



## AFRICA REGIONAL GRANT ON HIV: REMOVING LEGAL BARRIERS - EMERGING RESULTS

The Africa Regional Grant on HIV: Removing Legal Barriers aims to address human rights barriers faced by vulnerable communities in Africa, and facilitate access to lifesaving health care. The grant is the first of its kind and covers 10 countries, including Botswana, Côte d'Ivoire, Kenya, Malawi, Nigeria, Senegal, the Seychelles, Tanzania, Uganda and Zambia. The programme also works at the continental and regional levels with the African Union Commission and key Regional Economic Communities (Southern African Development Community, Economic Community of West African States and East African Community) to promote alignment of national laws and policy with regional and international human rights commitments.

The programme is supported through a three-year grant by the Global Fund to Fight AIDS, Tuberculosis and Malaria. UNDP is the Principal Recipient of the grant and implements in collaboration with four African civil society organizations - the AIDS and Rights Alliance for Southern Africa (ARASA), ENDA Santé, KELIN, and the Southern Africa Litigation Centre (SALC) – with recognized expertise in documenting human rights violations, strategic litigation, advocacy and capacity-strengthening.

The goal of the programme is to strengthen the legal and policy environment to reduce the impact of HIV and TB on key populations in Africa, including men who have sex with men, sex workers, transgender people, people who use drugs and prisoners.

The programme has four objectives:

- To strengthen regional and national evidence-based law, policy and strategy to support improved access to and delivery of HIV and TB services for key populations (men who have sex with men, sex workers, transgender people, people who use drugs and prisoners).
- To strengthen access to justice and enforcement of supportive laws to support improved access to and delivery of HIV and TB services for these key populations.
- To strengthen regional and national mechanisms to prevent and address human rights violations that impede key population access to HIV and TB services.
- To strengthen the capacity of regional non-governmental organizations to take on Global Fund Principal Recipient roles and functions.

### Key strategies:

- Capacity Strengthening of key stakeholders
- Strategic litigation
- Small grants
- Legal Environment Assessments (LEA)
- Advocacy Campaigns
- Policy or Engagement Scans
- Regional Dialogue
- Engagement with African Union Commission/ Regional Economic Communities

### Number of key stakeholders trained:

- 129 Judges
- 164 Lawyers
- 195 Law Enforcement officials
- 155 Members of Parliament
- 126 National Human Rights Institution staff members
- 105 Key Population experts
- 139 African Union Commission and Regional Economic Communities stakeholders

## Regional level results

### Africa Key Populations Expert Group (AKPEG)

UNDP convenes key populations experts (men who have sex with men, people who use drugs, sex workers and transgender people) from at least 16 countries in Africa annually under this grant. So far, 105 experts have been convened. This expert group shares best practices and interventions to advance the engagement of key populations in the HIV response. They have also developed a model strategic framework on HIV for key populations, which has been used to inform the planning, implementation and monitoring of HIV and health programmes including global fund catalytic fund proposals in project countries, and in both the SADC and EAC regions.

### Training of Lawyers

Lawyers play a key role in implementing protective laws which already exist, and reforming discriminatory laws. There are over 14 cases being litigated in 6 countries, of which 2 have successfully been litigated in Malawi, plus 1 additional case in Nigeria. These cases help to advance the rights of KPs, and set precedents that have impacted beyond the borders of nation states. To date, 164 lawyers from across the region have been trained.

### Regional Judges' Forum for Africa

The Regional Judges' Forum for Africa is organized by UNDP, and convenes judges from across Africa each year. These fora allow judges to share experiences, challenges and developments in HIV-related jurisprudence to uphold the rights of all people, including key populations. 129 judges from 16 countries have attended the forums.

### National Human Rights Institutions

National Human Rights Institutions (NHRIs) are state bodies with a constitutional and/or legislative mandate to protect and promote human rights and are now being strategically leveraged to follow up regional commitments in-country and lead National Advocacy Campaigns. NHRIs are now championing the rights of key populations and have taken the lead in co-hosting national advocacy campaigns. 126 NHRI officers have been trained to date.

### AUC/RECs Partnership Forum

Continuing the long-term partnership between UNDP and the African Union Commission (AUC), in 2017 UNDP and the AUC jointly convened the 2nd Africa Coordination and Partnership Forum on AIDS, TB and Malaria in November 2017. The Forum was established with financial and technical support of UNDP in 2016 to coordinate the efforts of regional and continental players in implementing the Catalytic Framework to end AIDS, TB and eliminate Malaria in Africa by 2030, which outlines key policy issues, strategic priorities, targets and accountability mechanisms for the continent. 139 AUC/REC stakeholders have been involved in the forums. The Forum also critically reviewed the Draft Common Position on Ending TB as a public health threat for Africa by 2030 and provided guidance to enrich the document prior to approval and adoption by the African Heads of State at the AIDS Watch Africa meeting.

### Parliamentarians

Enda Santé conducts annual trainings for parliamentarians across the continent, which has resulted in national roadmaps. 155 Members of Parliament have been trained to date. As an intermediate result from the 2017 meeting, a network of African parliamentarians on HIV/TB and human rights meeting was facilitated to ensure continued engagement and cross fertilization of ideas and learning across countries. Parliamentarians have also advocated for re-allocation of the national health budget; joined the TB Caucus; and established an AIDS Trust Fund and integrated HIV into the Ministerial Policy Statement; among other achievements.

### Law Enforcement and Healthcare workers

Law enforcement officers and healthcare workers play an important role in supporting rights-based responses to HIV and TB. KELIN conducts capacity strengthening for law enforcement officers and health care workers across the programme countries each year. To date, 155 officials have been trained. The trainings provide key stakeholders knowledge about the challenges community members face in accessing HIV and TB services.

# Country level results

## Development of Regional KP Strategies:

Both SADC and the EAC are in the process of validating regional KP strategies reinforced with insights from the Africa Key Population Expert Group, a forum also supported under the grant.

## SENEGAL

In Senegal, representatives were involved in designing a project on the management and sensitization of the risks related to drug use and the adoption of practices to lower the risks for active users.

## CÔTE D'IVOIRE

Small grants allocated to support implementation of the Observatoire to monitor human rights abuses Platform has been used to obtain release of detained key populations. Small grants also allocated to train police workers on KP issues, which resulted in development of internal memos used to file KP-related complaints.

## NIGERIA

*X v Brink and Others* - An employee of a private security firm was found to have been discriminated against and his rights violated by his employer for coercing him to undergo HIV testing and firing him on the basis of his HIV-positive status. The Court ruled in favour of the employee, and he was awarded five years' salary compensation.

Language on transgender people has been included in the Nigeria National Strategic Framework 2017-2021 due to advocacy efforts under the grant.

Nigeria has expanded the TOR of the already existing Gender and Human Rights Technical Working Group to include addressing HIV and TB-related human rights violations.

## ZAMBIA

Renovations and refurbishment of a number police cells; and the construction of a Police Hospital has alleviated challenges of TB screenings, HIV and AIDS Care and treatment for the officers, prisoners and surrounding communities. The establishment of infection control committees has seen an increase in number of inmates, detainees and staff having adequate knowledge and information on HIV and TB; increase in number of staff and inmates accessing early treatment; reduction in the number of TB and HIV infection among inmates and staff; and improved quality of health and life among inmates and staff.

The Zambia National AIDS Strategic Framework 2017-2021 validated in June 2017 now has language on transgender under Emerging Issues and Themes.

Ongoing strategic litigation – cases pending.

## UGANDA

In Uganda, the sex worker and transgender sections of the application to the USAID 'Key Populations Investment Fund (KPIF)' was developed by AKPEG, as was a funding application to 'The LGBT Fund Deep Engagement Grant' of the Elton John Foundation.

Uganda government issued permission to demonstrate Needle and Syringe Programme (NSP) and Opioid Substitution Therapy (OST) in regional referral hospitals and this will help in reducing sharing of drug use equipment and thus reducing new HIV infections as well as helping addicts to quit drug use.

Persuasion of fellow law enforcement officers to become advocates for the rights of KPs. Law enforcement officers supported the KP rights' cause and became part of the "Support. Don't Punish" campaign which was specifically advocating for the rights of people who use drugs.

## KENYA

The National AIDS Control Council (NACC), in the process of reviewing the Kenya AIDS Strategic Framework, has brought on board transgender issues.

The campaigns supported by ARASA used National Human Rights Institutions i.e. Kenya National Commission on Human Rights (KNCHR) to champion the rights of key populations and take a strategic public lead in co-hosting the national advocacy campaigns. The focus of the campaigns is addressing violence, stigma and discrimination against key populations.

## SEYCHELLES

The Seychelles National Assembly voted to decriminalise MSM activity by removing Section 151 from its Penal Code (Amendment) Act on 18 May 2016. This was a result of, amongst other contributing factors, the LEA conducted with UNDP support in 2013-14.

## MALAWI

*Malawi HC 2016, Judge Z Ntabe EL v The Republic, Crim. Case No. 36 of 2016, 19th January, 2016* - Appeal of a woman living with HIV against her conviction for a crime under section 192 of the Penal Code for breastfeeding a child. The court found for the woman not guilty.

*Malawi HC 2016, Judge. Z Ntabe Pempho Banda et al v The Republic, Crim. Case No 58 of 2016, 8th September 2016* - The case concerned 19 women who were arrested and charged with the offence of 'living on the earnings of prostitution'. The case sets an important precedent because sex workers throughout Africa are often arrested under the offence of living on the earnings of prostitution. The offence which was imposed in many former British colonies, was originally aimed at persons who exploit sex workers, but has been incorrectly interpreted by police to apply to sex workers themselves.

Small grants allocated to identify and train 22 community based human rights monitors, who were trained in basic human rights documentation, data collection, digital security and information management. As a result of the human rights monitors, 36 cases of assaults, arrests, harassment and violence against key populations, especially sex workers were reported and documented.

## SOUTH AFRICA

In South Africa, AKPEG representatives informed the language used in the South African National Strategic plan and facilitated the development of the National Sex Work HIV Plan.

Judicial institute has conducted national level training for magistrates as a follow-up to the Regional Judges' Forum for Africa.