Understanding Key Populations:
Removing Legal Barriers to Prisons Health and Human Rights.

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Key Populations

- The World health Organisation (WHO) defines key populations as groups who, due to **specific higher-risk behaviours**, are at **increased risk of HIV**, irrespective of the epidemic type or local context. They also often have **legal and social issues related to their behaviours that increase their vulnerability to HIV.** The 2014 WHO *Consolidated Guidelines on HIV Prevention, Diagnosis, Treatment and Care for Key Populations* focuses on five key populations: Men who have sex with men; People who inject drugs; **People in prisons and other closed settings**; Sex workers; and Transgender people
- Both UNAIDS and WHO tend to make a distinction between key populations and "vulnerable groups"

- **Vulnerable groups** are any additional group vulnerable to ,or affected by HIV, according to national and sub-national epidemiological and social contexts

Key Populations

- Irrespective of formal definition, what fundamentally defines key populations in the context of HIV is: ***1) increased risk and vulnerability to HIV compared to any other population group; and 2) social exclusion and their experience of stigma and violence***

- Punitive laws and legal practices that penalise all or some aspects of their practices, occupations, and identities make it extremely difficult for key populations to access essential HIV and other services or claim security from violation of their citizenship and human rights

TB, HIV and Prisons

- According to UNODC more than 10.2 million people are held in penal institutions annually, with four to six times this number passing through the world's prisons every year
- The institute for Criminal Policy research surveyed 204 countries, 143 of countries reported reported occupation of over 90%
- The chances of a prisoner having latent TB infection is 26 times higher than in the general public
- Higher rates of HIV, combined with poor ventilation, sanitation and overcrowding facilitate rapid spread of TB, with an international estimate of 4500 of every 100 000.
- Factors that encourage the spread of TB in prisons also promote the spread of MDR forms (WHO suggests some prisons with up to 24% of TB cases suffering from MDR forms of TB)
- Prevalence of HIV and TB 6 to 50 times higher inside African prisons than in the wider population (WHO, UNODC)
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Factors that increase vulnerability of key populations to HIV

- Stigma, violence and punitive laws
- Lack of access to HIV prevention, treatment and care services
- Lack of data on key populations and HIV in Africa

Lack of access to HIV prevention, treatment and care services

- Why are prisoners particularly at risk?
- **Injecting drug use**: us of contaminated injecting equipment when using drugs is one of the primary routes of HIV transmission in prisons.
- Within prisons it is nearly impossible to obtain clean injecting equipment. Possession of needles can be punishable, therefore people share used equipment

Lack of access to HIV prevention, treatment and care services

- **Sexual violence, unsafe sex and other high-risk behaviours**: In most instances the prevalence of sexual activity remains largely unknown, due to under reporting, caused by stigma, denial , homophobia and criminalisation of same-sex sex
- While sex in prisons can be consensual, rape can also occur and used to exercise dominance over others
- Non-availability of condoms in prisons (often called a security threat), no harm reduction programmes, Limited HTC, limited IEC, limited access to ART, etc.

Stigma, violence and punitive laws

- **We need to understand the intersectionality of struggles**: Punitive laws lead to the incarceration of people living with HIV and key populations, increasing a second layer of vulnerability
- **Poor criminal justice systems** can lead to people who are detained having to wait for long periods during the investigation of a crime, while awaiting trial and before sentencing
- **Inappropriate, ineffective and excessive national laws and criminal justice policies** lead to high incarceration levels and overcrowding (the occupancy rate of some prisons in Africa is over 200 %)

Stigma, violence and punitive laws

- Overcrowding and poor ventilation
- Poor prison conditions:
- lack of space and clothing
- insufficient food,
- torture and cruel inhumane and degrading treatment,
- limited access to medicine
- Lack of access to HIV prevention, treatment and care services (condoms, needle exchange programmes, etc.)
- Poor criminal justice systems

Prisoners' Rights: SADC Minimum Standards

Prisoners have same right to health care as everyone else

- Prisoners retain right to enjoy same quality and standard of care as everyone else i.e. Loss of liberty should not be loss of other fundamental rights!
- Prisoners should not leave prison in worse condition than entering
- **'Duty of care'** rests on prison administration as a result of deprivation of inmate liberty
- Obligations of governments even in times of economic difficulty

Bottom line: *The acquisition of disease* ***SHOULD NOT*** *part of sentence*

Prisoners' Rights: SADC Minimum Standards

- Health care workers should deal with prisoners **primarily as patients**, not prisoners – no discrimination on grounds of legal situation
- Health care workers must have same **professional independence** as colleagues in community
- Health policy in prisons should be **compatible** with and integrated into national health policy
- There must be provision of standards for prison healthcare

Good Prison Health is Good Public Health

- "Overcrowded prisons, and poor sanitation and ventilation offer ideal environments for the spread of communicable diseases. Most prisoners eventually return to their communities, and those that have acquired communicable diseases are at risk of transmitting those diseases to other members of the community." – SADC Minimum Standards

Principles Principles in working with Key Populations

- Developed by the UNDP Africa Key Populations Experts Group

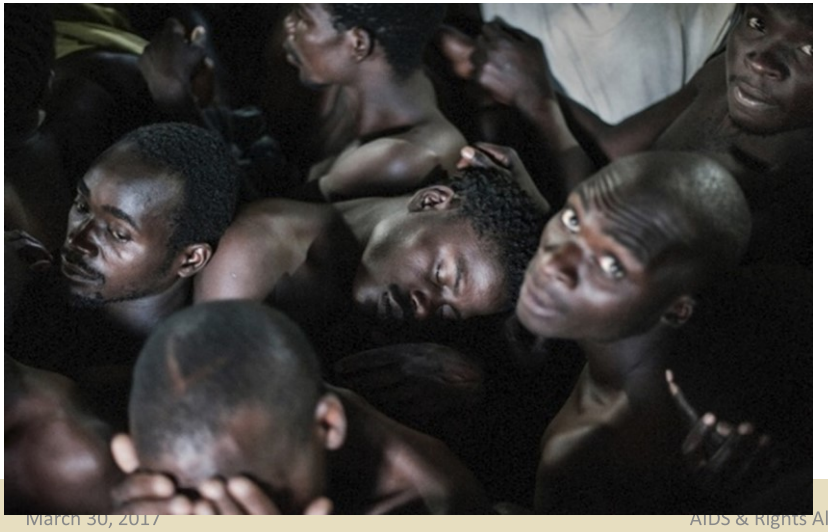
1. Respect for Diversity
2. Participation and Inclusion
3. Equity
4. Evidence Informed
5. Do no harm
6. Build on experience

The role of the courts

- Create legally enabling environments that allow prisoners to access the highest attainable health in prisons
- Courts have ability to compel governments to improve prison conditions
- Can serve as forum where rights that are not politically popular at national level can be enforced
- Courts play an important role in reducing overcrowding by:
- Reviewing and confirming sentences
- Promoting the use of alternative sentences (probation, community services, suspended sentences
- Testing cases or public interest litigation

Unjust & Unhealthy

"It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones." Nelson Mandela



UNJUST & UNHEALTHY

Uncaging Prisoners' Human Rights

Thank you