

Criminalisation

“Criminalisation of HIV” is a phrase that is used to refer to enacting of laws directed at punishing behavior that may transmit HIV and the application of general laws in a manner that targets those with HIV who may transmit or expose another person to HIV.

About the Global Criminalisation Scan

The Global Criminalisation Scan (The Scan) is a programme that was developed to respond to this growing trend. The Scan was initiated and is led by the Global Network of people living with HIV (GNP+) in partnership with others to map and document the existence of laws, practices and policies that impact on responses to HIV. The scan was adapted in 2010 to include protective as well as punitive laws.

Positive laws and policies create the environment in which necessary services can be easily and equitably accessed. For this to happen, these laws need to be promoted and enforced. Examples of positive laws and practices include laws that protect people living with HIV from discrimination, particularly discrimination on the grounds of actual or perceived HIV positive status.

Punitive laws and policies may have the effect of preventing people from accessing necessary services (including prevention, treatment and care services for HIV). This effectively criminalises the lives of people living with HIV. Examples of punitive laws include laws that:

- Criminalise unintentional transmission/exposure of HIV;
- Criminalise commercial sex amongst consenting adults;
- Criminalise same sex sexual relations;
- Impose compulsory or cohesive drug treatment for people who use drugs or prohibits the provision of harm reduction services for people who use drugs;
- Restrict or deny entry, stay, and/or residence or require deportation of HIV positive non-nationals.

What are the Global Criminalisation Scan Objectives?

The objectives of the Scan are:

- To provide PLHIV networks in countries with a tool to investigate, document and understand how criminal and other laws are applied in a manner that impacts on responses to HIV;
- To collect and keep up-to-date information on national or state level laws and practices that have an impact on responses to HIV;
- To record laws and policies that impact key populations and their access to HIV services;
- To document case studies of the rates to which these laws are enforced;
- To provide an easily accessible hub of resources and research on the subject;
- To inform global advocacy to revise laws and practices that have a punitive effect and promote those with a positive effect;
- To ensure that positive laws are promoted and enforced;
- To provide a platform for advocacy campaigns.

Who implements the Global criminalization Scan?

National networks of people living with HIV gather evidence in their respective countries with the support of GNP+.

In addition GNP+ has partnered with other networks and organizations to collect this information on a regional basis. In Europe and the Central Asian Republics, Terrence Higgins Trust (UK) has taken the lead on updating the Scan. In North America, Asia Pacific, Caribbean, and Central and Latin America regional partners such as GNP+ North America, Asia Pacific Network of People living with HIV (APN+), Caribbean Regional Network of People Living with HIV (CRN+) and Grupo Genesis Positivo Panama respectively are conducting the scan. Sub-regional networks of people living with HIV helped to collect the information in Africa.

The Global Criminalization Scan Methodology

Data to inform and complete the country pages for the Scan has been collected in a variety of ways. These have included:

- Desk research of legal databases, specialist websites and government sites;
- Questionnaires sent to networks of people living with HIV, HIV and AIDS service organisations, government departments (Ministries of Justice or Public Health or the equivalent), UN country representatives, government officials, and others working on the issues;
- Engagement with activists and organizations representing key population groups directly affected by the laws and practices.

The methodology guidance places greater weight on the analysis and research done directly by the national networks of people living with HIV than the questionnaires.

Evidence Based Advocacy

Through implementing the Scan, national networks will be capacitated to map, analyze and examine the legal and policy environment in their country and meaningfully engage with this area of work. Networks are also encouraged to link with key stakeholders to lobby for improving the policy and legal environment in their country.

Further Support

The Scan takes approximately 4 months to implement in-country. A website has been created to present the global evidence collected through the Scan. It contains country by country information, regional analysis, and where possible global analysis and can be accessed at:

<http://gnpplus.net/en/programmes/human-rights/global-criminalisation-scan>.

For information on the HIV Leadership through Accountability programme visit www.hivleadership.org.

