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Human rights

Countries that criminalise same-sex relationships, sex work and drug use have poorer HIV outcomes

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Countries that criminalise same-sex relationships, sex work and drug use have significantly more people with undiagnosed HIV and lower rates of viral suppression than countries that do not criminalise, or criminalise these areas to a lesser extent. Countries with human rights protections in place fared much better than those without on these HIV-related indicators, according to an analysis by Dr Matthew Kavanagh of Georgetown University. It has been published as a pre-print and has not yet been reviewed by other scientists.

The UNAIDS 2020 targets – that 90% of people living with HIV know their status, 90% of those who know their status are on treatment and 90% of those on treatment are virally suppressed – have been achieved to varying degrees globally, with some countries making incredible progress and others lagging far behind. Currently, only 23 countries are on track to reduce new HIV infections by 90% by 2030.

While HIV outcomes at a country level are determined by a variety of factors, the legal and policy environments can shape both vulnerability to HIV and how easily those at risk for and living with HIV are able to access services along the HIV care continuum, from testing to

treatment. Financial resources is not always the central factor in this regard: in Thailand, over 90% of people living with HIV know their status and 78% are virally suppressed. This is in contrast to the United States, the country that spends the most on health care in the world – where progress towards reaching the targets vary widely from state to state and the country as a whole has made slower progress towards the 90-90-90 goals than some countries that spend much less.

"This research emphasises the crucial need to remove legal and systemic barriers to reducing the number of HIV infections globally."

Criminalisation of same-sex relationships, sex work and drug use remains common in many UN member states. This means that key populations – such as gay and bisexual men, transgender people, sex workers and injecting drug users – face barriers to accessing much-needed HIV services. In some instances, seeking out HIV-related or sexual health services may present an opportunity for arrest, prosecution and imprisonment under these laws. Criminalisation contributes to a climate of stigma regarding these behaviours – including from healthcare providers and government institutions – leading people living with HIV to avoid seeking out services and mistrust service providers. Many governments with these laws justify their existence based on supposed public health benefits.

This study considered data from all 194 UN member states to broadly gauge whether countries with criminalisation laws achieved better or worse HIV-related outcomes in relation to knowledge of HIV status and viral suppression.

For same-sex relationships, the researchers considered both laws in place and active prosecution under these laws; for sex work, any laws prohibiting buying, selling or organising of sex work and for drug use, whether or not use or possession of small amounts for personal use is criminalised. Similarly, researchers also considered whether countries had protections (such as non-discrimination protections and gender-based violence laws) in place.

Knowledge of HIV status

In countries criminalising same-sex relationships, the results revealed that knowledge of HIV status was 11% lower among those living with HIV compared to countries with no same-sex criminalisation. Similarly, countries that criminalise sex work had 10% fewer people knowing their status compared to those countries that do not. This pattern held for drug use criminalisation – where HIV-status knowledge was 14% lower in criminalising countries.

However, after controlling for HIV prevalence and health expenditure at the national level, only the relationship between same-sex criminalisation and knowledge of HIV status maintained statistical significance.

According to the model, a theoretical country with no criminalisation across all three areas would have as much as 24% higher knowledge of HIV status than a country fully criminalising all areas.

A higher percentage of people living with HIV knew their status in countries with non-discrimination protections (10% more), independent human rights institutions (3%) and explicit gender-based violence laws (16%) compared to countries lacking these aspects.

Viral suppression

Similarly, viral suppression rates were lower in countries that criminalise same-sex relationships (8%), sex work (6%) and drug use (15%). Higher viral suppression was associated with protections in the form of non-discrimination (11%), independent human rights institutions (3%) and gender-based violence laws (16%), with non-discrimination and gender-based violence laws maintaining a significant association with viral suppression after taking HIV prevalence and health care expenditure into account.

A theoretical country with no criminalisation in this instance could have 18% higher viral suppression rates than one criminalising all three areas.

Conclusion

It's worth noting some limitations to the study. The researchers did not adjust for many other factors that could affect these outcomes. If countries which criminalise tend to be countries which have some other defects in their HIV policy and programmes, the poorer outcomes could be driven by other factors rather than by criminalisation.

Glossary

[criminalisation](#)

[virological suppression](#)

[UNAIDS](#)

[stigma](#)

Also, as this study is cross-sectional and looks broadly at trends at the country level, there is the danger of making the assumption that these broader trends also remain true at the individual level. This may not necessarily be the case, as the researchers simply set out to discover broadly whether countries with certain forms of criminalisation fare better than those without, in terms of certain HIV outcomes.

systemic

However, this research emphasises the crucial need to remove legal and systemic barriers when it comes to reducing the number of HIV infections globally. This is reflected in the revised UNAIDS 2025 targets: the aim is to have less than 10% of countries having punitive laws and policies, and less than 10% of those living with HIV experiencing stigma, discrimination, gender inequality and violence.

As the Executive Director of UNAIDS, Winnie Byanyima states: “We must put people first to get the AIDS response back on track. We must end the social injustices that put people at risk of contracting HIV. And we must fight for the right to health.”

References

Kavanagh MM et al. *Law, Criminalisation and HIV in the World: Have countries that criminalise achieved more or less successful AIDS pandemic response?* Published online 7 June 2021 on *medRxiv* (open access).

doi: <https://doi.org/10.1101/2021.06.04.21258360>

Update: Following the pre-print, this research was published in a peer-reviewed journal:

Kavanagh MM et al. *Law, criminalisation and HIV in the world: have countries that criminalise achieved more or less successful pandemic response?* *BMJ Global Health*, 6: e006315, 2021.

<http://dx.doi.org/10.1136/bmjgh-2021-006315>

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