption of innocence, and includes guarantees of freedom from arbitrary arrest and detention and the right to a fair and public hearing by a competent, independent and impartial tribunal established by law.

The independence of the judiciary is addressed in the [Basic Principles on the Independence of the Judiciary](#). This instrument requires that the independence of the judiciary be guaranteed by national law and prohibits the inappropriate and unwarranted interference with the judicial process. Furthermore, it protects due process through established legal procedures that are fair and respect the rights of the parties. It also obligates states to provide adequate resources to enable the judiciary to properly perform its functions, and sets forth principles for the selection, training and conditions of service and discipline of the judiciary.

The [Basic Principles on the Role of Lawyers](#) requires governments to ensure that efficient procedures and responsive mechanisms for equal access to lawyers are provided, including the provision of sufficient funding and other resources for legal services to the poor and other disadvantaged persons. In addition, it entitles lawyers to form and join self-governing professional association, while at the same time such professional associations are required to cooperate with governments in the provision of legal services.

The [Guidelines on the Role of Prosecutors](#) identify the responsibility of prosecutors in protecting human dignity and upholding human rights and ensuring due process. The Guidelines also strictly separate judicial functions from the office of the prosecutor. Requirements of law enforcement officials, including military authorities that exercise police powers, are set out in the [Code of Conduct for Law Enforcement Officials](#). The Code, among other things, requires officers of the law to uphold the human rights of all persons and to provide particular assistance to those who, by reason of personal, economic, social or other emergencies, are in need of immediate aid.

Several international instruments address the rights of prisoners and detainees. Among them, the [Basic Principles for the Treatment of Prisoners](#) prohibits discrimination, insists on respect for human rights as contained in international instruments and calls for the reintegration of ex-prisoners into society under the best possible conditions and with due regard to the interests of victims.

## Appendix 7: Human Rights and Access to Justice Issues in the Thematic Areas of the National HIV/AIDS Strategic Plan (2017– 2021)

### **Gender and human rights**

The respect for the rights of all citizens in Nigeria is fundamental to ensuring equitable access to HIV prevention, treatment, care and support programmes. Equitable access to HIV programmes can also be enhanced through the recognition of gender differences that may serve as barriers to access to the programmes and commodities, and hampers effective programming across the continuum of HIV prevention, testing, treatment, and care and support. The NSP recognizes the relative powerlessness and unequal socioeconomic status of women when compared to men; the risk gender based violence pose to the ability of women to negotiate safer sex, prevent HIV or mitigate the impact of AIDS; and acknowledges that differences in sexual orientation and sexual practices should not limit access of anyone to HIV programmes. It recognizes the negative impact inadequate attention to rights and gender issues has on access to HIV prevention, treatment, care and support services; and how this worsens the impact of HIV on specific population groups, especially adolescents and young women. The NSP acknowledges that the lower rate of retention in care among males living with HIV is a pertinent gender related issue and responding to the impact on gender dynamics on the HIV response implies that barriers to access to HIV programmes by males, females and trans genders need to be recognized and addressed.

The 2017–2021 NSP was therefore developed with an eye to respect the rights of all persons irrespective of age, gender, socio-economic status and sexual orientation. It also recognizes stigma and discrimination as human rights violations that pose significant challenge to effective HIV response, and thus commits to addressing stigma and discrimination against all people living with, presumed to be living with, at risk of, and affected by HIV, as a critical element in the national response. It aligns its programmes with the Guidelines for Gender Mainstreaming in the National HIV/AIDS Response and Training Manual for Capacity Building for Gender Mainstreaming in the national HIV/AIDS Response. The Plan and its Framework also uphold the principle that HIV and AIDS response “can be fast-tracked by protecting and promoting access to appropriate, high quality, evidence- based HIV information, education and services without stigma and discrimination and with full respect for rights to privacy, confidentiality and informed consent.” This Plan therefore provides for gender sensitive and gender-responsive programming which improves access of PLHIV, vulnerable children, and PABA to comprehensive rights-based care; fosters an enabling environment for PLHIV, PABA, VC, FSW, MSM and PWID to access HIV services; strengthening interventions targeted at reducing stigma and discrimination against PLHIV, vulnerable and key populations; promotes advocacy to strengthened implementation of the HIV and AIDS Anti-discrimination

Act; and, promoting the access of all persons including PLHIV, vulnerable and key populations to justice through use of community based and institutionalized mechanisms

**Promote access to justice for PLHIV and PABA, including the use of Community-based mechanisms.**

**Major Activities**

- Educate PLHIV and PABA: Educate PLHIV and PABA about HIV and AIDS Anti-discrimination Act and how to seek justice.
- Advocate for the Establishment and/or Strengthening of Legal Aid Groups: Advocate for improved efforts of the existing legal aid groups and the establishment of more groups to enhance the access of PLHIV and PABA to justice.
- Support the Operations of Community based Mediation/Conflict Resolution Mechanisms: Partner with, and provide support to the Ministry of Justice to improve mechanisms for community based resolution of cases of stigma and discrimination

(Source: National HIV and AIDS Strategic Plan (2017 – 2021; pp. 60, 64-65)

## Appendix 8: Areas of Support on Access to Justice and Key Actors

Type	Description	Key Actors
Legal protection	<p>Provision of legal standing in formal or traditional Law-or both- involves the development of capacities to ensure that the rights of disadvantaged people are recognized within the scope of justice systems, thus giving entitlement to remedies through either formal or traditional mechanisms. Legal protection determines the legal basis for all other support areas on access to justice. Legal protection of disadvantaged groups can be enhanced through:</p> <p>(a) Ratification of treaties and their implementation in the domestic law; (b) implementation of constitutional law; (c) national legislation; (d) implementation of rules and regulations and administrative orders; and (e) traditional and customary law.</p>	<p>Parliament</p> <ul style="list-style-type: none"> <li>- Ministries of Foreign Affairs</li> <li>- International/regional fora</li> <li>- Ministry of Justice and Ministry of Police Affairs</li> <li>- National Human Rights Commission</li> <li>- Law Reform/Legislative Commissions</li> <li>- Legal drafting cells of relevant ministries</li> <li>- Local officials involved in legal drafting</li> <li>- Judges, particularly of courts whose decisions are binding on lower courts or, under the law, are able to influence courts in other jurisdictions</li> <li>- Traditional Councils</li> <li>- Community leaders (chiefs, religious leaders)</li> <li>- CSOs, especially those involved in legal research, legal advocacy and monitoring</li> </ul>
Legal awareness	<p>Development of capacities and effective dissemination of information that would help disadvantaged people understand the following: (a) their right to seek redress through the justice system; (b) the various officials and institutions entrusted to protect their access to justice; and (c) the steps involved in starting legal procedures. UNDP's service line on access to information provides an opportunity to develop capacities and strategies to promote legal awareness.</p>	<ul style="list-style-type: none"> <li>- Ministry of Justice</li> <li>- Ministry of Education/higher education, schools and universities</li> <li>- NHRIs</li> <li>- Legal aid providers</li> <li>- Quasi-judicial bodies (human rights, anti-corruption, and electoral commissions).</li> <li>- Local government bodies</li> <li>- Non-governmental institutions (e.g. NGOs, Bar associations, universities, communities)</li> <li>- Labour unions</li> </ul>
Legal aid and counsel	<p>Development of the capacities (from technical expertise to representation) that people need to enable them to initiate and pursue justice procedures. Legal aid and counsel can involve professional lawyers (as in the case of public defence</p>	<ul style="list-style-type: none"> <li>- Ministries of Justice and state-funded legal aid programmes</li> <li>- Public Attorneys</li> <li>- Court system (e.g. to deal with court fees)</li> <li>- Local governments</li> </ul>

	systems and <i>pro bono</i> representation), laypersons with legal knowledge (paralegals), or both (as in “alternative lawyering” and “developmental legal aid”).	<ul style="list-style-type: none"> <li>- Police and the Correctional Service system</li> <li>- Non-governmental organizations (NGOs)</li> <li>- Bar associations</li> <li>- Law clinics (often linked to university faculties of law)</li> </ul>
Adjudication	Development of capacities to determine the most adequate type of redress or compensation. Means of adjudication can be regulated by formal law, as in the case of courts and other quasi-judicial and administrative bodies, or by traditional legal systems.	<ul style="list-style-type: none"> <li>- Courts</li> <li>- National human rights institutions (Human Rights Commissions and Ombudsman Offices)</li> <li>- Alternative dispute resolution mechanisms: these can be attached to the court system, or be administrative bodies (such as land and labour boards)</li> <li>- Traditional and indigenous ADR</li> </ul>
Enforcement	Development of capacities for enforcing orders, decisions and settlements emerging from formal or traditional adjudication. It is critical to support the capacities to enforce civil court decisions and to institute reasonable appeal procedures against arbitrary actions or rulings	<ul style="list-style-type: none"> <li>- Prosecution</li> <li>- Formal institutions (police and correctional and borstal institutions)</li> <li>- Administrative enforcement</li> <li>- Traditional systems of enforcement.</li> </ul>
Civil society and parliamentary oversight	Development of civil society’s watchdog and monitoring capacities, so that it can strengthen overall accountability within the justice system.	<ul style="list-style-type: none"> <li>- NGOs working on monitoring and advocacy</li> <li>- Media</li> <li>- Parliamentary select and permanent committees</li> </ul>

*TRAINING MANUAL FOR CAPACITY BUILDING ON ACCESS TO  
JUSTICE IN THE NATIONAL HIV/AIDS RESPONSE*

## *Introduction*

The training manual is developed for use by state and non-state actors working with PLHIV, AYPLHIV, Key populations including young key populations and other vulnerable groups on issues of human rights and access to justice. The manual is designed for use in building the capacity of organizations, networks of PLHIV and key populations as well as PLHIV on law, legal tools, human rights and mechanism in place to secure access to justice. Legal literacy on issues around sexual and reproductive health and rights, gender equality, gender based violence, privacy, stigma and discrimination is at the core of the manual. The first step in access to justice is in knowing your rights.

Also as an advocacy tool, it contains hints that can be used to train groups of people or individuals who are working on promoting access to justice for PLHIV, Key populations and other vulnerable groups in order to strengthen their capacities for planning and implementing effective advocacy and lobbying strategies for effective legislation reforms and policy implementation. It supports training on participatory planning of advocacy initiatives aimed at influencing legislations and policies towards achieving equality and justice for PLHIV, key populations and vulnerable groups.

### **Objectives of the Manual are to:**

1. Equip participants with the knowledge of international and national laws applicable to HIV vulnerability and human rights.
2. Train participants to be able to identify and use legal mechanisms and institutions available to enforce human rights
3. Enable participants prepare, design and implement programmes that effectively address justice issues such as stigma and discrimination, non-discriminatory health care; protective policing and drug use.
4. Build the capacity of participants to be able to monitor how accessible the justice system is for PLHIV; Key populations and other vulnerable groups and what can be done.
5. Strengthen the capacity of state and non-state actors to be able to foster human rights protection of PLHIV, key populations and vulnerable groups through advocacy for legislation reforms, policy change and action plans

## *Structure of the Manual*

The training manual is composed of six modules. While module 1 is on the basic preliminaries of training sessions, module 2 gives an overview of laws, human rights and HIV nexus. Module 3 is on access to justice for Key and vulnerable populations while module 4 deals specifically with stigma and discrimination as it affects, PLHIV, Key and vulnerable populations

Module 5 touches on planning and implementing advocacy for access to justice while Module 6 deals with monitoring and evaluation of access to justice through using sensitive human rights indicators. The modules can either be used separately or together depending on the context while facilitators can adopt, adapt and adjust the modules and activities, as it deemed necessary. This manual should be used along with the [guidelines on access to justice](#) in the national HIV/AIDS response as well as an earlier [guidelines and manual](#) developed for gender mainstreaming in the national HIV/AIDS response and capacity building of stakeholders

## *Training Methods*

On a general note, the materials recommended for the modules are flip charts, markers, masking tapes, adhesive labels, sticky notes of different colors, writing materials, cardboards, IEC materials, projector, video clips while the following methods: presentations, brainstorming, case studies, role plays, group discussions (both small and plenary), video clips, questions and answers and lecture can also be employed to encourage active participation.

General pattern to follow for training include setting up of individuals or committees for effective management (such include timekeeper, welfare officer among others). A pre assessment test repeated in form of a post assessment is essential as well as daily evaluations in form of questionnaire in other to ensure that the objectives of the training are met and actual learning has taken place.

## Module One – Starting the Training



### Objectives

At the end of the module sessions, participants will:

1. get to know one another
2. state their expectations from the training
3. be briefed on the objectives of the training
4. jointly set the ground rules to govern the training
5. take a pre training assessment



Duration: 1 hour

### Methodology:

Presentations, group discussions and individual assignment

### Materials required:

Flipcharts, projector/screen, masking tapes and VIPP cards, sticky notes/post it, card boards, pens and pencils, markers etc.



### Preparation required

- Understand the facilitator's note
- Develop PowerPoint presentations required for the module
- Print out relevant materials

## Session 1 – Getting to know one another

### Steps

1. Welcome participants and introduce yourself
2. Explain briefly the purpose of the training
3. Ask participants to introduce themselves using “My Secret Wish Strategy”:
  - Ask participants to pair up with someone they do not know well and share the following information with each other: Name, occupation/post, marital status etc.

- *Partner share a secret wish with the other partner on “What I always wanted to do, but could not do because of my gender” and also write it on a sticky note.*
- *In plenary, a partner introduces the other partner including the secret wish mentioned. (Please note that the Wish strategy is just a sample, there are other strategies that can be employed)*

*(Give 20 minutes for this session)*

## Session 2 – Training Objectives

### Steps

*1. Use already prepared power point slides to explain that the objectives of the training are:*

- ✓ *Equip participants with the knowledge of international and national laws applicable to HIV vulnerability and human rights.*
- ✓ *Train participants to be able to identify and use legal mechanisms and institutions available to enforce human rights*
- ✓ *Enable participants prepare, design and implement programmes that effectively address justice issues such as stigma and discrimination, non-discriminatory health care; protective policing and drug use.*
- ✓ *Build the capacity of participants to be able to monitor how accessible the justice system is for PLHIV; Key populations and other vulnerable groups and what can be done.*
- ✓ *Strengthen the capacity of state and non-state actors to be able to foster human rights protection of PLHIV, key populations and vulnerable groups through advocacy for legislation reforms, policy change and action plans*

*2. Ask if there are questions or any clarification needed and explain*

*(Give 05 minutes for this session)*

## Session 3 – Workshop Expectations

### Steps

- 1. Ask participants to mention one thing they are expecting from the training*
- 2. Write on a flip chart grouping the responses thematically and avoid repetition*
- 3. Address each of the expectations as they resonate with the objectives*
- 4. Explain that the expectations that are outside the scope of the objectives will not be addressed (give reasons-time, scope) and where feasible, provide guide on how and where such expectations can be met.*

*(Give 10 minutes for this session)*

## Session 4 – Setting Ground Rules

### Steps

1. *Explain that there is a need to have ground rules to guide the training so as to facilitate smooth running of the training and that we will all jointly come up with the rules*
2. *Ask participants to mention rules that will guide the training sessions.*
3. *Write the rules on flip chart and if need be add more*
4. *Ensure that only the rules that all agreed on are written and explain that these will guide our conducts during the training*
5. *Place the flip chart in a visible place for all to see*
6. *Ask participants to nominate those who will enforce the rules and other areas needed*  
*(Give 10 minutes for this session)*

## Session 5 – Pre Training Assessment/Daily Evaluation

### Steps

1. *Explain to participants that they will be giving questionnaire to fill as individual and not group in order to measure what they know before training and that they will be given the same questionnaire at the end of the training too*
2. *Explain the need to also fill daily evaluation form as a form of feedback*
3. *Give prepared questionnaires to participants to fill.*
4. *Collate the questionnaires*  
*(Give 15 minutes for this session)*

## FACILITATOR'S NOTE

### Practical Tips on How to Facilitate Training Session

Facilitation is the process of making something easy or easier. A facilitator is neither a teacher nor a dictator but someone by the side to guide. The facilitation process basically involves the facilitator having a good grasp of the manual as well as putting all things in place ahead of the training.

### **Tips for Pre training preparation**

- Plan thoroughly for the training by having a good grasp of the subject matter as well as strategies to employ.
- All administrative logistics must have been put in place before the training dates. Such logistics include planning for the dates, venue, who to invite, functional equipment needed and others
- All materials-printed, hand-outs etc. must be ready before training. The materials needed for facilitation should be as simple as possible so that it can be sourced even at the local level especially when power is not constant but on a general note, the following are essential for training:
  - Hand-outs, flip chart stand, markers, masking tape, Ball point pens, notebooks, coloured stickers, scissors, glue sticks, adhesive labels, flip chart, cardboards, board pins, ruler, printing paper, printer, desktops and laptops, projector and scanner.
- Prepare Agenda

### **Tips for taking off and during training**

- Introductions are necessary to create work relationships as well as establish positive group dynamics so it should be as interactive and interesting as possible.
- Games and exercises such as energizers and warm-ups are necessary to speed up and enhance the amount and the quality of interaction in the group. Energizers and warm-ups can be done just before the start of a session, immediately before or after a tea break or lunch, and/or just before the end of the day's sessions.
- State the objectives of the training clearly so that everybody is clear on the purpose and intended outcomes of the training
- Lead participants to generate a list of rules that will guide the training sessions. These are a set of basic rules for the group at the beginning of the workshop. Discuss and agree on the rules that will guide the training sessions. Examples of ground rules are:
  - Switch off cell phones or turn them on silent/vibrate
  - Do not receive calls during the training
  - Respect time—start on time, end on time
  - Be respectful of other participants and the facilitators
- Lead participants to generate workshop expectations

- Formation of Committees: This depends on the size of the group. If it is a small group, volunteers will do to be timekeeper, welfare officer but if it is a large group, participants can volunteer to be members of committees such as Time management, Social and Welfare, Information and Resource, Evaluation with a TOR developed to guide them
- Evaluation should be carried out regularly using the following tips:
  - A pre-test which can be in form of a prepared questionnaire on points that will be emphasized during training and will also be used as a post-test to measure progress made during training
  - Daily evaluation at the end of each day's activity using structured questionnaire or other tools

### Facilitation techniques

Facilitation techniques should be participatory in nature. Variety is the spice of life and so the facilitator is expected to be versatile in the use of the various techniques so as to capture the attention of the participants. Some facilitation techniques:

- **Discussion:** Discussions are a verbal exchange led by the facilitator or participants about a specific topic or issue in a unit. This provides participants with an opportunity to share knowledge, skills and experiences related to the training theme. Through this process, learners have a chance to share facts and ideas and can listen to and consider different points of view. Participants can discuss key issues as one large group referred to as plenary and this gives the facilitator the ability to control the flow of conversation or it can be in small groups which also offer shy learners opportunity to speak.
- **Plenary sessions:** This is the whole participants sitting together in the training room as one whole so what is said can be heard and shared by everyone, individuals can speak, brainstorming session held and the Trainer can give lectures and group work guidance in plenary.
- **Brainstorming sessions:** Brainstorming is a free-flowing exchange of ideas on a given issue or topic. The facilitator poses a question or a problem or raises an issue and participants suggest answers

#### Qualities of a Good Facilitator

- A quick learner and good listener
- In control but not dominating
- Flexible and allow for flow of discussion
- Understands his/her audience
- Trust in other people and their capacities
- Confidence without arrogance
- Respect opinion of others; not imposing ideas
- Ability to create an atmosphere of confidence among the participants
- Flexibility in changing methods and sequence; not always sticking to a pre-set sequence of techniques
- Knowledge of group dynamics.
- Have good sense for the arrangement of space and material in order to create an attractive physical arrangement for the participants

or ideas drawing from their knowledge and experience. All the responses are written on the flipchart without editing while the group evaluates the ideas together perhaps to identify those they consider most useful or to categorize them in some helpful way.

- **Presentations:** These are brief explanations given by the facilitator or trainer in order to enhance participants understanding about key concepts. It is a structured and orderly presentation of information delivered by the trainer and it can be used to impart knowledge or introduce skills. It is expected that a question and answer session will usually follow such presentations so that participants can clarify doubts.
- **Case studies/ Scenarios:** Case studies are stories, either fictional or true examples used to support key concepts discussed in different sessions. In a case study, participants discuss the questions mostly in small groups and then share their ideas with the rest of the group. It facilitates quick and retentive learning through its approximation or extraction from the participant's reality. However, the material prepared has to be suited to the task at hand and able to deliver the training objective.
- **Role-play:** Role-plays are short dramas in which learners can experience how someone might feel in a situation, try out new skills, and learn from each other. It is a simulation of a real life situation, where participants are required to immerse themselves in the roles of others. This creates empathy and better understanding and can be humorous creating some relaxation for the participants, in a fun learning environment. However a need to allow volunteers to role play rather than nominating as some people can be embarrassed or uncomfortable to act in front of a large group.
- **Group work:** Participants are divided into smaller groups of 5 – 7 depending on the number in room where, more sharing can be done and findings are reported back.
- **Triads:** Participants reflect and discuss in groups of three on a given topic. This method enhances participation and helps to break the ice. It allows neighbours to talk and to know each other better.
- **Team Facilitation/ Resource Persons:** Training is often more fun and less stressful when more than one person conducts the training sessions. A co facilitator or a resource person who is a

technical person can be invited. It is however important that a team teaching approach in which facilitators' plan together ahead of training and are supportive of their colleagues and work together to build a strong team spirit is adopted.

## *Module Two – Laws, Human Rights and HIV Nexus*



### Objectives

1. Understand meaning and purpose of law
2. Understanding the principles of human rights
3. Gain insight into human right programming in HIV/AIDS response



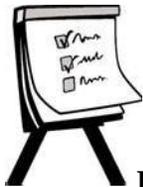
Duration: 2 hours 45minutes

### **Methodology:**

Presentations, brainstorming sessions, group discussions, case studies, role- play, buzz groups

### **Materials required:**

Flipcharts, projector/screen, masking tapes and VIPP cards, sticky notes/post it, card boards, pens and pencils, markers etc.



### **Preparation required**

- Understand the facilitator's note
- Develop PowerPoint presentation required for the module
- Print out relevant materials

## *Session 1 – Understand the concepts of law, human rights and HIV/AIDS*

### **Steps**

1. Ask participants to pick numbers 1 to 3

2. Arrange participants with the same number to form a group (3 groups in all)
3. Assign group 1 to Law, group 2 to human rights and group 3 to HIV/AIDS
4. Provide each group with handout on questions to guide discussions
5. Each group to do a presentation on their understanding of the concepts based on the hand out at plenary.
6. Participants ask questions on gray areas
7. Facilitator wraps up with a presentation (Give 60 minutes for this session)

**FLIP CHART**

*Law:*

\*What is your understanding of the word Law? \*Why do you think laws are necessary? \*What is the relationship between law and justice \*Can law promote injustice? How? \*Which law is most supreme in Nigeria? \*Can you recall laws that has to do with HIV/AIDS especially around testing, confidentiality, stigma and discrimination and criminalization

*Human Rights:*

\*What is your understanding of human rights \*Mention human rights that you know. \*What are the basic human rights principles? \*Are human rights backed by law? \*Which one can you recall? \*At what point will you say human rights are violated?

*HIV/AIDS:*

What is the meaning of HIV and AIDS? \*What is the difference between HIV and AIDS?  
 \*When was HIV first identified in Nigeria? \*What are the modes of transmission? \* \*What are the key drivers of HIV? \*Is there cure for HIV and AIDS? \*Do people living with HIV/AIDS have special needs?

## FACILITATOR'S NOTE

### LAWS

A law is a set of rules and principles, which govern behaviour or regulate human conduct. These rules and principles are law because the authority of the state or country backs them. Law governs the behaviour of individuals towards each other (e.g. fighting, killing). It also speaks to the actions of the state/ country towards its citizens. The most important law in Nigeria is the 1999 Constitution of Nigeria (as amended). Other relevant laws include laws governing gender-based violence, protection of PLHIV protection of children, and protection of persons with disabilities among others. In addition to the laws of the federation, states also have laws intended to protect the rights of citizens.

Justice can be defined as a set of ideas, values and social practices to ensure that all persons and groups enjoy economic security, can participate effectively in democratic decision - making, exercise mutual respect and caring for one another and live their lives in ways that protect and sustain the natural environment for future generations. Justice is a criterion by which good laws of a society are evaluated. It is a set of character, attitudes, and good habits.

Fairness and equality are integral parts of justice. It is fairness for two people doing the same job competently with the same amount of experience and training should get the same pay. Ensuring that everyone receives a fair hearing and due process in courts is referred to as procedural fairness. For example, the case follows all the requirements for them to know the case against them, they have enough time to prepare and they have an impartial judge) tribunals, appeal boards and other formal decision-making bodies. Another instance are people with a low income should not be denied competent representation in court by a lawyer if they are charged with a serious criminal offence, even though they cannot afford legal fees. This common understanding of equality as part of justice is captured in equal citizenship rights for all persons (for example, the right of all to vote in elections and run for political office and equal entitlement to universal public programs such as health and education). The concept of access to justice is a basic principle of the rule of law. This concept enables voices of individuals to be heard, allows exercise of their rights, challenge discrimination or hold decision-makers accountable.

## **Roles of Law**

The law can play three distinct roles in the approach to any issue –a proscriptive role, a protective role and an instrumental role, Hamblin (1991).

- a. *Proscriptive role*- law can be used to proscribe certain forms of conduct as well as impose sanctions for failure to adhere. Over the years, many countries have passed laws criminalizing acts perceived as contributing to the spread of HIV. Unfortunately, proscriptive laws may create un-envisaged challenges if they are not ‘good laws’ as suggested by the Global Commission on HIV and the Law. For instance, in 2013, Nigeria passed the Same Sex Marriage (Prohibition) Law which criminalizes same sex relationships and related activities. The law has been used to proscribe same sex marriage and certain activities of persons in same sex relationships as well as those who implement programmes targeting people of same sex relationships. The implications of this law is that the criminalisation of at risk persons in same sex relationships discourage them from participating in tests and treatments for fear of stigma, discrimination and possible arrest hence limiting public health efforts on the spread of HIV.
- b. *Protective role*- Laws that seek to offer protection against discrimination, invasion of privacy and dehumanizing treatment are examples that demonstrate the protective role of the law. Such laws seek to protect individuals and groups from becoming less human because of their HIV status. The first HIV specific laws were passed in the United States in 1987, following which many other nations passed similar laws (UNAIDS, 2013). For instance, in Canada, it is a crime for an HIV positive person not to disclose his/her status to a sexual partner before having sex, even if they use a condom and even if no one gets infected. In Benue and Ondo States, it is a crime to deliberately infect another person with HIV. The idea behind these laws is that ‘placing restrictions on people with HIV and AIDS, or people thought to be especially at risk of HIV infection’ prevents the spread of the virus’ (Hamblin, 1991).
- c. *Instrumental role*- This role of law in the AIDS pandemic is perhaps the most proactive. It does more than regulate the relationship between individuals. It helps to “change the underlying values and patterns of social interaction that create vulnerability to HIV/AIDS” (Commonwealth Secretariat, 2001). This can come by way of legislation and creative decisions of courts (case law).

## HUMAN RIGHTS

Human rights are rights of human. Human rights are rights, which belong to each human being by virtue of being human. Once you are a human being, you have human rights. Human rights are grounded in the recognition of the value and dignity of a human being and the equal worth of each person. Human rights include:

- *Right to life*
- *Right to liberty and security of the person*
- *Right to the highest attainable standard of mental and physical health*
- *Right to non-discrimination*
- *Equal protection and equality before the law*
- *Right to freedom of movement;*
- *Right to seek and enjoy asylum;*
- *Right to privacy;*
- *Right to freedom of expression and opinion and the right to freely receive and impart information*
- *Right to freedom of association;*
- *Right to marry and found a family;*
- *Right to work;*
- *Right to equal access to education*
- *Right to an adequate standard of living;*
- *Right to social security, assistance and welfare;.* (United Nations Human Rights office of the High Commissioner)

The protection of human rights is a shared responsibility between the state/country and the citizens. Human rights are not only rights but also obligations. The Nigerian government has a legal responsibility to respect,

protect and fulfil human rights to all citizens. Also as individuals we have a responsibility to respect the human rights of others

### **Basic human rights principles**

- **Universality and Inalienability-** Universal because every person by virtue of being human is born with and possesses the same rights irrespective of differences such as race, religion, sex, and political beliefs. Human rights are inalienable because the rights of human beings cannot or should not be arbitrarily taken away or restricted.
- **Indivisibility** - Human rights are *indivisible*. Whether they relate to civil, cultural, economic, political or social issues, human rights are inherent to the dignity of every human person. Consequently, all human rights have equal status, and cannot be positioned in a hierarchical order. Denial of one right invariably impedes enjoyment of other rights. Thus, the right of everyone to an adequate standard of living cannot be compromised at the expense of other rights, such as the right to health or the right to education.
- **Interdependence and Interrelatedness** - Human rights are *interdependent* and *interrelated*. Each one contributes to the realization of a person's human dignity through the satisfaction of his or her developmental, physical, psychological and spiritual needs. The fulfilment of one right often depends, wholly or in part, upon the fulfilment of others. For instance, fulfilment of the right to health may depend, in certain circumstances, on fulfilment of the right to development, to education or to information.
- **Equality and Non-Discrimination-** Equality and non-discrimination are principles which apply to all issues and in every circumstance. All human beings are equal and should not suffer discrimination. Every person should equally enjoy all human rights.
- **Participation and Inclusion-** All persons irrespective of their level of education, religion, health status etc. have a right to participate in the decision-making processes, which affect their lives. In making decisions on behalf of its people, the State should facilitate and encourage participation from the citizens.

- **Accountability and Rule of Law** - States and other duty-bearers are answerable for the observance of human rights. In this regard, they must comply with the legal norms and standards enshrined in international human rights instruments. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law. Individuals, the media, civil society, and the international community play important roles in holding governments accountable for their obligation to uphold human rights.

The Universal Declaration on Human Rights (1948) is the international instrument at the root of the development of human rights at international, regional, and national levels. In Nigeria, the 1999 Constitution as amended is the first legal instrument in the protection of human rights. Human rights can be violated. The way in which persons and different groups experience violation of their rights is influenced by how their different social identities and characteristics interact. Characteristics such as age, income level, sexual orientation, occupation for example, influence how a person or a group experience the violation of a right. It also influences the impact that the violation has.

For human rights to be seen to be enjoyed by the right owners, they must be enforceable by law hence, they become mere letters. The Nigerian Constitution makes a clear distinction between Fundamental rights (Chapter Four) that are justiciable and Fundamental Objectives and Directive Principles of State Policy (Chapter Two) which comprise mainly socio-economic rights that are sometimes considered non-justiciable. In other words, some of the rights that are listed as being rights that HIV positive persons should enjoy may not be enforceable unless the court is creative and able to interpret such rights within the context of enforceable rights and other provisions of the Constitution (Sections 13, 60 (a), 224) that can be relied upon as basis for their enforceability. Furthermore, the African Charter on Human and People's rights makes economic and social rights enforceable. In others words, some of the rights listed as being rights that HIV positive persons should enjoy may need creative and proactive interpretation within the context of enforceable rights under the African Charter and other provisions of the Constitution (Section 13,60(a). 224) that can be relied upon as basis for their enforceability.

In as much as this is restrictive, it does not take away other rights that they enjoy under the rights to freedom from discrimination as contained in Chapter 4 of the 1999 Constitution (as amended).

## **HIV/AIDS**

HIV means Human Immunodeficiency Virus. It is the virus that causes AIDS and has two major strains. The meaning of AIDS is Acquired Immune Deficiency Syndrome and it is the advance stage of HIV infection. First case of HIV/AIDS was first reported in Nigeria in 1986. HIV is preventable, manageable but not curable. Modes of transmission are through body fluids such as blood, semen and vaginal fluids; sharing of needles and unsterilized blades; unprotected sex; mother to child transmission. Key drivers of HIV include structural and social such as poverty, gender inequality, discrimination and human rights violation. The basic need of PLHIV includes medical, economic and psychosocial. 1.9 million people are living with HIV and AIDS in Nigeria as at 2019.

## **Session 2 – Law, Human Rights and HIV Nexus**

### **Steps**

1. *Present a case study to the 3 groups*
2. *Each group should examine the case and bring out:*
  - *Human rights that are violated*
  - *Laws that can be used to seek redress*
  - *In what ways can the victim seek redress*
3. *In plenary, each group presents their ideas while others critique and contribute*
4. *Facilitator rounds up with explanation on gray areas*

*(Give 60 minutes for this session)*

### CASE STUDY: Mr. X v Y Company in Nigeria

Company Y employed Mr. X as a Kitchen Assistant on 14th October 2011 but was not given a letter of employment until 2nd January 2014. Mr. X was deployed to the Canteen of Company Y and his job entailed preparing meals and ensuring the smooth running of the Canteen. It was a customary practice for Company Y to carry out clinical test on its employees to determine any disease including HIV. Mr. X underwent 8 HIV tests between 14th October 2011 to January 2015 and the tests were negative. Company Y informed Mr. X in March 2015 that he would be required to undergo HIV test in Company Y's Hospital. On the 21st of March 2015, Mr. X was found to be HIV positive and on the 24th of March 2015, Mr. X was relieved of his services.

*Culled from A Compendium of HIV & AIDS Related Discrimination Cases in Nigeria (2019)*

## FACILITATOR'S NOTE

There are 11 key paragraphs from the [2011 Political Declaration on HIV and AIDS](#) that were explicit about the link between HIV and human rights. The paragraphs are 38, 39, 77, 78, 79, 80, 81, 82, 83, 84, and 85.

### **MATTERS ARISING FROM THE CASE STUDY<sup>35</sup>**

#### *1. Breach of Right to Confidentiality*

Mr. X HIV status has been communicated to the Line Manager and Human Resource Manager without regard to his right to confidentiality. There is no doubt that this will increase HIV related anxiety, stigmatization in the workplace and employment discrimination.

#### *2. Subjecting Employees to compulsory HIV Test*

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<sup>35</sup> (NACA, 2019)

Company Y has a policy of subjecting its employees to undergo compulsory HIV test on a regular basis. This, no doubt, creates a climate of fear, hostility and contributes to the propagation of the disease because employees who are HIV positive are more likely to hide their condition for fear of stigmatization or losing their job.

### *3. Is it lawful to subject Employees to compulsory/mandatory HIV Test?*

The Lagos State Protection of Persons living with HIV and afflicted by AIDS Law 2007 makes it unlawful to subject employees to compulsory/mandatory HIV test; or to segregate or stigmatize an affected person at any place of employment; or for an affected person to have his employment terminated by reason of his AIDS or HIV status. The Law imposes criminal sanctions on the perpetrators. Company Y is in violation of the Lagos State Law by subjecting Mr. X and other employees to compulsory HIV test. Forcing anyone to undergo medical testing of any kind is an invasion of privacy and a violation of human right.

### *4. Discrimination in Workplace*

Article 1, Paragraph 1(a) of the ILO Discrimination (Employment and Occupation) Convention No. 111 which has been ratified by Nigeria and is in force defines discrimination as: Any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin which has the effect of nullifying or impairing equality of opportunity or treatment in employment of occupation.

### *5. Was Mr. X Discriminated Against*

This definition embodies the concept of freedom from discrimination and the right to dignity.

Applicant's HIV status was the reason he was asked to stop work. Mr. X was discriminated against by Company Y and relieved of his employment. The court ruled in favour of Mr. X

## **Session 3: Know Your Rights**

### **Steps**

- 1. Facilitator prompts participants by asking participants to explain challenges encountered in exercising their rights and steps taken to resolve them.*

2. *Through a power point presentation, the facilitator re-echoes the fundamental human rights, avenues for knowing the rights, limitations and pathway to accessing justice*
3. *Participants ask questions and make contributions*
4. *Facilitator concludes the session*

*(Give 45 minutes for this session)*

## FACILITATOR'S NOTE

Fundamental human rights are basic right every human has and can exercise regardless of age, race, status, religion, culture. This ideally should not be limited by state of health and at that several human rights are related to HIV/AIDS. HIV/AIDS can either hinder the enjoyment of such rights or the lack of enjoyment of such rights can make one vulnerable to HIV infection. The Nigerian constitution Chapter 4 section 33-46 guarantees the rights of all citizens including PLHIV. In this section, right to life, right to dignity, right to liberty, right to fair hearing, right to privacy, right to freedom of thought, conscience and religion, right of freedom of expression, right to freedom of assembly and association, right to freedom from discrimination, and right to own property are clearly spelt out.

### **Limitations of the fundamental human rights have**

Fundamental human rights in themselves do not have limitations other than those imposed by

- i. the violation of other people's rights by the exercise of your rights (refer 4.2.2)
- ii. lack of access to legal services perhaps due to ignorance, finance or systemic injustice linked to discrimination and
- iii. the restriction by other provisions of the law

Some of the reasons why HIV positive women and men will not seek redress upon experience of violation of rights include lack of financial resource to take action and lack of confidence in the judicial process. Apart from the general experience of abuse of human rights by people living with HIV, specific groups of people such as Men who have sex with men (MSM), People Who Inject Drugs (PWID) and Female Sex Workers (FSW) also face different levels and forms of abuse of their rights. Studies have shown that in all

regions of the world, men who have sex with men, bisexuals and transgenders are severely affected by HIV, but their needs are often ignored and/or under-funded.

Specific laws are also targeted at MSM, PLHIV, PWID that often further compound their exposure to stigma and discrimination. Many societies fail to plan for them because of stigma and the denial of the fact that they exist and have human rights. Bisexuals and many men who have sex with men, also have sex with women. Unprotected sexual practices among MSM and other key populations do increase the vulnerability of women and girls to HIV infection which therefore makes the recognition of their existence and their health needs priority issues. Abuse of right of access to services through whatever form of barrier, increases their level of vulnerability to HIV infection.

For example, female sex work/prostitution is unlawful under Nigerian law and members of the Police Force in different parts of the country often take undue advantage of this to harass, molest and extort money from Female Sex Workers. Punitive laws against men who have sex with men often drive the practice underground and compound their challenges.

Furthermore there is a limit to the enjoyment of the rights listed in Chapter II (for all citizens) where in Section 6(1) it provides that “The judicial powers of the Federation shall be vested in the courts to which this section relates, being courts established for the Federation”. The section lists the courts of the federation including the Supreme Court. It went further in sub section 6 and 6(c) to provide that “The judicial powers vested in accordance with the foregoing provisions of this section (c) shall not except as otherwise provided by this Constitution, extend to any issue or question as to whether any act of omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of this Constitution.

In other words, even the Supreme Court cannot adjudicate over the rights listed in Chapter II. This makes a clear distinction between Fundamental rights (Chapter Four) that are justiciable and Fundamental Objectives and Directive Principles of State Policy (Chapter Two) that may be argued to be non-justiciable. There are diverse opinions regarding the issue of justiciability of socio-economic rights.

I Some are of the opinion that in as much as section 6 (6)(c) contains the statement ‘except as otherwise provided by this constitution ...’, there exist a window of opportunity to adjudicate on issues contained in Chapter II.

II Section 224 of the Constitution provides thus: The programme as well as the aims and objectives of a political party shall conform with the provisions of Chapter II of this Constitution. The programmes, aims and objectives are not to be held in loose rhetoric. They are serious issues with implications for accountability and good governance. Bearing this in mind, it may be right to conclude that if political parties are to be held accountable for their programmes and their aims and objectives are to conform with the provisions of chapter II, then it only makes sense that the provisions of Chapter II should be actionable.

III Item 60 (2) of Part II – The Exclusive Legislative List which itemizes the issues that only the Federal Government can legislate on provides as follows:

The establishment and regulation of authorities for the Federation or any part thereof -

(a) To promote and enforce the observance of the Fundamental Objectives and Directive Principles contained in this Constitution; The implication of this is that the Federal Government can establish institutions and regulation aimed at promoting and enforcing socio-economic rights as contained in Chapter II of the constitution.

The Nigerian courts have somehow favoured the justiciability of Chapter II where statutes based on actualizing Chapter II provisions are challenged. In *Attorney General of Ondo State v. Attorney General of the Federation & others.* (2002), Uwaifo JSC, justified the enactment of the Act on the Fundamental Objectives and Directive Principles of State Policy by drawing knowledge from the Indian jurisprudence, as follows: “[Every] effort is made from the Indian perspective to ensure that the Directive Principles are not a dead letter. What is necessary is to see that they are observed as much as practicable so as to give cognizance to the general tendency of the Directives. It is necessary therefore to say that our own situation is of peculiar significance. We do not need to seek uncertain ways of giving effect to the Directive Principles in Chapter II of our Constitution. The Constitution itself has placed the entire Chapter II under the Exclusive Legislative List. By this, it simply means that all the Directive Principles need not remain mere or pious declarations. It is for the Executive and the National Assembly, working together, to give expression to any one of them through appropriate enactment as occasion may demand”. This case confirms the possibility of enforcing socio-economic rights in addition to the fundamental human rights.

## *Module Three – Access to Justice for Key and Vulnerable Populations*



### Objectives

1. Identify those referred to as Key and Vulnerable populations and why they are so categorised
2. Outline the access to justice obstacles for key and vulnerable Populations
3. Discuss strategies to overcome those obstacles
4. Discuss rights and access to justice needs of specific groups



Duration: 2 hours

### **Methodology:**

Presentations, brainstorming sessions, group discussions, case studies, role play, buzz groups

### **Materials required:**

Flipcharts, projector/screen, masking tapes and VIPP cards, sticky notes/post it, card boards, pens and pencils, markers etc.



### **Preparation required**

- Understand the facilitator's note
- Develop PowerPoint presentation required for the module
- Print out relevant materials

## Session 1 – Key and Vulnerable Populations

### Steps

1. *Facilitator creates two columns on a flip chart with Key Populations written as the heading in one column and Vulnerable Populations on the other.*
2. *Participants are asked to populate the columns*
3. *Facilitator asks participants to explain why they are so categorised and the differences and similarities between the two.*
4. *Facilitator takes participants through already prepared slides (Give 30 minutes for this session)*

### FACILITATOR’S NOTE

The term key population is country specific. In Nigeria, FSW, MSM and PWID are regarded as Key populations. More broadly, key populations may refer to additional populations that are most at risk of acquiring or transmitting HIV, regardless of the legal and policy environment. They include bisexual, transgender, intersex, lesbian and gay. They are referred to as key populations because they are key to the epidemic and key to the response.

Vulnerable groups on the other hand include women (adolescent girls and young women), young people/youth, prisoners and persons with disability. They are vulnerable by virtue of their age, gender or social status.

## Session 2: Obstacles to Access to justice for key and Vulnerable Populations

### Steps

1. *Facilitator prompts participants by asking participants to mention likely obstacles that may hinder key and vulnerable populations from accessing justice*
2. *Through a power point presentation, the facilitator explains the general obstacles/barriers and strategies that may be employed to enhance access to justice*
3. *Participants ask questions and make contributions*

#### 4. *Facilitator concludes the session*

*(Give 30 minutes for this session)*

### FACILITATOR'S NOTE

Key and vulnerable populations are mainly disadvantaged group that faces various obstacles that limit access to justice. These includes economic barriers, legal and institutional discrimination, fear of consequence of institutional bias, negative social attitudes, and lack of technical capacity to provide remedies:

**A. Economic barriers** - Poverty exacerbates the problems facing key and vulnerable groups in accessing justice. The costs of court fees, lawyer fees, form fees, etc. may be too high for disadvantaged groups. In addition, transportation costs, food and living expenses, and accommodation during the trial can be costly, especially if there are court delays. The potential for loss of income/livelihood when involved in a trial is also a deterrent for many disadvantaged groups. Such costs add up and may prevent people with limited financial means from going through the formal court systems. Further, when the judiciary is corrupt, the poor are significantly disadvantaged as they cannot afford to pay bribes. The cost of going through official legal channels often deters PLHIV in accessing justice, especially when they are already facing high medical costs for their treatment or are unable to work due to discrimination or physical weakness or illness as a result of AIDS.

**B. Legal and institutional discrimination** - National laws may discriminate against people living with HIV/AIDS. Moreover, there may not be adequate laws in place to protect PLHIV. Policies such as mandatory blood testing before marriage or before being offered employment violate basic rights. Further, when governments implement hastily and ill thought-out laws that seek to prevent the spread of HIV, they may have an adverse effect, by increasing the spread of the disease by driving high-risk activities underground.

**C. Fear of consequence of institutional bias** - Key populations such as female sex workers (FSW), People Who Inject drugs (PWID) and men who have sex with men (MSM), may be reluctant to use the formal justice system when their rights are violated for fear that they will be penalized for their activities. In addition, fear of discrimination by lawyers, judges and other court officials on the basis of their HIV

status may prevent PLHIV from seeking remedies from the formal systems. There also may be an inherent bias against PLHIV on trial, thereby influencing the opinion of the judge or jury.

**D. Negative social attitudes** - Negative social attitudes towards PLHIV pervade all sections of society and the justice system is no exception. PLHIV may be stereotyped and marginalized because of their HIV status. Law enforcement personnel, judges, lawyers, doctors, and so on may be biased against PLHIV, placing them at an unfair disadvantage when seeking assistance from the justice system. These attitudes may prevent PLHIV from receiving adequate care and support, especially when they need it the most. The stigma faced by PLHIV exists in many variations. The stigmatization they feel may be further amplified if they are also a member of another marginalized group. Members of other disadvantaged groups can also discriminate against PLHIV, even if they are part of that group (e.g., if a woman is also HIV positive, she may not receive the support of other women who are not HIV positive). In addition, PLHIV may also be stigmatized and discriminated against even when they do not belong to other stigmatized groups, e.g., the assumption that all men who have AIDS are MSM or that all women who are HIV positive are commercial sex workers exacerbates discriminatory attitudes towards them.

**E. Lack of technical capacity to provide remedies** - Legal aid services that are aware of and well versed on the issues facing PLHIV should be established. Support for NGOs conducting outreach programmes to communities that are vulnerable to HIV/AIDS need to be encouraged. Laws, once reformed, also need to be publicized. Further, the lack of adequate facilities for PLHIV needs to be addressed -- not only do PLHIV suffer from outright discrimination, but they are often not provided with the facilities they require within the judicial system. One area in particular that needs to develop greater sensitivity to PLHIV is the prison system. When people from high-risk groups are arrested, e.g., injecting drug users or commercial sex workers, the limited prevention measures taken in prisons may increase HIV infection within prisons, through sharing of needles or through unprotected sex.

### **Strategies to enhance access to justice**

There are at least four strategies to enhance access to justice for key and vulnerable population. These are legal reforms to eliminate discrimination, capacity development for law enforcement personnel and agencies, encourage legal complaint and encourage involvement of PLHIV in the justice system:

**A. Legal reforms to eliminate discrimination** - widespread legal reform should be encouraged to protect PLHIV. Non-discrimination and equality before the law are basic protections that should be available to PLHIV. Laws should follow international guidelines that establish minimum standards for policies relating to PLHIV. These policies should be publicized so that the public is aware of them and the consequences of discriminatory practices against PLHIV. Confidentiality of PLHIV also needs to be protected and adequate measures taken when these rights are violated. Partnership strategies with CSOs and other organizations working on HIV/AIDS, such as UNAIDS, should be promoted.

**B. Capacity development for law enforcement personnel and agencies** - Along with establishing non-discriminatory policies and laws, it is just as important that once these policies are in place they are enforced. Law enforcement personnel and other employees of the judicial system need to be educated about HIV/AIDS and internal policies need to be in place that does not discriminate against PLHIV. In addition, correctional services systems need to be evaluated to ensure that they protect the rights of PLHIV, i.e. protection of confidentiality, HIV/AIDS education, and access to condoms, clean syringes, and treatment. Further, prisoners with HIV/AIDS should not be stigmatized or isolated, while at the same time measures must be taken to protect other prisoners from infection

**C. Encourage legal complaints** – National Human Rights Commission collaboratively work with NACA to encourage legal complaints to protect the rights of PLHIV. In addition to monitoring laws to ensure they do not discriminate against PLHIV and working to mainstream HIV/AIDS prevention into government policies, the NHRC and NACA would operate as complaints bodies. This would provide PLHIV with a means through which they could file complaints, which could be faster and less costly than going through a court process. It could also allow them to file complaints anonymously, which would protect their privacy.

**D. Encourage involvement of PLHIV in the justice system** - PLHIV should be encouraged to overcome the stigma associated with HIV/AIDS and to become actively involved in promoting the rights of PLHIV including access to justice. For example, they could work with police and other law enforcement officials to ensure that sufficient training and education about HIV transmission and prevention as well as on the rights of PLHIV is provided to police officers on a regular basis.

## Session 3: Access to Justice for Specific Populations-FSW, MSM PWID and Women

### Steps

1. *Participants are divided into 4 groups and assign groups to each of the specific population*
2. *Each group is given questions to guide the discussion*
3. *At the end of the brainstorming session, groups present their findings in plenary*
4. *Facilitator clarifies burning issues and emphasizes salient points such as the rights of each group through power point presentation*

*(Give 60 minutes for this session)*

### FACILITATOR'S NOTE

UNDP defines access to justice as the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards. The UN Declaration of the High-level Meeting on the Rule of Law emphasizes the right of equal access to justice for all, including members of vulnerable groups, and reaffirmed the commitment of Member States to taking all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all. Delivery of justice should be impartial and non-discriminatory.

In December 2012, the General Assembly unanimously adopted the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (67/187), the first international instrument on the right to legal aid. The UN Principles and Guidelines establish minimum standards for the right to legal aid in Criminal justice systems and provide practical guidance on how to ensure access to effective criminal legal aid services. The cost of legal advice and representation is one of the major obstacles in accessing justice hence legal aid programmes are a central component of strategies to enhance access to justice.

According to the UNDP (2005), when approaching access to justice programming, it is important to bear in mind that:

- ✓ Access to justice is a process that needs to be adapted to a particular context.
- ✓ Justice institutions are established by law, either formal or customary.

- ✓ Justice systems are based on a normative hierarchy in which constitutional and international law takes precedence

## **GUIDING QUESTIONS**

### **FSW**

\*Who is a sex worker? ! \*List different categories of sex workers  
\*Are there laws that criminalize sex work in Nigeria. Mention them. \* Which laws empower law enforcement agencies to raid and arrest sex workers? \* List specific human rights of FSW

### **MSM**

\* List and discuss some of the laws, if any, which specifically apply to men who have sex with men. !\* Do you think there is a need to repeal the laws which criminalize same sex intimacy !between consenting adults in the light of their vulnerability to HIV. \* What impact do you think repeal of these laws will have on the prevalence of transmission of HIV? !List specific human rights of MSM

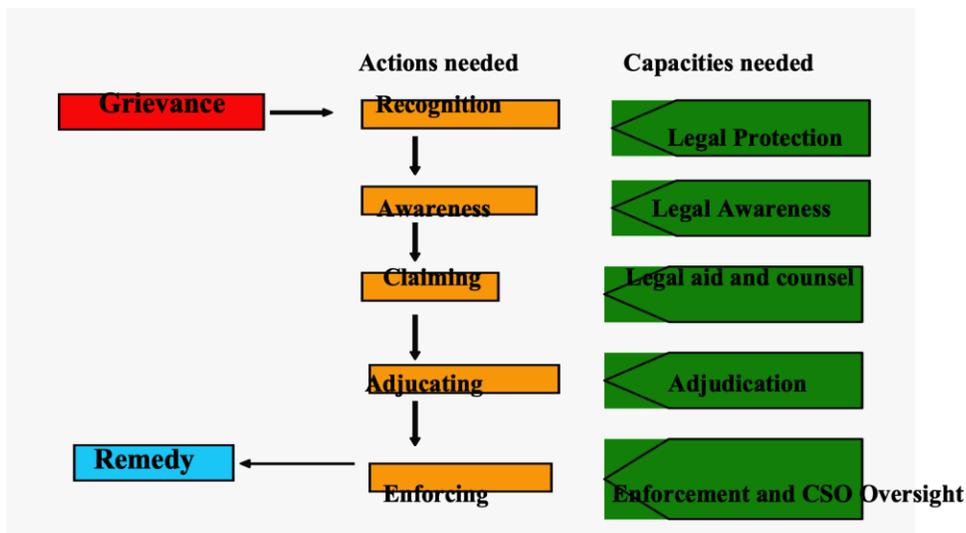
### **PWID**

\*! Are there laws that criminalize the use of drugs? \*Which types and in what quantity does it becomes a criminal offence? \* Do you think there is a need for reforms of laws on drug use? \* How can rehabilitative programs for drug users help to reduce their vulnerability to HIV? !\* List specific human rights of PWID

### **WOMEN**

\*What are the causes of vulnerability for women \* Types of vulnerability \*How can women access to justice be improved?

The capacity and actions needed to achieve access to justice, following a human rights-based approach, are outlined in the following flow chart.



### Female Sex Workers (FSW)

FSW who are HIV positive are faced with double jeopardy as the stigma associated with sex work is compounded by the stigma associated with HIV and makes access to essential HIV services difficult. UNAIDS (2009 - 2012) suggests three pillars which were improved upon in 2014. These are pillars upon which efforts aimed at addressing HIV and sex work can be based. They are:

**Pillar 1:** Assure universal access to comprehensive HIV prevention, treatment, care and support. For services to be effective, structural barriers to access must be removed. For instance, discriminatory laws, policies and practices that hinder access to services needs to be changed or removed. Measures should be put in place to address gender-based violence perpetrated by clients, controllers, managers of sex work establishments, law enforcement officers (Rhodes et al 2008).

**Pillar 2:** This is to design programme that promote building of supportive environments, strengthening partnerships and economic empowerment of sex workers. It also involves promoting economic empowerment of sex workers and ensuring that all barriers that hinder their effective participation are removed. It recommends that sex workers should have access to a meaningful and comprehensive set of alternatives to sex work that respond to workers' individual needs.



Nigeria to the provision of harm reduction services to PWID, this is not backed by law. ‘The National Drug Law Enforcement Agency (NDLEA) continues to focus on supply control and demand reduction via seizures and arrests. IDUs are routinely harassed, raided and detained in already overcrowded prisons in the attempt by the NDLEA to control drug availability’ (Rhodes et al (2010) in Harm Reduction Int. 2012). Reports including drug surveillance system over the last several decades continue to show that prices of drugs have dropped significantly making access to drugs to be less difficult for users.

## **Women**

Gender inequalities underlie the spread of the HIV/AIDS epidemic. Gender norms play a critical role in determining the course of the HIV/AIDS epidemic.<sup>36</sup> This is because gender norms shape attitudes towards sex and generally information sharing on sex, sexuality, sexual risk-taking and fidelity. Determinants of female vulnerability to HIV/AIDS include poverty, cultural and sexual norms, sexual and gender-based violence, lack of women’s access to assets, information and services, and physiological factors.

Limited empowerment, restricted access to and control over resources, assets and opportunities, economic dependence of females on males and associated power differences between the sexes, particularly in sexual relations, are associated with women’s limited control over their own body, health, the timing, context and safety of intercourse, and vulnerability to gender-based violence. Gender-based violence increases both male and female vulnerability to HIV infection.

Furthermore, in some situations, female responsibility for care giving reduces girls’ and women’s participation in productive and economic activities (including education) as the epidemic spreads. This in turn constricts women’s social and economic opportunities, further contributing to the cycle of poverty, lack of empowerment, and vulnerability to infection. Also, cultural practices such as female genital mutilation (FGM) and widow inheritance may increase the spread of the virus. Finally, stigma, discrimination and the culture of silence and denial exacerbate the epidemic by preventing diagnosis and care seeking, and reducing communication between sexual partners.

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<sup>36</sup> (NACA, 2013)

## *Module Four – Stigma and Discrimination*



### **Objectives:**

By the end of this module participants should be able to:

1. Define Stigma and discrimination
2. State Stigma and Discrimination Laws and Key stigma reduction principles
3. Understand the impact of Sigma and Discrimination against PLHIV, Key and Vulnerable Populations
4. Address Stigma and Discrimination in various settings



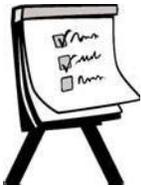
**Duration:** 4hours 30 minutes

### **Methodology:**

Presentations, brainstorming sessions, group discussions, case studies, role-play, buzz groups

### **Materials required:**

Flipcharts, projector/screen, masking tapes and VIPP cards, sticky notes/post it, card boards, rope/twine and markers.



### **Preparation required**

- Understand the facilitator's note
- Develop PowerPoint presentation required for the module
- Print out relevant materials

## Session 1 – Definition of Stigma and Discrimination

### Steps

1. *Participants' work in pairs and brainstorm on definitions and examples of the words stigma & discrimination.*
2. *Hand out sticky note pads/VIPP Cards to record responses.*
3. *Volunteers to present their definitions and share their examples in plenary.*
4. *Assist group to come up with consensus definitions and lead discussion about the underlying factors, channels and manifestations of stigma and discrimination*  
*(Give 60 minutes for this session)*

### FACILITATOR'S NOTE

**What is Stigma?** Stigma a sign of disgrace or shame and has been described as a quality that "significantly discredits or labels" an individual in the eyes of others. People with HIV/AIDS are often believed to be promiscuous and deserve what has happened to them. Stigma is a negative mark attributing undesirable qualities to those who are perceived as being "shamefully different" and identifying and labelling them as deviant from the social ideal. Because of the low status of women and stereotypical beliefs associated with femaleness and sexuality, women who test positive may be blamed for bringing HIV into the family, and for being immoral and breaking sexual norms. They may also face particular stigmas related to pregnancy and childbirth. They may be blamed for infecting their children. The consequences of disclosing HIV status are often grave and costly for women. They may face abandonment by their husbands or partners, they may also experience violence and abuse. Some women have also been tested and their results disclosed without their consent. Acts like this contribute greatly to stigma and discrimination against women. In Nigeria, HIV is linked with promiscuity and often linked to sex or to undesirable and socially unacceptable activities, such as injecting drugs, prostitution, homosexuality, infidelity in marriage etc. As a result of these notions, many people have self-stigmatized.

**What is Self-stigmatization?** Self-stigmatization is a shame that people living with HIV/AIDS experience when they are discriminated by themselves. Self-stigmatization can lead to depression, withdrawal and feelings of worthlessness.

**What is Discrimination?** Discrimination is defined as the unjust or prejudicial treatment of different categories of people, especially on the grounds of race, age, sex. This is said to occur when a distinction is made against an HIV/AIDS infected person and is treated unfairly and unjustly. Discrimination is treating a person or group differently (usually worse) than others. Its purpose is to leave out or restrict. The consequences of stigma and discrimination are wide-ranging. Some people are shunned by family, peers and the wider community, while others face poor treatment in healthcare and education settings, erosion of their human rights, and psychological damage. These all limit access to HIV testing, treatment and other HIV services.

## Session 2: Stigma and Discrimination Laws and Stigma Reduction Principles

### Steps

1. *Facilitator prompts participants by asking participants to mention any anti-discrimination laws they know and how stigma can be reduced*
2. *Through a power point presentation, the facilitator explains the key principles of reducing stigma and the tenets of the Anti Discrimination Act 2014*
3. *Participants ask questions and make contributions*
4. *Facilitator concludes the session*

*(Give 30 minutes for this session)*

### FACILITATOR'S NOTE

HIV and AIDS Anti-Discrimination Act, 2014 in Nigeria is a law that is aimed at protecting the right of HIV positive persons against acts of stigma and discrimination. As at date, about eighteen of the 36 states of the federation plus FCT have Anti- Stigma and Discrimination Law. These states are Bauchi, Edo, Kaduna, Kebbi, Kogi, Kwara, Niger, Sokoto Lagos, Nasarawa, Ebonyi, Ekiti, Enugu, Rivers, Cross Rivers, Ogun, Ondo and Benue. One of the challenges identified in the report of the Joint Annual Review of the

National Response to HIV commissioned by NACA in July 2011 and during The NACA advocacy visits to states on domestication, popularization and implementation of 2014 stigma and discrimination act is that despite the fact that “some states have passed the anti-discrimination bill into law in their states, some state law enforcement agencies (Judiciary and Police) are still not aware of the existence of the law (GARPR, 2014)”.

The HIV and AIDS Anti-Discrimination Act seeks to eliminate all forms of discrimination based on HIV status especially as it concerns employment, education, accommodation and access to health care services etc. The law supports the adoption of affirmative action towards ensuring that persons living with HIV/AIDS action have equal opportunities and treatment in relation to employment. (Section 5). Section 6 of the law contains a list of offences that constitute discrimination – these include denial of access to and use of communal places, religious or worship areas, credit facilities, denial of admission, and refusal of treatment. Of particular interest is section 6(f) which makes it an offence to prohibit a person from marrying anyone of their choice provided the HIV status of the spouse is made known, his/her consent is obtained, and he/she is in the right frame of mind. Reports were made in the course of this assessment to the effect that religious leaders refused to conduct weddings on the ground of one party being HIV positive. This provision of the Act will help to check the excesses of such leaders. However, the law has to be well disseminated as many are still ignorant of its provisions

**Key stigma reduction principles include:**

- People living with HIV and key populations should lead or be continuously engaged
- Address the drivers, facilitators and manifestations of stigma and the key concerns of affected populations
- Address intersectional stigma (e.g HIV stigma combined with being FSW)
- Use existing tools (e.g PLHIV Stigma Index)
- Use participatory methods
- Use multiple intervention strategies with multiple stakeholders across multiple socio-ecological levels (individual, interpersonal, community, organizational, public policy)

## Session 3 – Impact of Stigma and Discrimination against PLHIV, Key and Vulnerable Populations

### Steps

1. *Divide participants into groups and assign one topic to each group. Ask each group to do a **PROBLEM TREE***
2. *Draw a picture of a tree on a flipchart paper.*
3. *On the trunk, write the problem—e.g., ‘Stigma towards HIV+ clients by health workers.’*
4. *Then, on the trunk, using cards, add more details on **FORMS** of stigma, e.g., ‘shouting and scolding the client, making the client wait, using gloves to do non-invasive tasks, etc.’*
5. *Then, at the roots at the bottom of the picture, write **CAUSES** on cards, e.g., ‘fear of getting HIV through casual contact, judgmental attitudes, heavy workloads and stress, etc.’ Ask participants to ‘dig deeper’—to look for the causes of some of the causes they list.*
6. *Then, on the branches of the tree, write the **EFFECTS** on cards, e.g., ‘feeling isolated and ashamed, feeling angry and depressed, self-blame, wanting to leave the health facility, etc.’*
7. *Then, underneath the flipchart paper, write **POSSIBLE SOLUTIONS** on cards, e.g., ‘remind health workers of their code of conduct, improve health workers’ knowledge about HIV transmission so they no longer fear getting HIV through contact with HIV-positive clients.’*
8. *Hand out flipchart paper, cards, markers, and tape to each group and ask them to prepare their analysis as a problem tree on the wall.*
9. *Report Back: (Gallery walk)*
10. *Organise a gallery walk, moving around the room and having each group present its report. Other groups can make additions.*

*(Give 90 minutes for this session)*

## FACILITATOR'S NOTE

People living with HIV and other key populations are afraid to tell others about their HIV status.

- Accessing health services—getting tested for HIV and STIs, getting information on how to avoid HIV transmission, and getting condoms and lubricant
- Openly discussing their sexuality with health workers and providing complete information about their sexual practices
- Accessing treatment (antiretroviral therapy or treatment of opportunistic infections)
- Using other services—for example, a pregnant woman living with HIV is discouraged from HIV testing and making use of the PMTCT program
- Disclosing to their partners
- Protecting their own health and the health of their sexual partners—for example, by insisting on condom use with partners, using clean needles and syringes for drug use, accessing treatment to reduce viral load
- Disclosing their HIV status and getting counselling, care and support. Because of stigma,

If, on the other hand, people living with HIV and key populations are treated with kindness, support, and care, they will be more likely to access health services and take precautions in their sexual relationships

## Session 4 – Addressing Stigma and Discrimination in various Settings

### Steps

1. *Facilitator ask participants to mention settings where stigma and discrimination can occur*
2. *Facilitator further probe on what approaches can be employed to reduce stigma and discrimination in those settings*
3. *A power point presentation is then made to explain the settings and recommended approaches (Give 90 minutes for this session)*

## FACILITATOR'S NOTE

The six settings recommended by UNAIDS (2020) for tackling HIV-related stigma and discrimination are: Community, Workplace, Education, Healthcare, Justice and Emergency<sup>37</sup>.

**Community Settings:** At the community level, some recommended approaches to reduce stigma and discrimination are:

- ✓ Reach community leaders through participatory training
- ✓ Shift taboos and norms through traditional, cultural mediums
- ✓ Reach the general public through mass media campaigns and edutainment
- ✓ Train key populations to know their rights and access justice
- ✓ Awareness and knowledge raising among families of PLHIV
- ✓ Ensure that quality support services available for people who experience stigma
- ✓ Routinely measure HIV-related stigma in the community
- ✓ Establish a national-level monitoring system to enable support and redressal at community-level

**Workplace Settings:** Recommended strategies include

- ✓ Reach all levels of staff through participatory training
- ✓ Implementing protective policies in the workplace and at national level
- ✓ Educate staff on their rights and opportunities to redress.
- ✓ Provide training on human rights and gender equality competencies for all workers.
- ✓ Disseminate information on HIV workplace policy/provisions to all
- ✓ Review/revise policies/practices to protect against discrimination of key populations
- ✓ Provide gender and sexual diversity in-service trainings for duty bearers
- ✓ Establish a national-level monitoring system to enable support and redress in the workplace

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<sup>37</sup> (UNAIDS, 2020)

- ✓ Build support for protective and non-discriminatory workplace policies by engaging law makers and other decision makers to increase their capacity to understand and develop non-discriminatory policies

**Education Settings:** Strategies for reducing stigma and discrimination include

- ✓ Community leaders ‘busting stigma’; meeting with school children to help shift norms that fuel stigma
- ✓ Reach men and boys through sports- based programmes to shift harmful norms that lead to GBV and stigma
- ✓ Support groups for AYPLHIV outside of school setting
- ✓ Provide youth-friendly HIV services that ensure confidentiality and a stigma-free environment
- ✓ Ensure comprehensive sexuality education (CSE) is provided in all schools, starting from primary education
- ✓ Engage parents and broader community in stigma reduction to address drivers of stigma in education setting
- ✓ Integrate HIV-, human rights- and gender- sensitization, and stigma and discrimination-reduction into curricula at teacher training colleges.
- ✓ Implement pre-service teacher training on CSE
- ✓ Adapt, adopt and/or implement laws to ensure that adolescents have legal access to HIV testing and services by removing age restrictions

**Healthcare Settings:** The following strategies are recommended

- ✓ Participatory learning for all health workers in a facility to address the drivers of stigma
- ✓ Combining training with access to Universal Precaution supplies to minimize fear and avoidance
- ✓ Integrate paralegals into health facilities to provide on-site guidance and awareness raising for key populations; paralegals could also support clients to seek redressal as needed
- ✓ Provide routine, in-service trainings on HIV, human rights, key populations, stigma reduction, non-discrimination, gender-sensitization and medical ethics for all health facility staff

- ✓ Ensure Universal Precaution supplies and post-exposure prophylaxis are always stocked
- ✓ Develop and uphold non-discriminatory policies to protect rights of key pops who work in healthcare settings.
- ✓ Establish facility-level monitoring for support and redress.
- ✓ Integrate HIV- and gender-sensitization, stigma and discrimination-reduction and human rights sensitization into curricula of health provider training schools
- ✓ Routinely review and revise policies and practices across healthcare sector to ensure they protect against discrimination of key and vulnerable populations

### **Justice Settings:**

- ✓ Sensitizing police and training in supporting policing practices
- ✓ Key population networks working with Parliamentarians to remove harmful policies and institute legal protections for PLHIV and key populations
- ✓ Training lawyers and justices on human rights based strategic litigation, legal defence and advocacy on HIV and TB justice
- ✓ Empower key populations with knowledge of legal rights and how they can access legal support and redress
- ✓ In-service trainings for police, judiciary, prison staff on HIV policies and key pops and responsible policing
- ✓ Training for prison personnel to include information on HIV prevention, health needs and human rights of detainees
- ✓ Legal support so CSOS working with key populations and people living with HIV have access to affordable or pro bono lawyers
- ✓ Advocacy for legal reform and monitoring implementation of supportive policies/laws
- ✓ Integrate HIV-, gender-, human rights-sensitization, stigma and discrimination-reduction into curricula at police and law schools.

- ✓ Routinely inform and sensitize duty bearers
- ✓ Routinely review existing laws, regulations, and policies relating to HIV and compare against global commitments

### **Emergency Settings:**

- ✓ Monitor levels of stigma and discrimination in emergency settings
- ✓ Integrate training on protecting rights of PLHIV and key population in emergency contexts for NGOs, humanitarian workers and community health workers
- ✓ Ensure access to HIV care and treatment in emergency settings by strengthening linkages between community and formal health settings
- ✓ Implement programmes/services to reduce internalized stigma and support needs of key populations in conflict and crisis through providing safe access to care and treatment
- ✓ Educate humanitarian actors, including OCHA, cluster-leads and cluster partners in addressing discrimination and working with PLHIV and key populations in emergency settings
- ✓ Implement programmes to prevent, address, monitor and report violence against key populations in emergency settings
- ✓ Strengthen capacity of CHWs by ensuring linkages between communities and formal health systems in emergency settings.
- ✓ Include provisions for key populations in national emergency plans
- ✓ Ensure key and vulnerable populations have access to legal assistance in host/affected communities, internally displaced person and refugee camps, and border settings
- ✓ Review/revise policies/practices regarding emergency settings to protect key populations from discrimination.

## Module Five – Advocacy for Access to Justice Programming



### Objectives

At the end of the module session, participants will be able to:

- Understand Advocacy and its related concepts
- Identify steps in advocacy processes
- Develop advocacy messages
- Develop Budget for Advocacy



Duration: 5hours 15 minutes

### Methodology:

Presentations, brainstorming sessions, group discussions, case studies, role-play, buzz groups.

### Materials required:

Flipcharts, projector/screen, masking tapes and VIPP cards, sticky notes/post it, card boards, pens and pencils, markers etc.



### Preparation required

- Understand the facilitator's note
- Develop PowerPoint presentation required for the module
- Print out any relevant activity material (if available)

## Session 1 – Advocacy and Related Concepts

### Steps

1. Carry out a brainstorming/discussion on advocacy, IEC, sensitization, tactics and techniques used for advocacies. During this session, the facilitator should ask participants to define advocacy in their

*own words. Take note of definitions and terms used by participants and write them down on flip chart.*

*2. Ask participants to identify differences and similarities between advocacy, IEC and sensitization. In a mini lecture, let participants know what advocacy really is and the various techniques used to carry out advocacy. A lot of people confuse advocacy with IEC activities. Ask the group if they are conversant with these terminologies.*

*3. Then provide clarification as needed, using the discussion points below.*

*(Give 45 minutes for this session)*

## FACILITATOR'S NOTE

### **Advocacy in the context of Access to Justice**

- Advocacy is simply speaking up, drawing attention to an important issue and directing decision makers towards a solution;
- Advocacy is an umbrella term that can be used to describe all of the systematic actions and processes used to influence and change the policies and practices of targeted stakeholders (those in power and those not) on issues of interest in order to have positive impact on the society.
- Advocacy for Access to Justice among PLHIV and key population is the deliberate process, based on demonstrated evidence, to directly and indirectly influence decision makers, stakeholders, justice systems and relevant audiences to support and implement actions to adopt human rights approach for PLHIV to obtain remedies when stigmatized and harmed as quickly as possible.

### **Purpose of advocacy**

- The purpose of advocacy as defined by UNFPA is to promote or reinforce a change in policy, programme or legislation.
- Rather than providing support directly to clients or users of services, advocacy aims at winning support from others, i.e. creating a supportive environment.

### **Why advocacy?**

Advocacy is crucial in the conduct of access to justice in HIV-related issues. It is valuable primarily for the following reasons:

1. To heighten awareness of access to justice as a national and human rights issue among decision/policy makers and the general public;
2. To contribute to a favourable and supportive environment for access to justice for PLWHA and support through the formulation and implementation of relevant policies and programmes;
3. To mobilize and educate the community, members of the public, relevant social organizations, law enforcement agencies and judiciary institutions for access to justice for PLWHA and KPs;
4. To popularize technical information on access to justice for PLWHA; and
5. To deal with specific community problems/issues experienced by PLWHA through appropriate messages and media directed at identified target audiences.

### **Who is an Advocate?**

#### **An Advocate is someone who:**

- Represents the views of another without judgment, regarding a situation that affects them, in order to influence others.
- Feels passionately about their experience and have the motivation to do something with that passion
- Builds support to address an issue(s) and encourage others to support it
- Influences or reform legislation that affects the issue
- Promotes social change and resolve social injustice
- Empower people to access their rights and entitlements and make a difference in peoples' lives

### **Definition of related concepts**

- **IEC- Information, Education and Communication;** is an approach which attempts to change or reinforce a set of behaviour in a target audience regarding a specific problem in a predefined period of time. IEC is used for generating awareness.
- **Sensitization:** Attempt to make oneself or others aware of and responsive to certain ideas, events, situations, or phenomenon.

### **Differences and similarities of Advocacy and IEC**

- **Advocacy Goal:** Actively supporting a cause, and trying to get others to support it as well
- **Similarities: Process:** Identify, segment audiences, undertake research to clarify issues, develop strategies & messages, monitor and evaluate.

- **IEC Goal:** Change attitudes, Beliefs, values and Behaviour of individuals or group of individuals

## **Advocacy Tactics and Techniques**

Advocacy uses different tactics and techniques to engage different audiences for desired result. Some of the techniques and tactics employed to engage various stakeholders are:

- Sensitization-Beneficiaries/Partners/Adversaries/Decision makers
- Mobilization-Beneficiaries and Partners
- Dialoguing-Adversaries and Decision makers
- Debating-Adversaries
- Negotiating-Adversaries and Decision makers
- Lobbying- Decision makers
- Petitioning- Decision makers
- Pressuring- Decision makers

## **Session 2 – Steps involved in the Advocacy Process**

### **Steps**

1. *Facilitator presents slides on steps involved in advocacy*
2. *Divide participants into eight groups and distribute a set of advocacy cards to each group.*
3. *Point out that each card has one of the basic steps in the advocacy process written on it.*
4. *Shuffle the advocacy cards and ask that each group picks a card until all cards are finished.*
5. *Ask the groups to identify the sequence of the step(s) on the card that they picked and organize the cards to reflect how they think an advocacy campaign should be planned.*
6. *Ask each group to discuss amongst themselves and arrange their cards in order on the floor, table-top or posted on the wall so other groups will be able to see them.*
7. *When the groups have finished, ask the representative of each group to present their work and explain the reason why they chose the order they came up with. Were there any discussions over some cards?*
8. *Ask if any other groups came up with a different set of ordering, if yes, ask them to present their work and their reasons for ordering the steps the way they did. Do this until all different*

*ordering of steps have been discussed.*

*9. Lead a discussion about the similarities and differences in the way the various groups ordered their steps. (Give 90 minutes to this session)*

## FACILITATOR'S NOTE



Remind participants that it may be difficult to follow each step in the advocacy process as listed out during the presentation. In some circumstances, new information may be gathered before completing a step, or even after campaign activities have started. If there are any adjustments to be made participants should revisit their plans and adjust it accordingly. The plan should not be seen to be cast in stone but a fluid process. A systematic understanding of the advocacy process will ensure efficient and effective planning as well as ensure adequate use of resources and focus on advocacy goal and objectives.

## Session 3– Developing Advocacy Message

### Activity 1: Developing primary and secondary messages

#### Steps

1. *Facilitator gives a brief presentation on tips for developing an effective message*
2. *Participants go into 2 groups and use prepared handout ([appendix 8](#)) to write messages on access to justice for PLHIV*
3. *Each group takes turn to present their messages*
4. *Facilitator leads the group to constructively examine the content using the tips (Give 60 minutes for this activity)*

### Activity 2: Presenting key message to a target audience

#### Steps

1. *Facilitator explains that two persons will role- play the delivery of the key messages developed in activity 1*
2. *A participant will be the advocate while the second participant will play the role of a named target*
3. *The advocate has three minutes to introduce himself and share a few messages with the target*
4. *After three minutes, the role- play stops and the whole group discuss how it went, and what could be improved upon*
5. *The process is repeated with other participants' role- playing (Give 60 minutes for this activity)*

## FACILITATOR'S NOTE

The purpose of advocacy is to motivate people to initiate change and our message must be able to do just that! Knowing what motivates your targets help in tailoring the messages to deliver. Developing simple and compelling messages that will get the attention of your targets is critical and central to the success of your advocacy initiatives. If you cannot communicate a clear, concise and compelling answer in less than one minute you risk losing the other person's attention, interest or support.

### Tips to developing an effective message

Clear and effective messages should:

- ✓ Summarize the change you want to bring about.

- ✓ Be simple, short, punchy, just one or two sentences and jargon free
- ✓ Use simple and unambiguous language that can be easily understood
- ✓ Be tailored to fit specific audiences
- ✓ Include a deadline for when you want to achieve your objective.
- ✓ Include the reasons why the change is important.
- ✓ Include any action you want the audience to take in response.
- ✓ Be memorable; combine emotional with rational
- ✓ Use clear, brief arguments that will persuade the audience

### Types of message

- Primary message is the most universally compelling message for your target audience. It should include *statement + evidence + example + goal + action desired*.
  - Statement: Your central idea or the analysis/cause of the problem. It outlines why the change is important
  - Evidence: supports the statement with (easily understood) facts and figures, using tailored language
  - Example: adds a human face when communicating
  - Goal: highlights what you want to achieve
  - Action desired: the solution (or partial solution) to the problem. This forms the core of an advocacy message and distinguishes it from many other types of communication.
- Secondary message explains how the objectives of the primary message will be met. You can have several secondary messages. These may be tailored to wider, more specific audiences e.g. decision-makers, the media, professionals and the general public

## Session 4– Developing Budget for Advocacy

### Steps

1. Facilitator gives presentation on the meaning of human right budgeting and the need to draw a realistic budget with the likely items to include
2. The existing 2 groups are asked to develop budget using prepared handout ([appendix 9](#)) to carry out advocacy on:

- *How to repeal Same Sex marriage Act*
- *How to sensitize communities on Anti Discrimination Act 2014*
- 3. *Each group takes turn to present with inputs from the larger group*  
(Give 60 minutes for this session)

## FACILITATOR'S NOTE

**Budgeting** is the process of creating a **plan to spend your money**. This spending plan is called a **budget**.

**Human right budgeting:** The ratification of international human rights treaties obliges states to respect, protect, and fulfil all human rights contained in the treaties. Human rights budgeting is a particularly powerful instrument to monitor whether a state or its decentralized authorities and subsidiary institutions use its available resources to fulfil human rights. Human rights budgeting aims to orient the national and/or local budgets towards the realization of human rights.

### **Checklist for a human rights analysis of the budget planning of expenditures**

1. Do allocated budget items (e.g. subsidies) reach right-holders in need and most vulnerable?
2. What is the relative weight of expenses for the implementation of human rights obligations (e.g. improving access to essential services for persons and groups without access) compared to other expenses, e.g. for the military?
3. Are some population groups favoured directly or indirectly by allocation policies?
4. Do budget allocations serve to overcome barriers and to reduce existing discrimination?

### **Budgeting process**

1. Does the population and civil society have access to timely, intelligible, and comprehensive information on budget allocation and spending?
  2. Are there possibilities for the population and civil society organizations to influence the process?
  3. **Monitoring and auditing:** Which institutions hold the public administration to account and are the monitoring and auditing results publicly available?
- **Influencing the budget can take place during four phases of the budget cycle:**
    1. Drafting by the executive,
    2. Debate and passing of the budget by the legislative,

3. Implementation by the executive,
4. Auditing by the legislative and specialized audit institutions.

Budgeting is a core issue in planning advocacy. It is important to set out a realistic budget. When budgeting for your advocacy strategy, include the core costs of maintaining and strengthening advocacy capacity, as well as resources needed for specific actions. When preparing an advocacy budget, it is important to think about:

- the goals and objectives of your project;
- which activities contribute most to achieving your project's goals and objectives;
- what resources you need to implement your activities;
- what the resources will cost (including your human resources); and
- ensuring that you are allocating sufficient funds to support the resources you have identified.

Suggestions of line items for the advocacy budget include but not limited to:

- travel, accommodation and food allowances for project leads, partners and volunteers
- the cost to rent a venue if need be
- stationery, technology, creative materials, campaign materials, etc
- central costs (including staffing, office rent, electricity, etc.).
- a contingency (a percentage of the budget to use for unexpected costs)

Also, include budget notes to make your budget explicit and easy for anybody to understand

## Module Six – Monitoring and Evaluation



### Learning objectives

At the end of this session participants should be able to:

- Define monitoring and evaluation
- Explain Basic M&E Terms
- Understand Access to Justice/human rights indicators

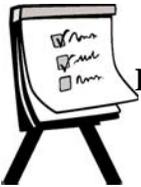


**Duration:** 2 hours 15 minutes

### Methodology

- Presentations/lecture, brainstorming sessions, group discussions etc.

**Materials required:** Flipcharts, projector/screen, masking tapes, VIPP cards, Sticky notes and markers.



### Preparation required

- Write out the activity topic and objectives on flipchart
- Understand the facilitator's note
- Prepare slides and any other materials required for the day.
- Print out handouts (if available)

## Session 1 – The concept of Monitoring and Evaluation

### Activity 1-Introduction

#### Steps

1. Start by asking participants to define what they understand to be monitoring and evaluation.

2. *Note specifically what the participants understand about the word monitoring. Note responses on flip chart.*
3. *Ask participants to explain what they understand to be monitoring and evaluation systems. Note specifically what the participants understand about the word system. Note responses on flip chart. (Give 15 minutes for this activity)*

## **Activity 2- Mini-lecture**

### **Steps**

1. *The facilitator can now make the already prepared power point or flip chart presentation (See Facilitator's notes for guidance) (Give 20 minutes for this activity)*

## **FACILITATOR'S NOTE**

### **Definition of terms**

- M& E are two distinct, but interrelated concepts and sets of activities.

### **Monitoring**

- Monitoring is an assessment process that tracks inputs to ensure that they reach the pre-determined destination (i.e. the target population) and assesses progress of implementation (output) against plans and target for timely management decisions.
- Monitoring assesses the process of transforming inputs into outputs and uptake of services by project actors.
- It is an integral part and routine activity of project implementers. This implies that monitoring must be integrated within the project management structure.
- Monitoring can also be defined as the review or appraisal of project activities with a view to ascertaining whether or not they are being implemented as planned.
- It is a continuous function that tells programme managers the progress and difficulties encountered in the implementation of the project.
- Monitoring entails the collection and analysis of data on the implementation of activities.
- Monitoring involves operational assessment of projects through:
  - Measurement;
  - Recording;
  - Collection;
  - Processing; and
  - Communication of information to assist project management decision making.

- The purpose of monitoring is to look back and ascertain the extent to which the implementation of project activities has achieved the project objectives.
- It seeks to explain unexpected results (positive & negative) that were identified during monitoring.
- It documents lessons learnt so that issues of sustainability, reliability & cost effectiveness can be taken care of.
- It determines whether the work is on schedule.
- It enables project managers to see whether the budget is being followed as well as helps to determine whether adequate progress is being made on the work plan.

### **Human Rights Sensitive Monitoring**

Human rights/Access to Justice-sensitive monitoring is a systematic and objective assessment of the design and planning (objectives, results pursued, activities planned) and the implementation and results of an ongoing activity, project, programme or policy from a human rights/access to justice perspectives. It takes into account the information and data collected and collated over the course of different planning and implementation phases of the policy or programme, as well as other knowledge and sources. Persons responsible for monitoring should have human rights expertise and the criteria for monitoring. Questions, methods and reports should integrate human rights principles considerations.

Monitoring exercises occur periodically and are aimed at following up the implementation of a policy or a programme. This includes data collection and information based on the established human rights and access to justice objectives and indicators, in order to verify whether the plan is being followed and whether the objectives are being achieved. Importantly, it allows for identified problems to be immediately addressed and for the introduction of changes in order to accomplish what has been established. This exercise should take into account the indicators delineated in the planning phase, data collection based on those indicators and an accountability system.

Accountability mechanisms should ensure that the implementation of activities related to human rights/access to justice is followed up and reported upon. Those responsible for the implementation of actions should be held accountable and sanctions should be considered if needed.

### **Access to Justice-sensitive monitoring consists of collecting and analysing the following information:**

- How is the money spent, and who benefits? What are the human rights specific allocation of financial project resources?
- Who contributes to the project/programme? What is the level of involvement of PLHIV and KPs?

- What are the results? Which groups benefit from the results (sex-disaggregated data of groups categorized by age, income groups, rural/urban area or other relevant classifications)?
- What is the relevance and quality of project design in relation to national legal and policy commitments on human rights of PLHIV, key and vulnerable populations
- Is the process of high quality? Are the different categories of PLHIV, KPs etc participating on an equal basis?
- Is budget allocation responding to the practical and strategic needs and interests of **different categories of KPs**?
- What is the preliminary response of **PLHIV and KPs** to the project?

**You should also consider conducting human rights-specific monitoring i.e. monitoring that has the approach towards realizing access to justice as its main focus.**

**Examples of questions to be addressed to conduct human rights/access to justice-specific monitoring include:**

- What is the relevance and quality of the project design in relation to national legal and policy commitments on human rights of PLHIV and Key Populations?
- Are resources being used efficiently to achieve maximum results in terms of **access to justice**?
- What has been the effectiveness to date in terms of **access to justice**?
- What are the impact prospects on gender relations in the sector/policy area?
- What is the potential sustainability of the results achieved so far in terms of **access to justice**?
- Have implementing organizations made progress in the process of institutionalizing human rights /access to justice mainstreaming?

## **Evaluation**

- An evaluation is the periodic assessment of project performance (outcomes) and effects (impact).
- It is the review of the relevance and efficiency of the project in view of the stated objectives and aims.
- The process is informed by monitoring data; as project evaluation uses output targets to measure performance.

- Monitoring and evaluation therefore, inform each other, hence, a common twin-term in planning and management.
- Evaluation is an analysis of the relevance, effectiveness and efficiency of a multi-sectoral team's programme or project interventions & response strategies.
- Evaluation systematically assesses the protection impact of the policies, programmes, practices, partnerships and procedures on PLHIV and Key Populations for example.
- Evaluation criteria can include the sustainability of programmes and response activities, co-ordination and consistency, and the effectiveness of monitoring and reporting systems.
- Evaluation is the systematic and objective assessment of an on-going or completed project, programme or policy, its design, implementation and results, with the aim to determine the relevance and fulfilment of objectives, development efficiency, effectiveness, impact and sustainability.
- Results Based Management makes use of results chain which shows how activities, through a number of intermediate causal links, are expected to result in the realization of the goals of projects, programmes and policies.

### **Human Rights Sensitive Evaluation**

A human rights-sensitive evaluation is a systematic and objective assessment of the design and planning (objectives, results pursued, activities planned), the implementation and results of an ongoing or completed activity, project, programme or policy from a human rights perspective. It can take place either upon completion of the project, when focus is placed on impacts and the contribution of the programme to promoting human rights, or throughout project implementation, with the aim of seeking to have a process of continuous improvement. An evaluation exercise must take into account the indicators delineated in the planning phase and the information and data collected in the course of the policy or programme, as well as other knowledge and sources.

Human rights-specific evaluation focuses on the approach towards realizing human rights that has been followed. It consists on analysing the integration and implementation of human rights mainstreaming in the organisational setup and operations of a programme.

Evaluators should have human rights expertise and the evaluation criteria, questions, methods and reports should integrate human rights and access to justice considerations. The evaluation report should be based

on qualitative and quantitative data, disaggregated by sex, to measure results and long-term outcomes for both PLHIV and Key populations. Ideally human rights issues should be mainstreamed in all sections of the evaluation report, rather than mentioned only in a separate section on access to justice. Make your evaluation reports publicly available: this will build confidence between your institution and the target group(s) of your policy or programme.

**Widely used evaluation criteria are: relevance, efficiency, effectiveness, impact and sustainability:**

**Relevance:** Has the project/programme effectively contributed to the creation of favourable conditions for human rights and access to justice? Did it respond to the practical and strategic access to justice needs of PLHIV and Key Populations? Did it contribute to the international and national commitments and mandates regarding access to justice for vulnerable and key populations? Was the treatment of human rights and access to justice issues throughout the implementation phase logical and coherent? Were adjustments made to respond to external factors of the project/programme (e.g. economic crisis, pandemic e.g. COVID-19 etc.) which influenced human rights/access to justice situation?

**Efficiency:** Has the implementation of the policy been efficient with respect to human rights and access to justice? Are the means and resources being used efficiently to achieve results in terms of improved benefits for all categories of key populations and PLHIV? Have the results for PLHIV and key populations been achieved at reasonable cost, and have costs and benefits been allocated and received equitably?

**Effectiveness:** Did the project/programme results turn out to be effective in achieving access to justice? Have the results contributed to the achievement of the planned results and outcomes, and have benefits favoured PLHIV and key populations target groups? Did stakeholders (organisations, institutions, indirect target groups) benefit from the interventions in terms of institutional capacity-building in the area of human rights and access to justice mainstreaming and the development of human rights and access to justice competence among their staff?

**Impact:** What has been the impact of the project's outcomes on wider policies, processes and programmes which enhance human rights and access to justice for PLHIV and key populations? For example, did it have an impact on reducing violence against them? A human rights-specific ex-post evaluation can also be used for projects/programmes without a human rights perspective and will assess whether these have produced any (positive or negative) unintended or unexpected impacts on access to justice in situations of human rights violations.

**Sustainability:** Are achievements in access to justice likely to be sustained after funding ends? To what extent has ownership of the policy goals been achieved by target beneficiaries? To what extent have strategic human rights needs of PLHIV and key populations been addressed through the project, and has this resulted in sustainable improvement of human rights and access to justice for PLHIV and key populations? To what extent has capacity for human rights mainstreaming through the project been built and institutionalized?

**Multiple Levels on which M&E can be applied:**

- Project level: looking at a relatively short term focused endeavour often by one donor organization in cooperation with partner agencies.
- Programme level: a longer term endeavour, of one or more donor agencies in cooperation with multiple partner agencies.
- Sector level: looking at a sector wide longer term programmatic approach with the involvement of multiple donors and sector specific partner agencies.
- Organizational level: the whole of programmatic efforts of a single donor organization in cooperation with other donors and partner agencies.
- National/country level: the effects of all programming of international donors and national efforts (ODA and non-ODA) on human rights dimensions of response to HIV.
- Regional level: looking at the effects of specific region wide interventions and policies and the summative information of country-based statistics in order to compare regional development trends and patterns.
- Global level: looking at the effects of specific global interventions and policies and the summative information of country-based statistics in order to identify global development trends and patterns.

## Session 2 – Developing Access to Justice/Human Rights-Sensitive Indicators

### Activity 1-What are human rights/access to justice-sensitive indicators?

#### Steps

1. *Ask participants to discuss their understanding of indicators with the person sitting next to them (two people to discuss) for 3 minutes.*
2. *After 3 minutes of discussion, ask 4 or 5 participants to report back to the group what they discussed.*

3. *Ask others to critique the various contributions.*  
*(Give 10 minutes for this activity)*

## **Activity 2-Development of human rights/access to justice-sensitive indicators**

### **Steps**

1. *Ask participants to come up with 4 strategic interventions relating to each of the thematic areas of Access to Justice.*
2. *Thereafter, they should develop 4 human rights/access to justice-sensitive indicators that can be used to track achievements of each of the strategic interventions.*
3. *After you have established that they understand what access to justice-sensitive indicators are, break the participants into small groups (5 or 6 per group). Each group will work on one thematic area of the NSP. (Give 60 minutes of this exercise)*
4. *Allow participants to present their work in a plenary session and review all presentations.*
5. *Give a presentation on human rights and access to justice-sensitive indicators. (Use handout on access to justice indicators in the appendices along with other available resources on the topic to develop the presentation.*
6. *Allow participants to ask as many questions as possible to ensure clarity.*
7. *Wrap up the activity. (Give 90 minutes for this activity)*

## **FACILITATOR'S NOTE**

### **Access to Justice/Human Rights-Sensitive Indicators**

Indicators tell us (a) What to measure? (b) How to measure? (c) Who will do it? (d) With what frequency? (e) With what purpose?

#### **Characteristics of a programme indicator:**

**Direct:** Measures as closely as possible the type of results the parameter describes.

**Objective:** Has no ambiguity about what is being measured and it is operationally precise.

**Adequate:** Groups of indicators should be able to measure a given parameter. Avoid using too many indicators.

**Quantitative:** They facilitate comparison through time and projects where possible.

**Disaggregated:** May be necessary to assess whether the results of the project impact differently on different groups of people.

**Practical:** An indicator is practical if data can be obtained in a timely way and at reasonable costs.

**Reliable:** Can sufficiently reliable data for confident decision-making be obtained?

### **Methods of data collection:**

Commonly used methods include:

**Desk research.** Involves collecting secondary data (from previous surveys, reports, etc.).

**Key informant interviews.** Involves interviews with 15 to 35 individuals selected for their first-hand knowledge about a topic of interest. Interviews are qualitative, in-depth and semi-structured. Interview guides and listing of topics can be used.

**Focus groups interviews.** Involves several groups of 8 to 12 participants. Each group discusses issues and experience among themselves. A moderator introduces the topic, stimulates and focuses the discussion, and prevents domination of discussion by a few.

**Community interviews.** These usually take place at public meetings. Interaction is between the participants and the interviewer, who presides over the meeting and asks questions following a carefully prepared interview guide.

**Direct observation.** Team of observers records what they see and hear at a programme site, using detailed observation forms. Observations may be of physical surroundings, ongoing activities, discussions, etc.

**Mini-surveys.** Involves interviews with 25 to 50 individuals, usually selected using sampling techniques. Structured questionnaires that focus on a limited number of closed-ended questions are used.

### **Indicators for Monitoring and Evaluation of Access to Justice for PLHIV and Key Populations**

#### **HIV-related legal services and why it is important to monitor these programmes:**

HIV-related legal services can facilitate access to justice and redress in cases of HIV-related discrimination or other human rights violations, promoting human rights and removing barriers to service access. Examples of instances where such legal services might be needed include:

- Breaches of privacy and confidentiality.
- Illegal action by the police.
- Discrimination in health care, employment, education, housing or social services.

- Denial of property and inheritance rights.

It is important to monitor legal service provision to see that it is geared to the needs of those most affected, is reaching all those in need, and is able to bring about change. Evaluating it to document its effectiveness beyond the individual cases resolved is also important.

### **Examples of activities:**

#### **HIV-related legal services may include the following activities:**

- Training for people living with HIV and key populations on rights and available redresses under the law.
- Community paralegal support.
- Legal hotlines and Internet-based provision of advice.
- Legal information and referrals.
- Legal advice and representation, including through pro bono clinics.
- Alternative and community forms of dispute resolution.
- Engaging religious or traditional leaders and traditional legal systems (e.g., village courts) with a view to resolving disputes and changing harmful traditional norms.
- Strategic litigation.

### **What to measure?**

#### **Interventions or programmes may lead to the following desired changes:**

- **Change at the individual level:** increased awareness of rights, improved knowledge and greater empowerment to access justice.
- **Change at the service level:** increased knowledge, awareness and skills to provide legal support services, improved community outreach of legal services, and greater accountability from services (e.g. health services, police services and the employment sector) if violations are challenged.
- **Change at the community and structural levels:** this may occur where successful challenges bring about changes in law, policy, values and practices.

### **Examples of output indicators**

Examples of some output indicators include the following:

- Number of training sessions held.
- Number of individuals provided with training.
- Number of community paralegals providing services.
- Number of referrals for legal support or advice services for people living with HIV and other affected populations and key populations
- Number of cases taken to judicial process.
- Number of people using legal support services.

### **Examples of outcome indicators**

The following are some examples of outcome indicators (with potential data sources in parentheses):

- Knowledge among key populations of their rights and available redress (programme data).
- Number and percentage of referred cases satisfactorily resolved (programme data).
- Percentage of people living with HIV who sought redress when their rights were violated in the past 12 months (People Living with HIV Stigma Index).

## Appendices

### Appendix 1: Sample Energizers

#### 1. Two Truths and a Lie

Use: Icebreaker/Warm-up

Objectives: Discover new things about each other; assess how well you really know each other

Activity: Introduce the activity by saying this is a way for people to learn some fun things about each other that don't come up in everyday conversations. Each person should think of three statements about themselves that no one else in the room already knows. It helps to jot down notes. Two must be true statements and one should be a lie. The subtler or believable the lie the better (or, the more bizarre and unlikely the truths). Take turns in the group having each person share their three statements and voting on which one was the lie.

#### 2. Make it Rain

Use: Icebreaker/Warm-up

Objectives: When put together, this sounds like a rainstorm, and is a good way to get a group to settle down.

Activity: Have the group stand or sit in a circle. As you make your way around the circle, ask them to follow you as you do the following actions: Rub your hands together, snap your fingers, clap your hands, slap your thighs, stomp your feet, slap your thighs, clap your hands, snap your fingers, rub your hands, rest your hands on lap.

#### 3. Best and worst

Use: Icebreaker/Warm-up

Objectives: Getting to know each other. Reflecting on team activities. Having a fun warm-up. Fuelling future discussions about the team's process.

Activity: Ask each person in the group to write down one best and one worst question that they want to learn about the group. E.g.

- What's the best recipe you know?
- What's the worst injury you've ever had?
- What's the best thing you've ever smelled?
- What's the worst present you have ever given someone?
- What's the best voicemail you have ever received?
- What's the worst trip you have ever taken?

Put all the ideas in a hat and have everyone pick 2 at random (meaning they might get their own question)  
Go around the circle and have everyone share his or her answers and brief related stories.

#### **4. Song Battle**

Use: Icebreaker/Warm-up

Objective: Split the group into 2 or more teams of 3-10 people per team. It is good to have each team be a mix of demographics, so that members contribute songs of various eras and styles.

- Select a word that is commonly found in songs such as love, baby, rain, etc.
- Each team has 10 minutes to brainstorm as many songs as possible that contain the selected word.
- The team with the most songs, not duplicated by other teams, wins the challenge.
- Once time is up (5 or 10 min), teams come back to together as a group to compare lists.

Sharing and scoring:

- Every unique song is worth 1 point. Team 1 shares the first song on their list followed by Team 2.
- Then teams move on to the 2nd song on the list so that each team shares 1 song and then passes to the next team.
- In order to receive a point, a member of the team must SING the line of the song containing the buzz word, and each team member must sing at least one song in order for the team to continue receiving points.
- Duplicate songs are cancelled out and do not count toward the team total.

Debrief Questions

- What did you learn about others on your team from the songs they came up with? Are any of the songs worthy of becoming the group's "theme song"?

#### **5. Dodge ball**

Use: Icebreaker/Warm-up

Objective: Introduce yourself, when you get hit!

Activity: This game is a variation on dodge ball, and when someone gets hit with the ball they have to introduce themselves to the group. 1 person "a" will first have to introduce themselves or say a fact about themselves to be able to start throwing the ball. When person "a" hits a person suppose it is person "d". Then person "d" has to introduce themselves and then takes persons "a" position. Person

"a" then goes into the crowd. And the game continues. And if the ball goes toward a person and they hit it, it is still counted toward that person.

SAFETY RULES:

- No hitting above the neck
- No Pushing and shoving
- No Hitting hard

(For more: [Source:http://www.teampedia.net](http://www.teampedia.net))

## Appendix 2: Hand out: Salient Points on Human Rights in Some Laws in Nigeria

### **1. Equal Pay**

According to the constitution, it is the duty of the state to ensure there is equal pay for equal work without discrimination on account of sex, or on any other ground. However, no implementing legislation has been enacted so far. A Labour Standards Bill, submitted in the National Assembly in 2008, had provision on equal pay for equal work however it has not been passed.

### **2. Non-Discrimination**

The constitution of Nigeria prohibits discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties. It is the duty of the state to promote national integration by providing adequate facilities, equal opportunities and rights to all the citizens without discrimination. Citizens of Nigeria must not be subjected to any disability or deprivation on discriminatory grounds.

There is no specific legal provision regarding discriminatory behaviour while hiring an employee. However, according to the Constitution, it is the duty of the state to ensure equal opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment, for all the citizens without any discrimination. Also, the state must ensure equal wage for equal amount of work without gender discrimination or discrimination on any other ground.

HIV and AIDS (Anti-Discrimination) Act, 2014 prohibits discrimination on the basis of real or perceived HIV status concerning access to and continued employment, conditions of employment, employment benefits, comprehensive health services, education, use of public facilities and other social services, provided by the employer, individual, community, government or any other establishment.

Furthermore, the Labour Act expressly prohibits employers from discriminating against employees by virtue of their union membership. Labour Act prohibits an employer to cause the dismissal or otherwise prejudice a worker by reason of trade union membership; because of trade union activities outside working hours (or with the consent of employer during the working hours); or because he has lost the trade union membership or has refused to or is unable to become a member of trade union. Discrimination against pregnant women is also expressly prohibited in the Labour Act.

Under the Nigerian with disabilities Decree 1993, employers are required to reserve 10% quota for disabled persons. Law gives 15% tax deduction to those private sector employers who employ disabled persons in above quota. Employers are further prohibited from discriminating against disabled persons.

If a worker believes he/she has been discriminated against on any of the above referred grounds, he/she can bring a case before the National Industrial Court which can award compensation if discrimination is proven.

### **3. Equal Choice of Profession**

Labour law ensures equal rights and same regulations of employment for both men and women with the exception that women cannot work at night and may not be employed on underground work in mines. If an employer is found guilty of an offence, on conviction he is liable to fine or imprisonment as specified by the law.

### Appendix 3: List of Human rights/Access to Justice Analytic Frameworks

SN	Promoter	Description
1	American Bar Association	The Access to Justice Assessment Tools (AJAT) is a mechanism for assessing whether citizens can obtain legal remedies to their justice problems to ensure their basic rights are recognized and protected
2	United Nations Development Program	Framework and methodology for an assessment of access to justice
3	Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict Resolution Systems/TISCO	Measuring Access to Justice (MA2J) is focused on the relationship between the costs of paths to justice, and the quality (both in terms of procedures and outcomes) of paths to justice and the barriers to access to justice from users' experience
4	World Justice Project, Rule of Law Index, Methodology	Assess a nation's adherence to the rule of law in practice, identify a nation's strengths and weaknesses in comparison to similarly situated countries; and track changes over time.

## Appendix 4: Sample of a Workshop Programme for HIV-Related Legal Service Providers

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Objectives

1. To increase the capacity of legal service providers to provide services to people living with HIV and key populations.
2. To identify the legal issues faced by people living with HIV and key populations, the challenges in the provision of legal services and ways to overcome them.
3. To recommend the next steps for supporting legal services providers to address the needs of people living with HIV and key populations.

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DAY 1	
Time	Activity
08:30am	Registration and distribution of materials.
09:00am	Participants introduce themselves. The meeting goals and objectives are explained. The facilitator sets the ground rules
10:00am	Session 1: awareness-raising exercise.  Through experiential exercises, participants come to understand and reflect on how HIV is being transmitted in local communities and on the personal, social and economic challenges faced by people living with HIV.
10:45am	Break
11:00am	Session 2: community perspective and legal issues.  Social and legal issues faced by people living with HIV. Panel presentation by people living with HIV and key populations, followed by a facilitated discussion.
12:30pm	Lunch Break
1:30pm	Session 3: HIV and AIDS introduction (HIV expert).  Medical basics, including HIV transmission, treatment and the stages of disease progression; epidemiology and the status of the HIV epidemic in the country; questions and discussion.
2:30pm	Session 4: current state of provision of legal services.  Participants give brief oral presentations on the current state of the provision of legal services to people living with HIV and vulnerable communities in the region: experience to date, and challenges in providing services.
3:00pm	Break
3:15pm	Session 4 continues after the break with a facilitated discussion on the challenges in providing and accessing legal services.
4:45pm	Close
DAY 2	

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<b>9:00AM</b>	Recap of day 1 and review of the agenda for day 2.
<b>9:15am</b>	<p>Session 5: experiences and examples from other countries.</p> <p>A presentation on experiences in providing HIV-related legal services in other countries, including success stories. This session provides an opportunity to direct participants to publications and Internet-based resources.</p>
<b>9:45am</b>	<p>Session 6: Working group session on recommendations.</p> <p>Development of recommendations for increasing the capacity of legal service providers to provide HIV-related legal services. This will involve breaking up into small groups, with a nominated person to take notes and another nominated person to report back.</p>
<b>11:00am</b>	Break
<b>11:15am</b>	Session 7: Working groups report back to plenary.
<b>12:30pm</b>	Lunch Break
<b>1:30pm</b>	Session 7: Working groups report back to plenary
<b>3:30pm</b>	<p>Session 8: Identification of next steps.</p> <p>This session confirms the lead responsibilities and timeframes for any agreed next steps and agrees recommendations for the next workshop for legal service providers.</p>
<b>4:00pm</b>	<p>Exit evaluation and debrief with community representatives.</p> <p>At the end of the workshop participants are asked to complete and hand in anonymous workshop exit evaluation forms. An extended in-person debriefing session may also be held with the community representatives immediately after the workshop.</p>
<b>4:30pm</b>	Close

*\*Adapted from the Workshop for Legal Service Providers, held in 2006 by CARICOM and the Law, Ethics and Human Rights Project of the Pan Caribbean Partnership against HIV/AIDS in "Toolkit-Scaling Up HIV- Related Legal Services"*

## Appendix 5: Sample Monitoring and Evaluation Framework

Activities	Outputs	Indicators
Goal: Enabling legal environment for effective HIV responses		
<p>Objective 1: Advice and Representation</p> <ul style="list-style-type: none"> <li>*Advice provided by lawyers and paralegals</li> <li>*Telephone advice</li> <li>*Court representation</li> <li>*Mediation, conciliation and other alternatives to court</li> <li>*Assistance with informal systems/traditional village courts</li> <li>*Community outreach</li> <li>*Drafting of wills and other legal documents</li> <li>*Strategic litigation—test cases identified and taken to court</li> </ul>	<ul style="list-style-type: none"> <li>*Disputes resolved</li> <li>*People provided with accurate advice and quality representation</li> <li>*People provided with wills, powers of attorney and other estate planning documents</li> <li>*Organizations of people living with HIV receive advice on registration and governance and on how to conduct outreach to people who use illicit drugs, sex workers, transgender people and men who have sex with men</li> <li>*Test cases concluded</li> </ul>	<p><i>Data collected should be disaggregated where possible by gender.</i></p> <p>Number of:</p> <ul style="list-style-type: none"> <li>• People living with HIV and key populations (women, men and transgender people) who attend consultations with lawyers/paralegals</li> <li>• People living with HIV and key populations (women, men and transgender people) who are represented</li> <li>• People living with HIV (women, men and transgender people) who have wills/estate planning documents in place</li> <li>• People living with HIV and key populations (women, men and transgender people) who are satisfied with the outcome of the legal service</li> <li>• People living with HIV and key populations (women, men and transgender people) who receive outreach/education and report crimes/abuse to the police, go to court and demand justice</li> <li>• Community-based organizations receiving advice, consultations, representation</li> <li>• Disputes resolved</li> <li>• Outreach services established and advice provided at outreach sites</li> <li>• Level of client satisfaction with advice and representation: surveys, focus groups, semi-structured interviews;</li> <li>• Percentage of client problems that a legal service is able to resolve to the client's satisfaction</li> <li>• Number of cases in which judgment refers to statements of international human rights law</li> <li>• Number of successful test cases concluded: <ul style="list-style-type: none"> <li>• That establish a new legal rule that benefits people living with HIV;</li> <li>• That address a discriminatory policy or practice</li> </ul> </li> <li>• Increased uptake of harm reduction services</li> <li>• Increased reporting to police of incidents of violence against women</li> </ul>
<p>Objective 2: Human rights education</p> <ul style="list-style-type: none"> <li>*Information materials Fact sheets</li> <li>Community education</li> <li>*Street theatre and community events</li> <li>Training sessions, training of trainers</li> <li>*Practice manuals</li> <li>*Reference manual for judges</li> </ul>	<ul style="list-style-type: none"> <li>*People provided with training and information on their legal rights and how to enforce them</li> <li>*Paralegals, lawyers and judiciary and nongovernmental organizations/human rights groups trained in HIV and human rights</li> </ul>	<ul style="list-style-type: none"> <li>*Number of men, women and transgender people who have received training on legal rights and who report improved knowledge and confidence in enforcing their rights</li> <li>*Level of knowledge of law and human rights of target audiences</li> </ul>

<ul style="list-style-type: none"> <li>*Law journal articles Briefing papers</li> <li>*Web sites, e-mail lists Conferences, seminars</li> </ul>	<ul style="list-style-type: none"> <li>*Media, officials, police and other sectors increase awareness of HIV and human rights</li> <li>*Nongovernmental organizations and human rights groups trained in HIV law</li> <li>*Professional networks of HIV legal service providers established</li> </ul>	<ul style="list-style-type: none"> <li>*Assessment data/ratings of materials used against quality standards; for example, accessible, accurate, culturally appropriate language and user- friendly formats</li> <li>*Most significant change stories from people living with HIV who have received human rights education</li> <li>*Numbers of lawyers, paralegals, judges, police, prosecutors, human rights advocates and religious leaders trained</li> <li>*Number of traditional leaders sensitized about HIV, gender, discrimination and human rights</li> <li>*Level of satisfaction with training: pre-training and post-training surveys, focus groups</li> <li>*Percentage of trained paralegals, lawyers confident in understanding the needs and rights of people living with HIV and able to advise on HIV-related law</li> <li>*Number of people living with HIV provided with 'train the trainer' support and involved in delivering training</li> </ul>
<p>Objective 3: Advocacy and law reform</p> <ul style="list-style-type: none"> <li>*Collation of case studies</li> <li>*Analysis of cases</li> <li>*Policy research</li> <li>*Advocacy and campaigning</li> <li>*Production of campaign materials to brief the media and parliamentarians</li> </ul>	<ul style="list-style-type: none"> <li>*Clearinghouse established</li> <li>*Research analysing case trends produced</li> <li>*Advocacy materials disseminated</li> <li>*Reform campaigns conducted *Web-based campaigns</li> <li>*Media exposure of rights abuses</li> </ul>	<ul style="list-style-type: none"> <li>*Number of advocacy issues identified and raised through campaigning</li> <li>*Number, nature and reach of systemic changes that have resulted from strategic litigation and reform campaigns</li> <li>*Number of parliamentarians and officials reached with advocacy messages: meetings, seminars, mailings</li> <li>*Incidents of positive media exposure on key HIV discrimination issues</li> <li>*Media conferences held and resulting coverage, resulting in changes in law and policy</li> </ul>

Source: Toolkit: Scaling Up HIV-Related Services

## Appendix 6: Samples of Human rights/Access to Justice Indicators for Measuring Results of HIV/AIDS Programmes

### Examples of output indicators

- Number of training sessions held.
- Number of individuals provided with training.
- Number of community paralegals providing services.
- Number of referrals for legal support or advice services for people living with HIV and other affected populations and key populations
- Number of cases taken to judicial process.
- Number of people using legal support services.

### Examples of process indicators

- The number of people trained on tolerance and non-discrimination, sexual and reproductive rights, civic leadership participation.
- The number of materials on law produced and distributed to different target groups (employers, health-care personnel, people living with HIV, trade union members).
- The number of cases of HIV-related human rights violations documented by people living with HIV reached and referred to an appropriate agency.
- The number of people living with HIV trained in domestic and international law relating to human rights, stigma and discrimination.

### Examples of outcome indicators

The following are some examples of outcome indicators (with potential data sources in parentheses):

- Knowledge among key populations of their rights and available redress (programme data).
- Number and percentage of referred cases satisfactorily resolved (programme data).
- Percentage of people living with HIV who sought redress when their rights were violated in the past 12 months (People Living with HIV Stigma Index).
- The number of persons from the target population (judiciary, health care, people living with HIV, trade union members) who have knowledge about the law
- Percentage of people living with HIV who state that their human rights are respected.
- Percentage of people living with HIV who know their rights based on law

## Appendix 7: Sample Workshop Evaluation Form

### DAILY EVALUATION FORM

**Instruction:** On a scale of 1 to 5, with 1 signifying “VERY POOR” and 5 signifying “EXCELLENCE”, Please rate the sessions and other aspects of the training.

#### A. MODULES

Title of Session	Technical quality	Relevance to your work	How well did you understand the sessions
<b>Module 1:</b> Access to Justice and HIV/AIDS Programming			
<b>Module 2:</b> Legal environment and Access to Justice			
<b>Module 3:</b> Gender, Human Rights and its intersections with HIV/AIDS response			

#### B. LOGISTICS

	Rating	Reasons for the rating	Suggestions for improvement
Training room			
Presentation / facilitators			
Adequacy of training time			
Tea breaks and lunch			
Accommodation			

**C. GENERAL**

C1. What do you like about the sessions and **WHY**?

C2. What do you like least about the sessions and **WHY**?

C3. State other suggestions/perspective that can improve the training

**FINAL EVALUATION FORM**

**Technical Quality**

Which of the modules was most useful to you? \_\_\_\_\_

Please give reasons for your answers:
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Which of the modules was least useful to you? \_\_\_\_\_

Please give reasons for your answers:
---------------------------------------

Which of the modules did you understand very well? \_\_\_\_\_

Please give reasons for your answers:

Which of the modules did you not understand at all? \_\_\_\_\_

Please give reasons for your answers:

Please indicate any topic(s) that you would have loved to be included in the training

\_\_\_\_\_

**Objectives / Expectations**

1. Do you think your expectation of this workshop was met?

Yes     No

Please give reasons for your answers:

## Facilitation

How would you rate the facilitators?

Excellent  Very Good  Good  Fair  Poor

Please give reasons for your answers:

How adequate were the days allocated to the training

Very Adequate  Just adequate  Not adequate

Please give reasons for your answers:

## Logistics

What is your general impression of the training venue?

Excellent  Very Good  Good  Fair  Poor

Please give reasons for your answers:

What is your general impression of the meals and tea breaks?

Excellent  Very Good  Good  Fair  Poor

Please give reasons for your answers:

3. What is your general impression of accommodation arrangement

Excellent  Very Good  Good  Fair  Poor

Please give reasons for your answers:

4. State other suggestions/perspective that can improve the training

Suggestions:

Appendix 8: Hand out on developing advocacy message

<b>DEVELOPING EVIDENCE BASED MESSAGES</b>		
<b>GOAL: HOW TO REPEAL SAME SEX MARRIAGE ACT</b>		
PRIMARY MESSAGE: STATEMENT+EVIDENCE+EXAMPLE+GOAL+ACTION DESIRED		
<b>AUDIENCE</b>	<b>CONCERNS</b>	<b>POSSIBLE MESSAGES</b>
DECISION MAKERS(e.g government minister, legislators		
GENERAL PUBLIC		
JOURNALISTS		
OPINION LEADERS (religious, traditional		

Appendix 9: Budget Template

BUDGET TEMPLATE					
BUDGET AREA	ITEM DESCRIPTION	UNIT TYPE	UNITS	UNIT COST	COMMENTS/ASUMPTIONS

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