

**REMOVE LAWS  
THAT HARM,  
CREATE LAWS  
THAT EMPOWER**

.....  
Zero Discrimination Day  
1 March 2022



**#ZERO  
DISCRIMINATION**





## ABOUT ZERO DISCRIMINATION DAY

On Zero Discrimination Day, 1 March, we celebrate the right of everyone to live a full and productive life—and live it with dignity. Zero Discrimination Day highlights how people can become informed about and promote tolerance, compassion, peace and, above all, a movement for change. Zero Discrimination Day is helping to create a global movement of solidarity to end all forms of discrimination.

# REMOVE LAWS THAT HARM, CREATE LAWS THAT EMPOWER



On Zero Discrimination Day this year, UNAIDS is highlighting the urgent need to take action against discriminatory laws.

In many countries, laws result in people being treated differently, excluded from essential services or being subject to undue restrictions on how they live their lives, simply because of who they are, what they do or who they love. Such laws are discriminatory—they deny human rights and fundamental freedoms.

People may experience more than one form of discrimination. A person may experience discrimination because of his or her health status and because of his or her race, gender identity or sexual orientation, compounding the effects on the individual and the wider community.

Laws—such as laws on sex work, same-sex sexual relations, the use or possession of drugs for personal use and the non-disclosure, exposure or transmission of HIV—may discriminate by criminalizing conduct or identity.

Other laws may prevent people from accessing benefits or services. Girls may not be allowed to go to school if they are pregnant or women may not be able to access financial services without their husband's permission. Laws may also impose parental consent for adolescents to access health services or restrict the entry, stay and residence of people living with HIV.

States have a moral and legal obligation—under the Universal Declaration of Human Rights, human rights treaties, the 2030 Agenda for Sustainable Development and other international obligations—to remove discriminatory laws and to enact laws that protect people from discrimination.

Some of the rights that people can use to contest discriminatory laws include the following:

- **The right to equal treatment before the law.**
- **The right to an education.**
- **The right to economic opportunities.**
- **The right to privacy.**
- **The right to dignity.**
- **The right to health.**
- **The right to association.**
- **The right to a fair trial.**

Everyone has a responsibility to hold states accountable, call for change and contribute to efforts to remove discriminatory laws. The first steps to making a change are to know the law, recognize that laws can discriminate and highlight discriminatory laws to others.

## LAWS THAT CAN CONTAIN DISCRIMINATORY PROVISIONS

Laws can affect people in different ways. It is not always obvious whether a law will contain discriminatory provisions, and it is not always obvious from the name of the law. Examples of laws that can contain discriminatory provisions include the following:

- Marriage and civil union laws.
- Parental consent laws that affect access by young people to services.
- Workplace legislation.
- Laws that govern the education or health sector.
- Laws that limit access to services and that exclude certain people based on, among other things, their gender identity, race, nationality or socioeconomic status.
- Banking and insurance laws.
- Migration and citizenship laws.
- Public order and security laws.
- Property laws.
- Inheritance laws.
- Laws that regulate sexual conduct.
- Laws that regulate access to reproductive health services.
- Laws that punish people owing to their health status, such as HIV or pregnancy.
- Laws that punish people who use drugs.



## **AIDS RESPONSE LAWS THAT CHANGED IN RECENT YEARS**

In June 2020, Gabon reversed a law that made same-sex sexual relations punishable with six months in prison and a large fine.

Bhutan decriminalized consensual same-sex sexual relations in 2021.

In July 2020, Sudan repealed the death penalty for consensual same-sex sexual relations.

The national laws of 79 countries do not criminalize non-intentional HIV exposure/transmission and there are no reports of people being arrested or prosecuted for HIV transmission in recent years.

Twenty-eight United Nations Member States recognize same-sex marriage.

Botswana's High Court ruled in favour of decriminalizing homosexuality in 2019.



# CURBING THE USE OF CRIMINAL LAW IN PANDEMIC RESPONSES



Criminal laws have repeatedly been shown to do much more harm than good for pandemic responses and advancing public health goals.

The use of criminal law for public health ends is, in most cases, a disproportionate and ineffective response that is vulnerable to arbitrary and discriminatory implementation. Such an approach often drives people away from much needed services, increases the potential risk of exposure or transmission, and undercuts learning by (and empowerment of) all citizens. Enforcement also can also distract limited human resources and budgets away from measures that could more effectively respond to the pandemic, such as citizen education, testing, tracing and treatment.

Criminalization of same-sex sexual relations, sex work, drug possession and use, and HIV exposure, non-disclosure and transmission have been shown to block HIV service access and increase HIV risk. Countries that criminalize key populations saw less progress towards HIV testing and treatment targets over the past five years, with significantly lower percentages of people living with HIV knowing their HIV status and achieving viral suppression than in countries that avoided criminalization. Even greater gains were achieved in countries where laws have advanced human rights protections, particularly those that protected rights to non-discrimination and responded to gender-based violence. Despite this compelling evidence, discriminatory and punitive laws remain alarmingly common.

Similar patterns are emerging during COVID-19 responses. Criminalization of sex work, for example, has

meant that sex workers are excluded from temporary social protection programmes in many countries, undermining their health and well-being, and their ability to help stop the spread of SARS-CoV-2.

An overreliance on criminal sanctions within the COVID-19 responses of many countries has enabled a raft of human rights violations that not only undermine efforts to curtail the pandemic but also exacerbate pre-existing social challenges of marginalization, discrimination and poverty. A recent study conducted among sex workers in eastern and southern Africa showed that COVID-19 has coincided with a high frequency of police harassment and arrests (almost half the respondents had been assaulted or extorted by police officers), alongside diminished access to health facilities and HIV services. People who use drugs also lack safe options for accessing harm reduction services.

Gay men and other men who have sex with men and transgender people have also been subject to arrest and abuse. For example, in Uganda, officials arrested at least 23 young lesbian, gay, bisexual, transgender and intersex people who were living in a safe house in March 2020. Most were charged with committing a **“negligent act likely to spread an infectious disease”** under the criminal code, allegedly because of the total number of people living in the house. While they were eventually released and all charges were dropped, they were never tested for COVID-19 during their detention, spent weeks in custody with no access to lawyers and were horrifically brutalized, both by other prisoners and by guards.

# CHANGING LAWS IS POSSIBLE

The law can be a powerful force for good, but it can also be a powerful force for bad—to stop discrimination, the law must be on the side of good. For example, gender equality is still a long way off, but we know that progress is possible—only 60 years ago, the majority of women globally could not vote or even have a bank account in their own name.

## There are different ways of changing discriminatory legislation:

- Parliamentary process. Laws that discriminate can be abolished through the leadership of governments and the votes of parliamentarians. Awareness-raising among the legislature is therefore essential. Law reform can take time, but building coalitions, working with parliamentarians, building up the evidence base for reform or using international human rights mechanisms are all actions that people can take.

- Strategic litigation. In many countries, the courts have the power to strike down laws that are barriers to constitutionally enshrined human rights principles. This can be realized through litigation brought by an individual or an organization affected by the law.
- Public consultation and a referendum. In some countries, citizens can propose law reform through a petition and request a national vote or referendum.

## THE CHALLENGE

Ending discrimination and changing laws is the responsibility of us all. Everyone can play a part in ending discrimination and can try to make a difference, in ways both big and small. The Zero Discrimination Day 2022 campaign challenges people to act against laws in their country that discriminate.









# TAKE ACTION

This year's Zero Discrimination Day campaign highlights action that individuals, civil society or governments can take to change laws that discriminate.

## Five actions for individuals

1. **Highlight discriminatory laws**, so we can all advocate for change—post your initiatives for zero discrimination on social media.
2. **Be an ally**, call out discrimination when you see it.
3. **Demand change** from your parliamentarian, ombudsperson or human rights organization.
4. **Start a petition** to change the law.
5. **Donate** time, money or expertise to an organization that is working for law reform, or start one yourself.

## Five actions for civil society organizations

1. **Start a campaign** to change a law. Highlight discriminatory laws, so we can collectively advocate for change.
2. **Provide support** and a safe space, including legal support and pastoral care for people who experience discrimination.
3. **Conduct awareness-raising sessions** on human rights in a workplace, school, clinic or peer network.
4. **Convey a request** to remove discriminatory laws to your representative in parliament or local government, United Nations office or national body responsible for monitoring human rights in the country.
5. **Adopt and promote** a policy that prevents and protects against discrimination in the civil society organization workplace.

## Five actions for parliamentarians and governments

1. **Inform yourself** about discrimination and its impact on the people affected.
2. **Raise awareness** among other public servants, members of the judiciary and law enforcement officers.
3. **Facilitate platforms** of parliamentarians, nationally and internationally, to commit to promote good laws that advance the well-being and fundamental dignity of everyone, based on evidence and guided by human rights standards.
4. **Be an ally** and act on civil society requests to remove discriminatory laws and give civil society a platform so that their voices can be heard.
5. **Table amendments to laws** or call for a review of the legislation.

## Five actions for partners and donor organizations

1. **Inform yourself** about discrimination and its impact on the people affected.
2. **Adopt and promote** a policy that prevents and protects against discrimination in the donor organization workplace.
3. **Commit to prioritizing** the reform of discriminatory laws in health and development programmes.
4. **Ensure that funding goes towards human rights**, law reform, legal aid and legal education.
5. **Work with local organizations** that are affected by discriminatory laws or that are working on law reform.

# FACTS ABOUT DISCRIMINATION

## WOMEN

- More than 50 countries maintain nationality laws that discriminate on the basis of sex.
- Twenty-five countries have nationality laws that deny women the right to confer their nationality on their children on an equal basis with men.
- Only 10 countries (Belgium, Canada, Denmark, France, Iceland, Ireland, Latvia, Luxembourg, Portugal and Sweden) offer full legal protection to women.
- In 18 countries, husbands are legally allowed to prevent their wives from working.
- One hundred and four countries have laws that prevent women from working in specific jobs.
- Countries that have explicitly sex discriminatory family laws include Iraq and Nigeria, where domestic violence is explicitly allowed, and the Bahamas, India, Singapore and Yemen, where marital rape remains legal.
- Laws that prevent daughters from inheriting the same proportion of assets as sons exist in 39 countries.

## PEOPLE WHO USE DRUGS

- In 2020, 35 countries retained the death penalty for drug offences.
- In at least 67 countries, drug use or consumption and/or possession of drugs for personal use is a criminal offence.

## SEX WORKERS

- At least 98 countries criminalize some aspect of sex work.
- Selling and/or buying sex is partially or fully criminalized in at least 39 countries.
- At least five countries report that people can be prosecuted or punished for carrying condoms.

## SAME-SEX SEXUAL RELATIONS

- In six United Nations Member States—Brunei, the Islamic Republic of Iran, Mauritania, 12 northern states of Nigeria, Saudi Arabia and Yemen—the death penalty is the legally prescribed punishment for consensual same-sex sexual relations.
- In five additional United Nations Member States—Afghanistan, Pakistan, Qatar, Somalia (including Somaliland) and the United Arab Emirates—certain sources indicate that the death penalty could potentially be imposed for consensual same-sex sexual relations, but there is less legal certainty on the matter.
- As of December 2020, 69 states criminalized consensual same-sex sexual relations.

## TRANSGENDER PEOPLE

- In 13 countries, specific laws criminalize transgender people, punishing them with prison, corporal punishment and, where same-sex sexual relation laws are also used against transgender people, even death.
- It's not possible to legally change your gender in at least 47 United Nations Member States.

## PEOPLE LIVING WITH HIV

- In 2020, 92 countries reported to UNAIDS they had either specific or general laws that criminalize HIV transmission, exposure or non-disclosure.
- At least 20 countries worldwide still impose travel restrictions of some form against people living with HIV.
- Across 19 countries with available data, approximately one in five people living with HIV reported having been denied health care (including dental care, family planning services and sexual and reproductive health services).

## MANDATORY HIV TESTING

- In 2018, 59 countries reported maintaining mandatory HIV testing for marriage, work or residence permits or for certain groups of people.

## YOUNG PEOPLE

- Forty countries reported to UNAIDS in 2021 that they have laws requiring parental/guardian consent for adolescents to access hormonal or long-lasting contraceptives.
- One hundred and eight countries reported that parental/guardian consent is required for an HIV test, 43 countries for HIV self-testing, 92 countries for HIV treatment and 22 countries for access to pre-exposure prophylaxis.
- Some countries provide certain exceptions to parental/guardian consent based on demonstrated maturity: 10 countries for hormonal or long-lasting contraceptives, 15 countries for HIV testing, eight countries for self-testing and nine countries for HIV treatment.
- The age cut-off of parental consent laws varied by service. The majority of countries that reported having requirements for parental/guardian consent had an age cut-off of 18 years, with exceptions in a few countries, where adolescents as young as 14 years could access a service without parental/guardian consent.





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