



# Humanising the law: harnessing science and community voices to end HIV criminalisation

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#### **ABSTRACT**

HIV criminalisation is a global phenomenon undermining both public health and human rights. Although scientific advances have transformed HIV into a manageable condition, legal systems have not kept pace. This paper traces the evolution of community-led responses to HIV criminalisation over nearly two decades, demonstrating how science, advocacy, and storytelling have collectively reshaped legal and policy frameworks. It describes the formation and strategic interventions of the HIV Justice Network and, later, the HIV JUSTICE WORLDWIDE coalition; highlights methodological innovations such as legal monitoring and community-based documentation; and emphasises the centrality of human rights principles. Case examples - including the legacy of Ugandan nurse Rosemary Namubiru - illustrate the impact of HIV criminalisation and the power of resilience. While challenges persist amidst growing authoritarianism and disinformation, coordinated global efforts continue to advance evidence-informed, rights-based alternatives. This paper calls for a humanisation of the law that centres lived experiences, elevates scientific understanding, and fosters justice for people living with HIV. Ultimately, this paper argues for a paradigm shift from punitive legal responses to approaches rooted in care, dignity, and justice.

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# SUSTAINABLE DEVELOPMENT GOALS

SDG 3: Good health and wellbeing; SDG 5: Gender equality; SDG 10: Reduced inequalities; SDG 16: Peace, justice and strong institutions

#### Introduction

HIV criminalisation refers to the unjust application of criminal law to people living with HIV (PLHIV) based solely on their HIV-positive status. Often justified under the guise of public health protection, these laws and their application perpetuate stigma, undermine evidence-based prevention strategies, and disproportionately impact marginalised communities, notably women, sex workers, people who use drugs, LGBTQ + people, and migrants (Bernard et al., 2022).

The criminalisation of HIV non-disclosure, potential exposure and unintentional transmission was born during a period of panic and uncertainty in the 1980s, particularly in North America and Europe, when limited understanding of HIV and AIDS led lawmakers to adopt punitive approaches. These laws, often rooted in moral judgment rather than scientific evidence, were exported globally, disproportionately impacting key populations in the Global South, compounding structural inequalities.

Since the early 2000s, community-led movements have worked to expose the harms of HIV criminalisation and advocate for evidence-based, rights-affirming alternatives. In the early 2000s, prior to the consolidation of a cohesive global HIV justice movement, concerns began to emerge within civil society regarding the misuse of criminal law against people living with HIV. Organisations such as the AIDS and Rights Alliance for Southern Africa (ARASA), the Canadian HIV/AIDS Legal Network, and the Global Network of People Living with HIV (GNP+), alongside international agencies including UNAIDS and the United Nations Development Programme (UNDP), began advocating against the unjust application of criminal statutes in the context of HIV.

This period coincided with the widespread availability of combination antiretroviral therapy in the global North. As treatment transformed HIV from a terminal condition into a manageable chronic illness, people living with HIV increasingly reclaimed their sexual and reproductive rights. Yet, this empowerment paradoxically led to a shift in public perception: they were no longer seen solely as passive "victims" of a deadly

virus, but also as potential vectors of transmission – figures to be feared, surveilled, and criminalised (Strub, 2014).

Amidst this shifting landscape, the author's engagement with the issue began in 2007 through the creation of the Criminal HIV Transmission blog. That same year, the author contributed to one of the first critical analyses of the limitations of using phylogenetic evidence in legal contexts (Bernard et al., 2007). Also in 2007, UNAIDS convened international experts in law, public health, and human rights to formulate an official policy position on the criminalisation of HIV transmission (UNAIDS, 2007; UNAIDS/UNDP, 2008). This culminated in the launch of global policy guidance at the 2008 International AIDS Conference in Mexico City.

It was at this conference that the author became aware that the blog had gained a following among legal and policy experts, including Justice Edwin Cameron of South Africa's Constitutional Court. On the final day of the conference, Justice Cameron issued a landmark call for a global campaign against HIV criminalisation (as reported by Cameron, 2008), a moment that served as a catalyst for the burgeoning international HIV justice movement.

The global movement against HIV criminalisation emerged gradually, marked initially by a pivotal preconference held at the International AIDS Conference in Vienna, Austria, in 2010. This event laid the foundation for collective advocacy, culminating in the 2012 launch of the Oslo Declaration on HIV Criminalisation, ultimately endorsed by over 1,700 individuals and organisations across 120 countries. The Declaration became the founding document of what would soon become the HIV Justice Network.

The HIV Justice Network's influence expanded through collaboration with aligned organisations that shared a commitment to human rights and social justice. The repeal of Victoria, Australia's HIV-specific criminal law in 2015 further demonstrated that meaningful change was possible when driven by community mobilisation and grounded in scientific evidence.

These efforts coalesced in 2016 with the formation of the HIV JUSTICE WORLDWIDE coalition (HJWW n.d). The coalition brought together regional and global networks of PLHIV, legal experts, public health researchers, and grassroots activists. Supported for almost a decade by the Robert Carr Fund, it has coordinated advocacy efforts in over 30 countries, facilitated legal support and training, and driven both strategic litigation and media campaigns. HIV JUSTICE WORLDWIDE has now grown to include 16 member organisations and continues to be a vital force in the global movement to end HIV criminalisation.

Despite growing scientific consensus and advancements in HIV treatment and prevention, many jurisdictions still enforce outdated laws that fail to reflect current knowledge. These laws undermine public health goals by discouraging testing and disclosure, and they often result in human rights violations (Csete et al., 2023).

The continued existence of such laws highlights the need for sustained global advocacy and legal reform. This paper explores how scientific evidence, strategic storytelling, and global solidarity have increasingly challenged HIV criminalisation, with attention to recent developments.

## **Materials and methods**

This narrative methodology draws from multiple sources:

- 1. Archival documentation of HIV Justice Network (2012-2025) and HIV JUSTICE WORLDWIDE coalition activities (2016–2025).
- 2. Qualitative insights from case studies and storytelling campaigns.
- 3. Legal data from the Global HIV Criminalisation Database (HJN, 2025).
- 4. Published literature on science, legal epidemiology, and social science research.
- 5. Personal insights from the author's nearly two decades of movement leadership.

The HIV Justice Network uses a community-led, participatory approach. Data collection combines legal databases, court records, media monitoring, direct community reporting, and structured interviews. Storytelling campaigns, documentary production, and training workshops equip advocates with legal literacy and documentation skills.

#### Science as a tool of justice

Scientific advocacy has been central to advancing justice for people living with HIV. One of the most transformative developments has been the emergence and widespread acceptance of the consensus that, on an individual level, effective HIV treatment is also HIV prevention. This scientific finding - that individuals with a durably suppressed viral load cannot sexually transmit HIV - has fundamentally reshaped public health messaging and legal reasoning alike (Vernazza & Bernard, 2016; WHO, 2023). The U = U (Undetectable = Untransmittable) movement has since empowered people living with HIV, reduced stigma, and served as a cornerstone of legal defence strategies in jurisdictions where transmission or exposure to HIV is criminalised and uninterrupted treatment and viral load testing are readily available.

Equally influential has been the publication of the Expert Consensus Statement on the Science of HIV in the Context of Criminal Law in 2018, authored by 20 leading international scientists including Nobel Laureate Françoise Barré-Sinoussi (Barré-Sinoussi et al., 2018). The statement, coordinated by a partnership of the International AIDS Society (IAS), International Association of Providers of AIDS Care (IAPAC), UNAIDS and HIV JUSTICE WORLDWIDE, outlined key scientific facts often misrepresented or misunderstood in legal proceedings. These clarifications have proven vital in contesting flawed prosecutions and shaping judicial understanding.

Together, these scientific tools have bolstered advocacy efforts, underpinned successful legal challenges, and informed judicial and prosecutorial training programmes in a growing number of countries. From Belarus to Zimbabwe, and from Canada to Kyrgyzstan, courts and lawmakers have begun to incorporate this evidence to reduce charges, prevent unjust convictions, and guide legal reform. The integration of robust scientific consensus into legal and policy frameworks continues to be a powerful force in dismantling the structural injustices of HIV criminalisation (Symington, 2023).

#### Storytelling and documentation

While scientific evidence has played a crucial role in advancing legal reform, data alone rarely shifts public sentiment or political will. This is why the HIV Justice Network and the HIV JUSTICE WORLDWIDE coalition have consistently centred the power of storytelling. Personal narratives offer a compelling counterweight to legal and epidemiological discourse, humanising the abstract harms of criminalisation and building the moral urgency required for change.

One of the most powerful illustrations of the human cost of HIV criminalisation is the case of Rosemary Namubiru, a compassionate and experienced nurse in Uganda. Accused - falsely - of exposing a child to HIV while administering an injection, Rosemary became the target of intense media vilification. She was arrested on live television, publicly shamed, and imprisoned, despite scientific evidence confirming that transmission in such a scenario was impossible. Her ordeal exposed the deep injustices embedded in the criminalisation regime and galvanised international solidarity. Though she survived, Rosemary never fully recovered from the trauma. When she passed away in 2022, she left behind a legacy that continues to fuel the movement for HIV justice (HJN, 2022a).

To honour stories like Rosemary's, HJN has produced a series of documentaries that bring the lived realities of criminalised individuals to light. More Harm Than Good (2013) translated years of social science research into a powerful visual narrative, demonstrating how laws that mandate disclosure, criminalise non-disclosure, or penalise alleged exposure often undermine public health goals and violate human rights. The documentary showed real people explaining how these laws and prosecutions do not reduce transmission; rather, they increase stigma, dissuade people from seeking testing and treatment, and tear lives apart.

Similarly, Mwayi's Story (2022b) chronicled the unjust prosecution of a woman in Malawi who briefly breastfed another woman's child in a moment of compassion. Her case catalysed a groundswell of activism led by women living with HIV, who ultimately persuaded the Malawian Parliament to abandon plans for an HIV-specific criminal law. These stories show that legal victories are not only shaped by scientific and legal arguments, but also by the strength of community mobilisation and the courage of those most affected.

HJN's advocacy extends beyond storytelling to community-led monitoring and education. Legal monitoring tools, such as the Global HIV Criminalisation Database and training curricula within the HIV Justice



Academy have equipped grassroots organisations to respond to local prosecutions and contribute to national advocacy. The Advancing HIV Justice report series has documented global trends in HIV criminalisation, while also highlighting opportunities for reform and resistance.

Underlying all of this is a consistent message: placing the burden of HIV prevention solely on people living with the virus - and using criminal law as a tool of enforcement - is not only ineffective, but profoundly unjust. Criminalisation exacerbates stigma, deters engagement with health services, and disproportionately harms the most marginalised. Storytelling brings these consequences into sharp relief. It ensures that the dignity, resilience, and voices of those most impacted remain at the heart of the movement.

Through film, social media campaigns such as "HIV Is Not a Crime Awareness Day" (28th February), and community-led advocacy, the HIV justice movement continues to challenge narratives of blame and fear. It offers, instead, a vision rooted in science, solidarity, and human rights - one where no one is punished simply for living with HIV.

#### Legal changes related to HIV criminalisation

An analysis of the HIV Justice Network's Global HIV Criminalisation Database reveals that since the creation of HIV JUSTICE WORLDWIDE in 2016, legal reforms accelerated as a result of systematic use of scientific evidence and coordinated advocacy. Quantitatively, between 2016 and 2024 the database records more than a dozen reforms across at least nine jurisdictions. Pre-2016 reforms were sporadic and mostly limited to high-income, low prevalence countries in Europe (e.g., Netherlands in 2005; Denmark in 2011; Iowa, United States in 2014; and Victoria, Australia in 2015) whereas post-2016 legal changes demonstrate broader geographic spread and a stronger emphasis on full repeal.

In the Americas, Belize, Honduras, five Mexican states, and five states in the United States, have since fully repealed their HIV criminalisation laws, representing decisive victories for community-led advocacy. Since 2016, the Democratic Republic of Congo and Zimbabwe have repealed their HIV-specific criminal laws, whilst narrower legal definitions of criminal conduct were proscribed in the Central African Republic, Lesotho and Uganda. Elsewhere, judicial rulings have narrowed the scope of prosecutions, recognising condom use, viral suppression, or international human rights standards as relevant defences.

These reforms show a gradual but important trend toward recognising science, proportionality, and human rights in lawmaking, even as challenges remain. The geographic spread of these changes - from Asia to North America, Latin America, Africa and Europe - underscores the global nature of this movement. This combination of full repeals, narrowing amendments, and judicial interventions indicates a growing recognition among lawmakers and courts that punitive laws are neither effective nor just.

Table 1 summarises legal reforms and policy changes since the creation of the HIV JUSTICE WORLD-WIDE coalition in 2016.

#### Discussion

Despite growing awareness and isolated victories, HIV criminalisation remains a persistent and pernicious threat to human rights and public health. As the HIV justice movement enters its third decade, we face a paradox: scientific progress has outpaced legal reform, and while knowledge grows, stigma lingers. Laws meant to protect are instead wielded as tools of punishment and control - especially against those already marginalised by society.

The continued existence of these laws is not an accident. They serve as a warning and a weapon – signalling who is deemed dangerous, disposable, or deviant. In many countries, the HIV justice movement must operate within an increasingly hostile environment shaped by authoritarianism, austerity, and anti-rights ideologies. Disinformation campaigns, moral panic, and the criminalisation of sexuality and gender identity, poverty, migration, sex work, and drug use converge to reinforce punitive legal regimes. The criminalisation of people living with HIV, then, cannot be disentangled from wider struggles for bodily autonomy, racial justice, gender equity, and freedom of expression.

And yet, the global movement to end HIV criminalisation has not only endured – it has flourished. This resilience is rooted in collective care, solidarity, and the radical insistence that people living with HIV are experts in their own lives. Community-led documentation, peer support, and strategic litigation have all

Table 1. Summary of Legal Changes Related to HIV Criminalisation (2016–2024).

Country	Jurisdiction	Summary	Full Repeal?	Year	Previous Cases	Source (Global HIV Criminalisation Database)
Uzbekistan	_	List of prohibited professions for PLHIV	No	2024	At least	hivjustice.net/
Uganda	-	reduced Constitutional Court struck down part of the Anti-Homosexuality Act that provided for death penalty where PLHIV engages in same-sex activity	No	2024	337 At least 8	country/uz/ hivjustice.net/ country/ug/
Singapore	-	HIV non-disclosure law amended to provide defence for undetectable load	No	2024	At least 265	hivjustice.net/ country/sg/
Mexico	Colima	Repealed "danger of contagion" law covering HIV/STIs	Yes	2024	None reported	hivjustice.net/ country/mx/mx- colima/
United States	Tennessee	Removed mandatory sex offender registration for criminal exposure law	No	2024	At least 155	hivjustice.net/ country/us-yn/
Mexico	Mexico City	Repealed "danger of contagion" law covering HIV/STIs	Yes	2024	At least 2	hivjustice.net/ country/mx-cdmx
Tajikistan	-	Supreme court's resolution requires to take into account international standards and recommendations including U = U to determine criminal liability	No	2023	At least 196	hivjustice.net/ country/tj/
Belize	-	Repealed HIV-specific criminal law	Yes	2023	None reported	hivjustice.net/ country/bz/
Mexico	Nayarit	Repealed "danger of contagion" law covering HIV/STIs	Yes	2023	None reported	hivjustice.net/ country/mx- nayarit/
Mexico	Baja California Sur	Modernised language to remove sexual transmission in communicable disease law	Not HIV-specific	2023	None reported	hivjustice.net/ country/mx-baja- california-sur/
United States	Kentucky	Repealed law criminalising donations of organs and tissues, though law on blood donations remains	No	2023	At least 10	hivjustice.net/ country/us-ky/
United States	Georgia	Modernised, significantly reducing scope to include significant risk and intent	No	2022	At least 587	hivjustice.net/ country/us-ga/
United States	New Jersey	Repealed HIV-specific criminal law	Yes	2022	At least 5	hivjustice.net/ country/us-nj/
Lesotho	-	High Court ruled that death penalty for HIV "exposure" no longer mandatory	No	2022	At least 1	hivjustice.net/ country/ls/
Zimbabwe	-	Repealed Section 79 – HIV-specific criminal law	No (only a sexual assault enhancement remains)	2022	At least 18	hivjustice.net/ country/zw/
Central African Republic	-	New legislation provides a much narrower definition of the prohibited conduct.	No	2022	Unknown – 0	hivjustice.net/ country/cf/
United States	Illinois	Repealed HIV-specific criminal law	Yes	2021	At least 100	hivjustice.net/ country/us-il/
United States	Nevada	Repealed HIV-specific criminal law	Yes	2021	Up to 95	hivjustice.net/ country/us-nv/
United States	Virginia	Modernised HIV-specific criminal law	Yes	2021	Up to 147	hivjustice.net/ country/us-va/
United States	Indiana	Limited modernisation of law to remove stigmatising language, add research exception to blood donation law	No	2021	At least 22	hivjustice.net/ country/us-in/
United States	Missouri	Modernised law to remove specific reference to HIV, requires significant risk of transmission, allowed for defences of condoms use/disclosure, lowered penalties, but prostitution offence unchanged	No	2021	At least 265	hivjustice.net/ country/us-mo/
Honduras	-	Article 80 HIV-specific "intentional transmission" law repealed	Yes	2020	At least 1	hivjustice.net/ country/hn/
United States	Washington (state)	Modernised HIV-specific criminal law	No	2020	At least 33	hivjustice.net/ country/us-wa/
Colombia	-	Article 370 (HIV-specific criminal law) suspended by Constitutional Court	Yes	2019	At least 4	hivjustice.net/ country/co/
France	-	Highest Court confirms that people living with HIV with an undetectable viral load can never be prosecuted as the risk of transmission is zero	Not HIV-specific	2019	At least 43	hivjustice.net/ country/fr/



Table 1. Continued.

Country	Jurisdiction	Summary	Full Repeal?	Year	Previous Cases	Source (Global HIV Criminalisation Database)
Democratic Republic of Congo	-	Article 41 (non-disclosure) amended and Article 45 ("deliberate" HIV transmission) repealed	-	2018	At least 6	hivjustice.net/ country/cd/
Montenegro	_	Article 289 HIV-specific "exposure" law repealed	-	2018	None reported	hivjustice.net/ country/cs/
Sweden	-	Supreme Court: HIV disclosure no longer required before condomless sex if a person is on effective treatment – Parliament abolished the obligation to disclose in 2021	-	2018	At least 61	hivjustice.net/ country/se/
United States	Louisiana	Modernised HIV-specific criminal law to include affirmative defences	-	2018	At least 66	hivjustice.net/ country/us-la/
United States	North Carolina	Modernised HIV-specific law to limited scope of control measures	-	2018	At least 5	hivjustice.net/ country/us-nc/
United States	Michigan	Modernised HIV-specific criminal law to limit affected sexual conduct, add affirmative defences	-	2018	At least 56	hivjustice.net/ country/us-mi/
Belarus	_	HIV-specific criminal law (Article 157) modernised to reduce sentences, added disclosure defence	-	2018	At least 490	hivjustice.net/ country/by/
Mexico	Veracruz	Supreme Court finds Veracruz law criminalising "wilful transmission" of HIV and STIs to be unconstitutional – To date the reform has not been enacted	-	2018	At least 155	hivjustice.net/ country/mx- veracruz/
Norway	-	Section 155 (communicable disease law used almost exclusively for HIV) repealed	-	2017	At least 16	hivjustice.net/ country/no/
United States	California	Substantially modernised HIV-specific criminal law	-	2017	At least 800	hivjustice.net/ country/us-ca/
Switzerland	-	Article 231 (allowing for HIV exposure/ transmission prosecutions) superseded by Epidemics Act, criminalising only malicious intentional transmission	-	2016	At least 73	hivjustice.net/ country/ch/
United States	Colorado	Modernised HIV-specific sentence enhancement laws	-	2016	At least 7	hivjustice.net/ country/us-co/

become powerful tools for resistance. Scientific advances – particularly the prevention benefits of treatment - have not just informed law reform but have also served as instruments of liberation, affirming the dignity and agency of people living with HIV.

Examples from around the world show that change is possible when science, community voices, and political will align. In some jurisdictions, unjust laws have been repealed or reformed; in others, public awareness campaigns have helped prevent prosecutions before they happen. The HIV JUSTICE WORLDWIDE coalition has played a crucial role in these successes by fostering transnational collaboration, amplifying local leadership, and equipping advocates with tools to challenge injustice.

Still, the struggle continues. The rise of authoritarianism and disinformation has emboldened the use of criminal law against people living with HIV and other key populations. COVID-19 has only sharpened these threats, expanding surveillance and scapegoating. But our movement is resilient. Advocates continue to defy criminalising narratives with courage and creativity. Their work is a reminder that legal change begins with cultural change - that storytelling, solidarity, and truth-telling are forms of justice.

At the heart of it is a simple but powerful idea: the law should reflect humanity, not fear. That means centring those most impacted; promoting legal literacy and community empowerment; building solidarity across movements and borders; and ensuring that science and compassion guide legal responses - not prejudice.

Humanising the law means affirming that people living with HIV are not dangerous, deviant, or disposable. Our voices matter. Our rights matter. And our lives matter. Ultimately, to end HIV criminalisation is to demand a humanisation of the law - one that recognises our shared dignity, honours lived experience and affirms the rights and worth of every person living with HIV.



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#### **Author contributions**

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#### **Data availability statement**

Data on HIV-related prosecutions and laws - including reform and repeal - can be found at HJN's Global HIV Criminalisation Database: hivjustice.net/global-hiv-criminalisation-database/.

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