

Anti-LGBTQI+ legislations and their impact on HIV services uptake and research participation in sub-Saharan Africa: Experiences from Uganda

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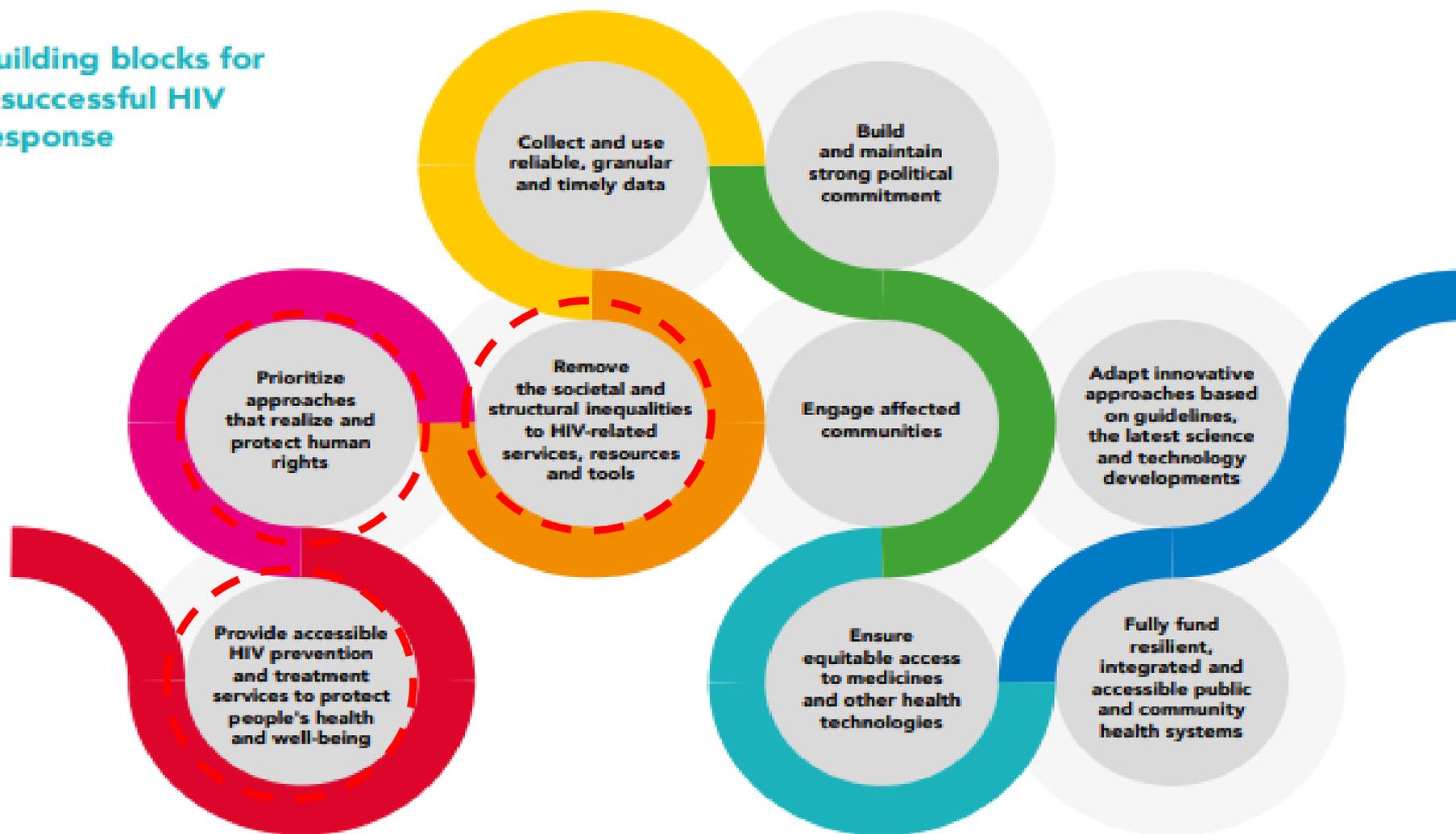
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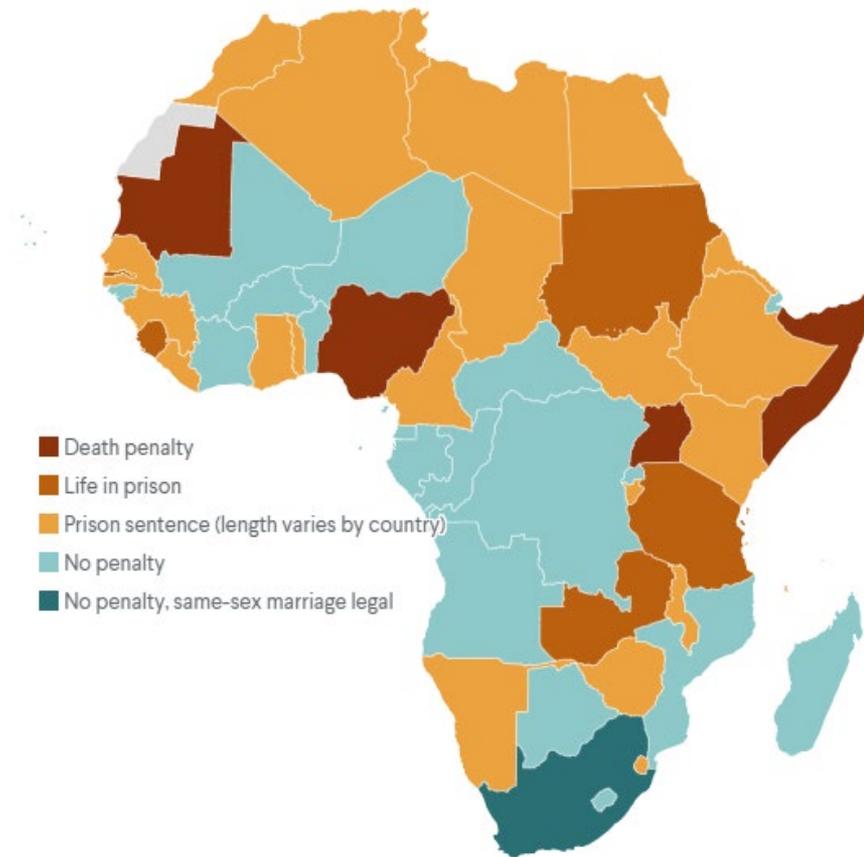
The path to end HIV/AIDS – UNAIDS report (2023)

Building blocks for
a successful HIV
response



Anti-LGBTQI+ Laws in Africa

- In Africa, **33** of **55** countries currently punish LGBTQI+ relationships with imprisonment
- In 2023 alone, six countries (Kenya, Niger, Tanzania, **Uganda**, Namibia and Ghana) enacted anti-LGBTQI+ laws
- On March 4, 2024, the IAS issued a statement cautioning that the upsurge in anti-LGBTQI+ laws across Africa threatens the HIV response.



Source: ILGA World; Human Rights Watch; CFR research

IAS Statement – March 4, 2024



IAS – the International AIDS Society – is deeply concerned at the passing of a bill that criminalizes same-sex relationships in Ghana, the latest in an upsurge of anti-gay political acts in Africa.

Association between HIV prevalence and anti-LGBTQI+ criminalization

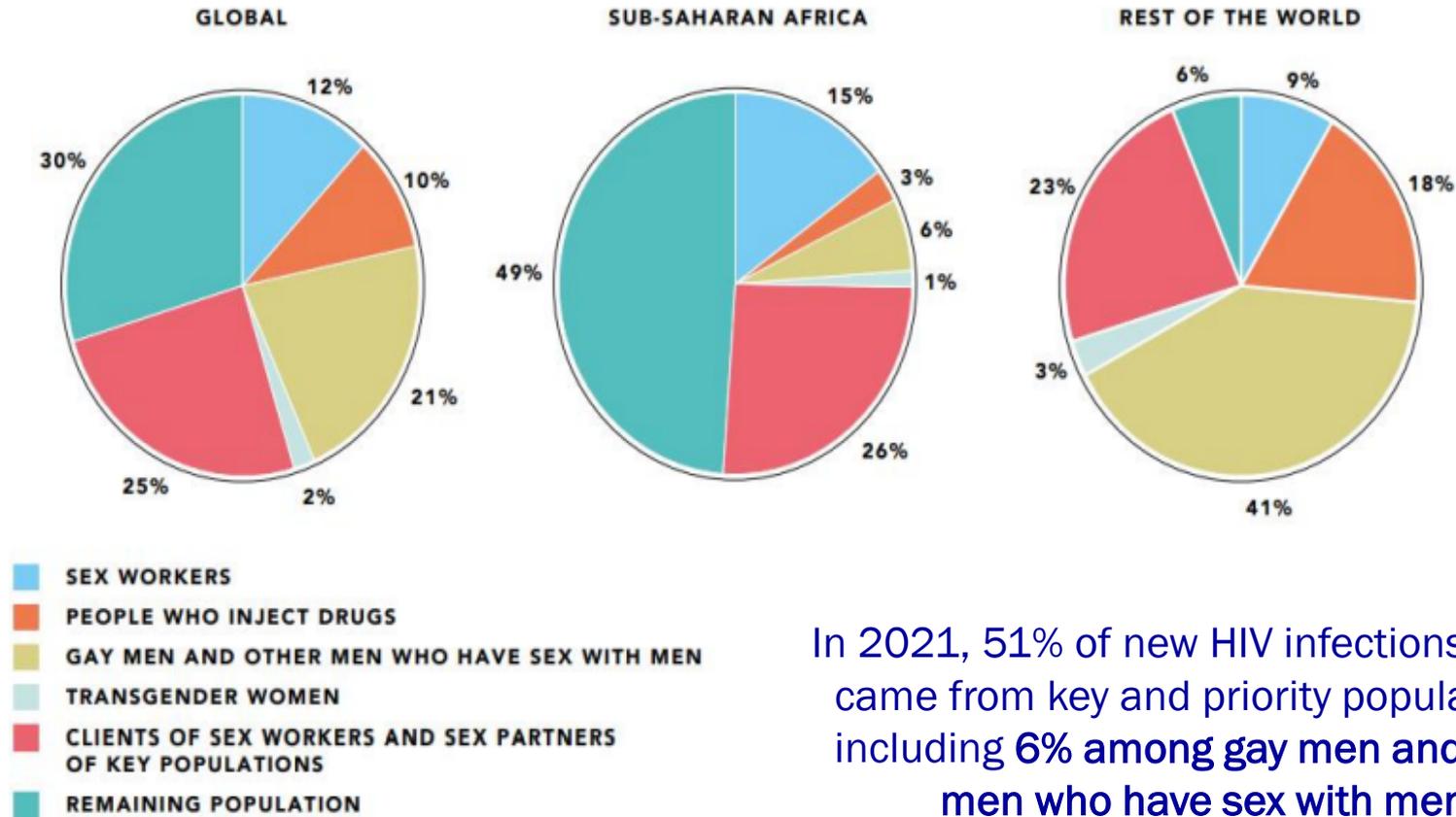
- A 10-country study in sub-Saharan Africa showed that HIV prevalence among gay men and other men who have sex with men was **five times higher** in countries that criminalized **same-sex relationships** than in non-criminalized settings (Lyons et al. Lancet HIV 2022)
- Gay and bisexual men living in countries that enforce laws criminalizing homosexuality are **12 times** as likely to be living with HIV as those in the rest of the world (cited in an article in the New York Times, Jan 19, 2024)

A war of Ideology and Evidence!

“It (*enactment of anti-LGBTQI+ laws*) is a war between ideology, prejudice and stereotypes on the one side and evidence-based science on the other side”

Andriy Klepikov, executive director of the Alliance for Public Health, one of the largest HIV and TB NGOs in Ukraine and Eastern Europe

Distribution of acquisition of new HIV infections by population, global, sub-Saharan Africa and rest of the world, 2021



In 2021, 51% of new HIV infections in SSA came from key and priority populations, including 6% among gay men and other men who have sex with men

KPs have an elevated risk of HIV infection

- Key and priority populations, including gay men and other men who have sex with men, remain at an elevated risk of HIV infection (UNAIDS Report 2022):
 - The risk of acquiring HIV is:
 - 35 times higher among people who inject drugs than adults who do not inject drugs.
 - 30 times higher for female sex workers than adult women.
 - 28 times higher among gay men and other men who have sex with men than adult men.
 - 14 times higher for transgender women than adult women

Evidence that anti-LGBTQ+ laws affect access to HIV Services

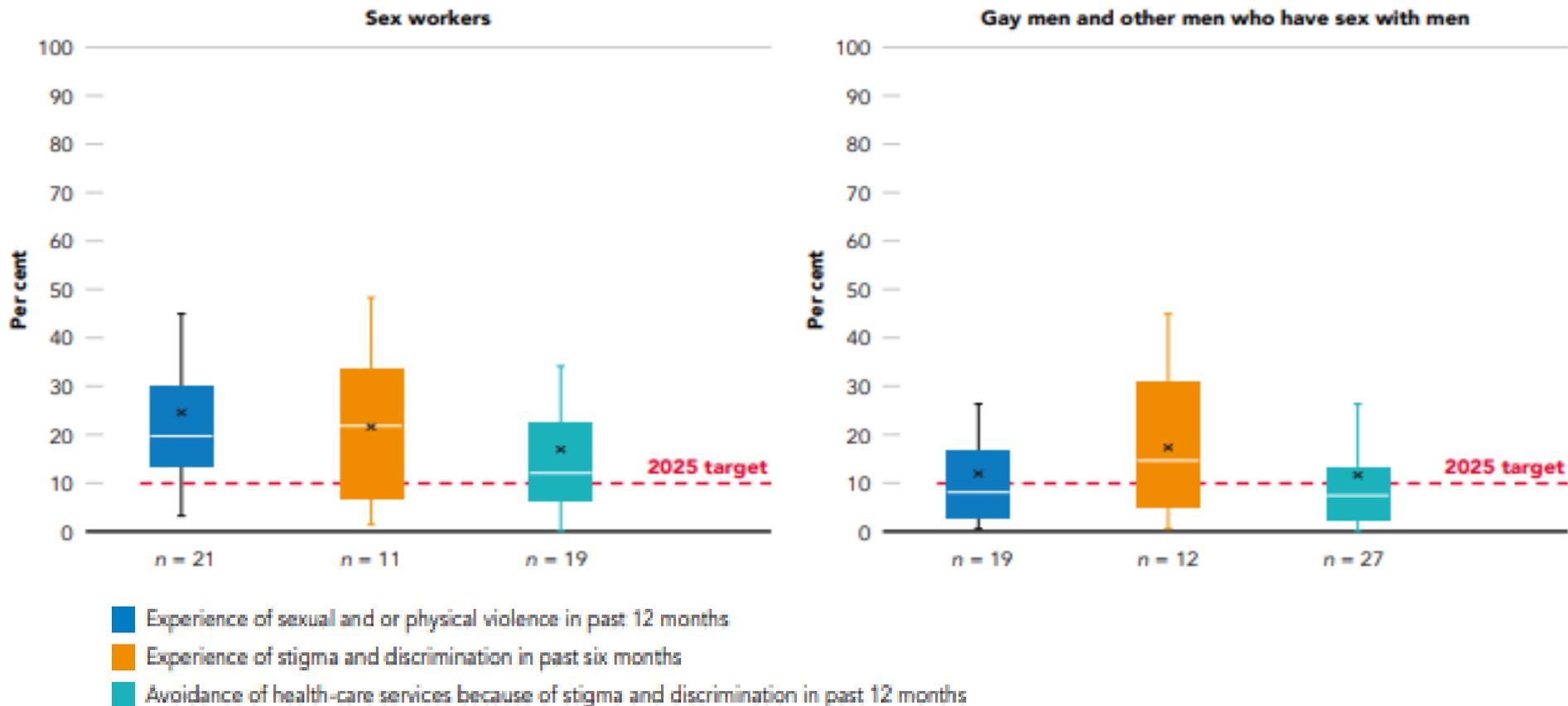
- Female sex workers in **Kenya** who feared stigma from health-care workers were twice as likely to avoid accessing non-HIV-related care (Nyblade et al. AIDS Care 2017)
- In a study in **eight sub-Saharan African countries**, 27% of transgender women said they were too afraid to use health-care services (Poteat et al. J Acquir Immune Defic Syndr. 2016)
- Signing into law of the **Same-Sex Marriage Prohibition Act** in **Nigeria** led to increased fear of accessing health-care services among gay men and other men who have sex with men (Schwartz et al. Lancet HIV 2015)

Stigma and Discrimination – Global

- Based on evidence from the most recent UNAIDS report (UNAIDS 2023):
 - Across 54 countries with recent survey data, a median of 59% of people reported discriminatory attitudes towards people living with HIV—a level that is nearly six times higher than the 2025 global target
 - In 13 countries, more than 75% of those surveyed reported holding discriminatory attitudes.

Global HIV stigma reduction targets may not be achieved by 2025!

Figure 2.14 Experience of sexual and or physical violence, stigma and discrimination and avoidance of health-care services among key populations, countries with available data, 2018–2022



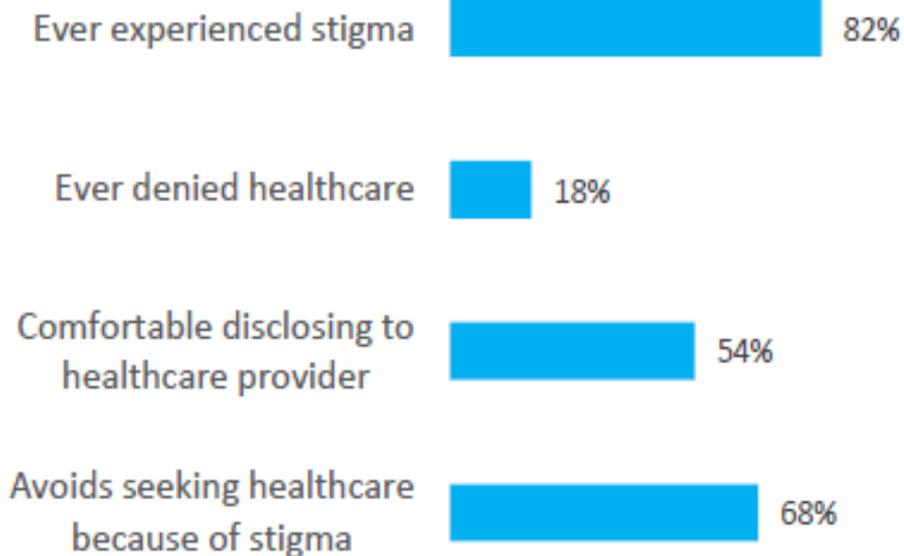
Harassment from others is higher among KPs living with HIV than other PLHIV in Uganda

Experience	General Population, n (%)	Key Populations, n (%)	Total, n (%)
Verbal insult, harassment	521 (19.3%)	500 (28.9%)	1021 (23%)
Physical insult, harassment	137 (5.1%)	154 (8.9%)	291 (6.6%)
Blackmail	300 (11.1%)	282 (16.3%)	582 (13.1%)
Refused employment or lost source of income	83 (3.1%)	149 (8.6%)	232 (5.2%)
Job description changed or denied promotion	63 (2.3%)	68 (3.9%)	131 (3%)
Family member experienced discrimination	218 (8.1%)	138 (8%)	356 (8%)
At least one experience of	686 (25.4%)	568 (32.8%)	1254 (28.3%)

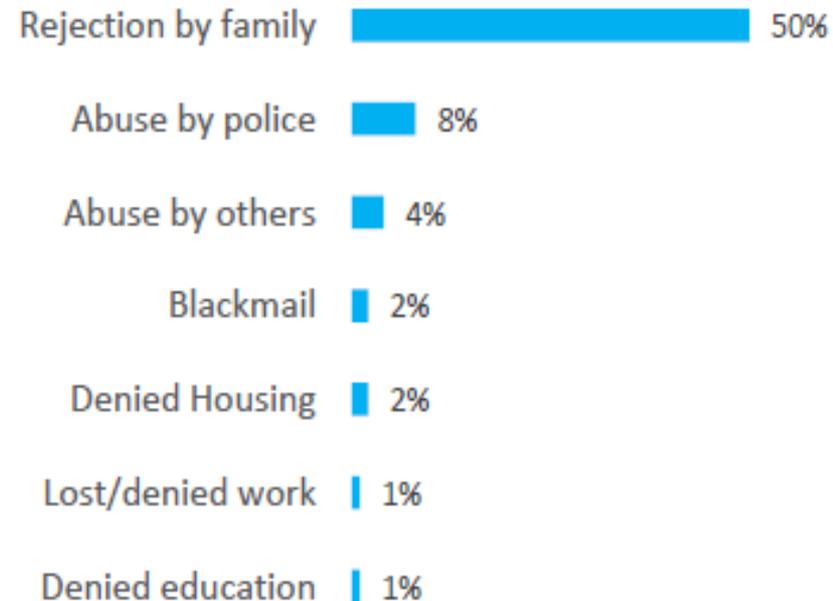
Source: HIV Stigma Index, 2023 (Uganda)

Healthcare Stigma, Discrimination and Abuse among MSM – Uganda

Healthcare Stigma due to Sex with Men



Stigma, Discrimination & Abuse



Source: 2022 Crane Survey, Uganda

HIV Stigma and Discrimination – Uganda



RESEARCH ARTICLE

“If You Tell People That You Had Sex with a Fellow Man, It Is Hard to Be Helped and Treated”: Barriers and Opportunities for Increasing Access to HIV Services among Men Who Have Sex with Men in Uganda



Rhoda K. Wanyenze^{1*}, Geoffrey Musinguzi¹, Joseph K. B. Matovu², Juliet Kiguli², Fred Nuwaha¹, Geoffrey Mujisha³, Joshua Musinguzi⁴, Jim Arinaitwe⁴, Glenn J. Wagner⁵

- **Wanyenze et al. (PLOS ONE, 2016)**
 - Study conducted in 12 districts with a high concentration of mobile and high-risk populations in October – December 2013
 - 61 key informants and 85 MSM were interviewed
 - Explored barriers to and opportunities for improving access to HIV services
 - Study conducted during parliamentary debates for **AHA 2014**.

Wanyenze et al. (2016)

- MSM reported challenges in accessing HIV services:
 - 62 (**72.9%**) agreed or strongly agreed with the statement *“I am not comfortable explaining my sexual practices and related illnesses to health workers”*
 - 56 (**65.9%**) felt that health workers would not attend to them if they knew they were MSM
 - 69 (**81.1%**) felt that health workers were rude and did not respect MSM.

Wanyenze et al. 2016

- The main challenges included stigma associated with being MSM (n = 15), failure to afford care (n = 15), and lack of personnel to handle MSM special care (n = 12).
- When asked how the **current legal framework** affects their ability to seek health services, MSM reported that the legal environment makes them fear to access services or disclose their identity to providers:

“If you tell people that you had sex with a fellow man, it’s hard to be helped and treated. Government does not permit homosexuality, indeed it is a serious crime, if found you are arrested” (IDI Eastern Uganda)

HIV Stigma and Discrimination – Uganda ...

Matovu et al. *BMC Infectious Diseases* (2019) 19:214
<https://doi.org/10.1186/s12879-019-3713-0>

BMC Infectious Diseases

RESEARCH ARTICLE

Open Access

Health providers' experiences, perceptions and readiness to provide HIV services to men who have sex with men and female sex workers in Uganda – a qualitative study



Joseph K. B. Matovu^{1*}, Geoffrey Musinguzi², Juliet Kiguli¹, Fred Nuwaha², Geoffrey Mujisha³, Joshua Musinguzi⁴, Jim Arinaitwe⁴ and Rhoda K. Wanyenze²

- **Matovu et al. (BMC Infect Dis., 2019)**
 - Used qualitative data from the same study as Wanyenze's
 - 48 HIV health providers at public and private facilities
 - Collected data on health providers' experiences and readiness to provide HIV services to MSM and FSW and their **perceptions on the effect of existing legislation on HIV services provision to MSM and FSW**

Matovu et al. (2019)

- A majority of health providers indicated that, in their capacity as health professionals, they did not have any reservations in serving MSM if they went to them to obtain HIV services:

“... we respect diversity, we shall not castigate such people, and if they had a need we would embrace such people and help them just like any other person” (KII, Soroti)

- Some health providers indicated that they would not feel comfortable serving MSM, because “... it [*the practice of men having sex with men*] is not our habit and culture here”

Matovu et al. (2019)

- A majority of health providers expressed the need to be trained in how to provide HIV services to MSM, e.g., in terms of how to communicate to/with them
- However, a few health providers felt that they did not need any training because they did not want to associate with MSM:

“I feel I am missing that training of handling FSWs who are many in our country. With homosexuals [MSM], I don’t think I would be willing to go for that training” (KII, Bushenyi)

Matovu et al. (2019)

- Some health providers felt that the passing of the AHA [2014] at the time – as it is now – would affect uptake of HIV services:

“Yes. It will affect [them] in some way because they [MSM or FSW] have to keep it a secret for fear that if they open to you, you may take them to the law makers. So they will keep there and keep spreading the virus and other STIs” (KII, Kampala)

- There was consensus that any harsh legislations would affect MSM more than FSW since society “**does not blame FSWs [as much as it does] with MSM**”.

UGANDA'S AHA 2023

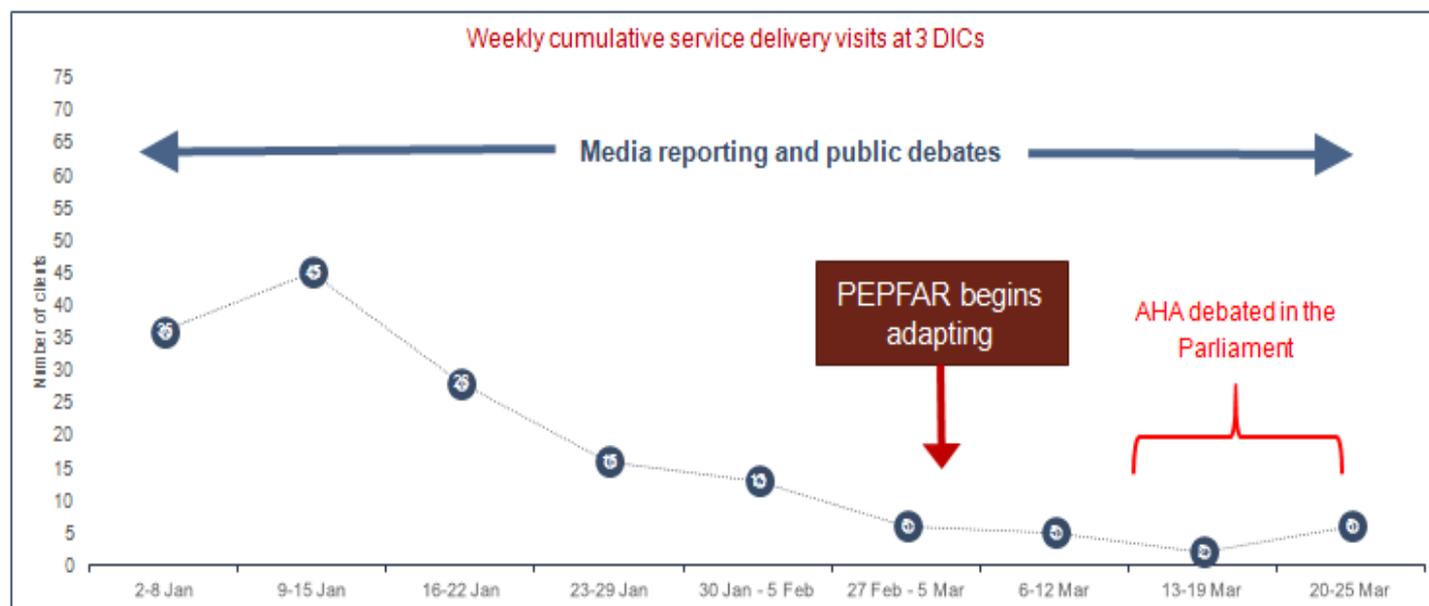
- Uganda enacted the Anti-Homosexuality Act in May 2023
- AHA Criminalizes:
 - homosexual behavior with sentences ranging from **10 years to life imprisonment.**
 - **Promotion of homosexuality**, which is undefined and broad enough to include routine public health activities such as HIV prevention, safe sex education, and community engagement. The lack of clarity on “promoting” and “abetting” homosexuality, terms which are ill-defined, creates opportunities for abuse.
 - **Failure to report someone you “suspect” to be violating the AHA**, which means everyone in Uganda has a duty to report anyone they suspect to be engaging in homosexual behavior or violating AHA.

AHA 2023 (cont'd)

- A person who knows or has a reasonable suspicion that a person has **committed** or **intends to commit** an offence of homosexuality [against a child or vulnerable person]... shall report the matter to the police for “appropriate action”
- However, if a person fails to report to the police as required, such a person commits an offence and is liable, upon conviction, to a fine not exceeding **~US\$25,000** or imprisonment for a period not exceeding five years.
- Under the law, merely having same-sex relationships while living with HIV can incur a charge of “aggravated homosexuality,” which is punishable by death.

AHA 2023: Impact on HIV Service Uptake

- ▶ The hostile environment created by the Anti-Homosexuality Act in Uganda has led to reduced access to services for key populations.
- ▶ PEPFAR supports over 80 drop-in centres providing HIV services for key population clients.
- ▶ In an analysis of **three drop-in centres**, weekly data show a steady decrease in client visits.

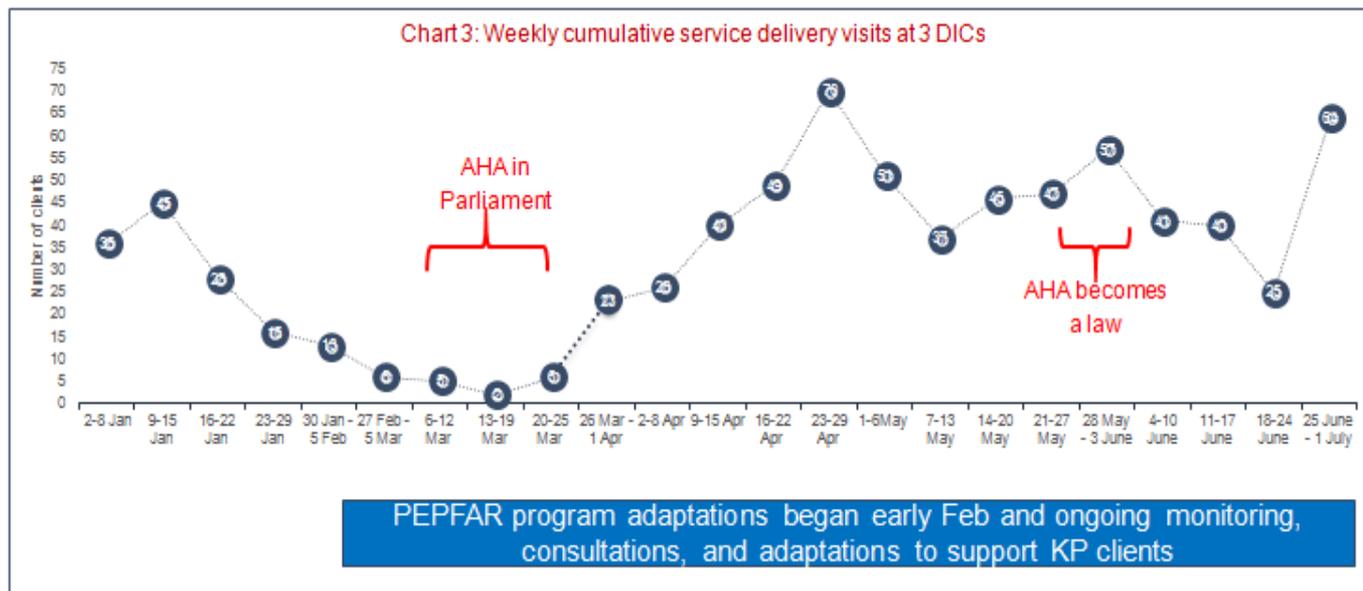


Impact of Anti-Homosexuality Act on PEPFAR HIV drop-in centres

Source: Vasireddy OALBD0603

Impact of AHA 2023 (cont'd)

- ▶ The three centres adapted their services: home delivery of ART, condoms and PrEP; extra safety measures at centres; more multi-month dispensing; and offering paralegal support to clients.
- ▶ These supportive measures led to an increase in key population clients accessing HIV services at these three centres by April 2023.
- ▶ However, 20 other drop-in centres **have not seen a rebound** in client attendance despite adaptations.



Impact of Anti-Homosexuality Act and adaptations

Source: Vasireddy
OALBD0603 - IAS 2023

Temporary closure of DiCs; increased assaults, and home evictions, etc.

- Other immediate impacts include:
 - temporary closure of four drop-in centres (DiCs) in Uganda
 - increased assaults and home evictions of men who have sex with men and transgender people
 - reduced physical contact by facility staff in communities



Other implications

- Some shelters for people living with HIV have closed, and some centers that once dispensed HIV services on a walk-in basis now see clients for limited hours, often only by appointment, to minimize the chance of raids (**New York Times**, Jan 19, 2024)
- The law requires scientists to reveal the identities of study participants and this may affect research participation
- Mulago Hospital's STI Clinic, among the largest in Kampala, used to treat more than 100 LGBTQI+ patients a day. Now, fewer than half come into the clinic. **"The others hide out, so you have to look for them,"** (New York Times, Jan 19, 2024)

Other implications (cont'd)

- **Sexual Minorities Uganda (SMUG)** – a leading gay rights advocacy group in Uganda applied to be registered as a Company Limited by Guarantee in 2016.
- The application was rejected. SMUG appealed in 2018 and again in 2022. Both appeals were rejected, the recent one on March 12
- The appeal has also been thrown out because the court considers that “... **SMUG is associated with the promotion and protection of the rights of LGBTQI+ which are prohibited ...**”



X (Twitter)

<https://twitter.com/SMUG2004>

#SAYNOTOHOMOPHOBIA | SMUG (@SMUG)



“The Court of Appeal's decision reinforces state-sanctioned discrimination against sexual minorities, compromising fundamental rights to expression and association. This constitutional challenge warrants urgent review by the Supreme Court.” Denis Wamala



“Despite the judiciary's conservative tilt and
Today, Sexual Minorities Uganda (SMUG) has received the verdict from the Registrar Court of Appeal in Kampala, Uganda concerning the registration of the name 'Sexual Minorities Uganda (SMUG)' as a company limited by guarantee in 2012.

Ministry of Health Intervenes

- The Ugandan Health Ministry in **June 2023** guaranteed health care access to anyone **regardless** of orientation or identity.
- Specifically, the Minister of Health, Dr Jane Ruth Aceng, has indicated that the government will ensure access to HIV prevention programs and “remains committed to ending AIDS as a public health challenge.”

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IN ANY CORRESPONDENCE ON



Ministry of Health
P. O. Box 7272
Plot 6, Lourdel Road
KAMPALA
UGANDA

THIS SUBJECT PLEASE QUOTE NO. **ADM:180/01**

THE REPUBLIC OF UGANDA

5th June 2023

Circular

All Hospital Directors, National and Regional Referral Hospitals
All District Health Officers
All Medical Superintendents
All Health Facility In-charges
Executive Directors of Implementing Partners
Executive Directors of Faith Based Medical Bureaus
The Executive Director Uganda Healthcare Federation

PROVISION OF SERVICES TO ALL PEOPLE WITHOUT DISCRIMINATION

The constitution of the republic of Uganda recognises that health is a fundamental right and guarantees access to health care services for all. The Ministry of Health is mandated to provide Preventive, Promotive, Curative and Rehabilitative Health Services to all people in Uganda in their diversity **without any form of**

Guidance from the UNCST

- UNCST issued this guidance on October 27th, 2023
- It states that “... where a person involved in research detects that a crime under the AHA was committed against a child or vulnerable person, he/she is required to report and it’s an offence if the person does not report the perpetrator to the Police”



Uganda National Council for Science and Technology
(Established by Act of Parliament of the Republic of Uganda)

Our Ref: RESETHICS/03

27th October 2023

The Chairpersons
Research Ethics Committees
Institutional Animal Care and Use Committees
and Distinguished Researchers
UGANDA

GUIDANCE ON RESEARCH GOVERNANCE IN RELATION TO THE ANTI-HOMOSEXUALITY ACT, 2023

As you may be aware, His Excellency the President of the Republic of Uganda assented to the Anti – Homosexuality Bill on 28th May 2023. As such, the Uganda National Council for Science and Technology (UNCST) sought for guidance on research governance in relation to the Anti-Homosexuality Act, 2023.

Guidance from UNCST

- It further states:

“The duty of confidentiality in research may be waived for purposes of reporting to the relevant authorities the commission of an offence where a person involved in research detects that an offence under the AHA or any other laws committed or intends to be committed”

- This guidance caused confusion in the research community and led to a meeting to clarify issues by UNCST
- This guidance has been challenged by the Chairpersons of the IRBs in Uganda and [other researchers](#) internationally

Recent efforts to repeal AHA

- In December 2023, Ugandan human rights activists, journalists, religious leaders, academics, and lawyers started to challenge the Anti-Homosexuality Act in court. **Court will issue the ruling on notice.**
- In August 2014, Uganda's Constitutional Court declared the **2014 Anti-Homosexuality Act** void on procedural grounds.
- A strongly-worded appeal from 280 researchers from 30 countries around the world to the UNCST to **withdraw** their guidance on AHA or else “... **we will be forced to reassess our current ... and... future research plans [in Uganda]**”

Efforts to repeal AHA

- The same court that upheld the decision taken by URSB to not register “**SMUG**” – is the same court that is hearing the appeal
- Besides, the Speaker of Parliament thinks that her corruption exposures were made because of her role in passing the anti-LGBTQ+ legislation



AHA has been upheld by the Uganda Constitutional Court (April 3, 2024)



News Release

April 3, 2024

Constitutional Court pronounces itself on the Anti-Homosexuality Act, 2023 of Uganda

The Constitutional Court has today delivered its decision in the Consolidated Petitions No. 14, 15, 16 & 85 of 2023 and declared that the Anti Homosexuality Act of 2023 complies with the Constitution of Uganda except in only four aspects.

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Africa

Uganda top court declines to block Anti-Homosexuality law but sees rights infringed

By Reuters

April 3, 2024 11:24 AM GMT+3 · Updated 22 min ago



- "We decline to nullify the anti-homosexuality act 2023 in its entirety, neither will we grant a permanent injunction against its enforcement," said Richard Buteera, lead judge, reading the judgment on behalf of his colleagues on April 3, 2024
- The court did find, however, that some sections of the law violated the right to health (see slide 34-35), and "contravened the Constitution of Uganda, 1995".

Outlawed sections in AHA 2023

- While the offence of aggravated homosexuality remains, section 3(2)(c) – is no longer considered as part of this offence.
 - 3(2)(c) – “the person against whom the offence is committed contracts a terminal illness as a result of the sexual act”
- Section 9 is outlawed:
 - A person who, knowingly allows any premises to be used by any person for purposes of homosexuality or to commit an offence under this Act, commits an offence and is liable, on conviction, to imprisonment for a period not exceeding seven years

Outlawed sections in AHA 2023

- Also outlawed are sections 11(2)(d) and 14 of this Act
- Section 11(2)(d) relates to promotion of homosexuality. The outlawed section reads:
 - [A person who] knowingly leases or subleases, uses or allows another person to use any house, building or establishment for the purpose of undertaking activities that encourage homosexuality or any other offence under this Act [commits an offence]
- Section 14 relates to the duty to report acts of homosexuality. All the five clauses under this section have been outlawed.
 - The respective clauses define the need to report a person suspected of engaging in homosexuality to the Police for ‘appropriate action’ as well as the resultant penalty for failure to do so.

Conclusions

- The enactment of the anti-LGBTQI+ legislation in Uganda (and elsewhere) has created tensions regarding the access to and utilization of essential HIV services among the LGBTQI+ community
- Limited access to HIV services will likely result into worse HIV prevention and treatment outcomes; blocking the “**paths to end AIDS**” as a public health threat by 2030
- Urgent need for empirical evidence on the impact of anti-LGBTQI+ legislations on HIV prevention and treatment outcomes in sub-Saharan Africa

Probable research areas

- Comparison in **HIV services uptake** among LGBTQI+ people before and after the enactment of the 2023 AHA (**retrospective review of health facility records + primary data collection**)
- Comparison of HIV prevention and treatment **outcomes** among LGBTQI+ people before and after the enactment of the 2023 AHA (**Retrospective records review + primary data collection**)
- Determine levels of **research participation** (new participants, participation by already enrolled participants, losses to follow-up) before and after the enactment of the 2023 AHA (**Records review at research sites/studies recruiting LGBTQI+ people**)

A large, multi-story brick building with a courtyard in front. The text "THANK YOU FOR YOUR ATTENTION" is overlaid in white. The building has a red brick facade with many windows. In the foreground, there is a paved courtyard with some greenery and a small structure. The sky is clear and blue.

THANK YOU FOR YOUR ATTENTION