Human rights and gender programming in challenging operating environments (COEs)

Guidance brief

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Contents

I. Introduction

In 2016, the board of the Global Fund to Fight AIDS, TB and Malaria approved a policy for the Fund's work in challenging operating environments (COEs).[1] The policy will systematize the Global Fund's approach and engagement in COEs toward the goal of "maximizing impact and greater accountability" of Global Fund investments in COEs. The Global Fund defines COEs as "countries or regions characterized by weak governance, poor access to health services, and man-made or natural crises." A country is classified as a COE based on having a high External Risk Index (ERI), a composite measure developed by the Global Fund that reflects economic, governance, operational and political risks in a country. Countries or regions may also be classified as COEs on an ad hoc basis to allow for rapid response in emergencies. The list of COEs, published yearly, includes countries experiencing acute emergencies or chronic crises.

In all of its work, the Global Fund is committed to supporting programming that advances human rights and gender equality, as captured in the four strategic objectives included in the 2017-22 Strategic Framework. Strategic objective 1 on maximizing impact against the three diseases has a sub-objective that calls for the Global Fund to "improve effectiveness in COEs through innovation, increased flexibility and partnerships." With respect to gender equality and human rights,[2] Strategic Objective 3 ("Respect and promote human rights and gender equality") has the following sub-objectives:

1. Scale up programs to support women and girls.
2. Invest to reduce gender and age-related disparities in health.
3. Introduce and scale up programs that remove human rights barriers to accessing HIV, TB and malaria services.
4. Support meaningful participation of key and vulnerable populations and networks in Global Fund-related processes.
5. Integrate human rights considerations throughout the grant cycle and in policies and policy-making processes.

These sub-objectives are as important in COEs as in any other circumstance. **Indeed they may be particularly important in COEs to ensure program effectiveness when acute or chronic crises contribute to the weakening of state institutions and to people's marginalization and disempowerment.** In COEs as in other circumstances, the Global Fund sees human rights-based and gender-responsive programming and implementation **not as an "add-on" but as an essential approach to all stages of programming and implementation**. The human rights and gender goals in the strategic framework are inspired by the understanding that program design, implementation and evaluation that are centered on human rights principles and gender equality are necessary for program impact, accessibility and quality.

At the same time, the Global Fund recognizes that not all aspects of human rights and gender-responsive programming may be possible or needed in all COEs. As with all other aspects of programming in these settings and as is well noted in the COE policy, a contextualized approach needs to be adopted.

The purpose of this paper is to provide guidance for the operationalization of the Global Fund's COE policy in ways that are consistent with its human rights and gender strategic objectives. In particular,

[1] Global Fund to Fight AIDS, TB and Malaria. The Challenging Operating Environments policy, as approved at the 35th meeting of the Board, Board Decision GF/B35/03, April 2016.

[2] Human rights and gender considerations are also reflected in other strategic objectives, in particular in strategic objective 1 (a) which, among other things, says that the Global Fund will scale up evidence-based interventions "with a focus on….key and vulnerable populations disproportionately affected by the three diseases"; in strategic objective 2(a), which aims to strengthen community responses and systems, and in objective 2(b), which aims to strengthen reproductive, women's, children's and adolescent health.

it suggests ways in which specific programs can be undertaken to address human rights and gender-related risks and barriers to services, as well as to ensure rights-based and gender-responsive approaches to services, which are imperative for ensuring optimal impact of HIV, TB and malaria programs. This paper reflects very rich discussions from a September 2015 consultation on the Global Fund's COE work and a February 2016 consultation focused specifically on human rights and gender equality in COEs. Both consultations included a wide range of external experts on COEs, human rights and gender equality as well as Global Fund staff.

II. Programs to address human rights barriers and gender inequality

Addressing human rights barriers to services for HIV, TB and malaria in COEs does not always require starting from scratch. Gender-related barriers to health programs, for example, are well documented and crucial to address in COEs, as in other circumstances. Women and girls are excluded or effectively excluded from health services, including sexual and reproductive health care, in many circumstances by their lack of autonomy in household decision-making and control of household resources as well as by discriminatory and disrespectful treatment in health care settings. Gender-based violence, including intimate-partner violence and violence against boys and girls, may also be more likely in COEs. Both prevention of violence and care of survivors must be high priorities for health services. Adolescents tend to be a forgotten population, including in acute emergencies, but their access to sexual and reproductive health services and other care is essential for effective disease responses.

Human rights and gender barriers specific to the three diseases have also been defined. Programs that reduce human rights barriers to access to services have been well defined for HIV. The categories of programs identified by UNAIDS, approved by UN member states, and endorsed by the Global Fund as effective for reducing human rights barriers to HIV programs are as follows:

- stigma and discrimination reduction;
- training for health care providers on human rights and medical ethics related to HIV;
- sensitization of law-makers and law enforcement agents;
- reducing discrimination against women, including in access to sexual and reproductive health services, and addressing gender-based violence (GBV) and intimate partner violence (IPV);
- legal literacy ("know your rights");
- HIV-related legal services; and
- monitoring and reforming policies, regulations and laws related to HIV.[3]

Human rights barriers to TB programs and services are often similar to those of HIV. A Global Fund working group (composed of technical partners, TB and human rights experts, Global Fund staff, community representatives and others) developed detailed program guidance on TB, human rights and gender. Programs that address human rights barriers to TB services are:[4]

- mobilizing and empowering patient and community groups;
- stigma and discrimination reduction;
- training for health care providers on human rights and medical ethics related to TB;

[3] The programs are described in more detail in the GF technical brief on *HIV, Human Rights, and Gender Equality*. See also: UNAIDS. *Guidance note. Key programmes to reduce stigma and discrimination and increase access to justice in national HIV responses*. Geneva, 2012. (http://www.unaids.org/sites/default/files/media_asset/Key_Human_Rights_Programmes_en_May2012_0.pdf)

[4] These programs are described in more detail in the GF technical brief on *Tuberculosis, Gender and Human Rights.*

- sensitization of law-makers and law enforcement agents;
- reducing discrimination against women in access to TB services;
- TB-related legal literacy ("know your rights");
- monitoring and reforming policies, regulations and laws related to TB;
- programs in prisons and other closed settings; and
- programs to minimize involuntary isolation for treatment and ensure mechanisms of complaint and redress when isolation occurs.

With respect to malaria, which is not subject to stigma in the way that HIV and TB are, a working group also identified programs to reduce human rights barriers. In some settings, for example, it has been documented that program effectiveness and reach are impeded by gender-related barriers (such as gender-determined sleeping arrangements by which men or women may be less likely to sleep under a bednet) and discrimination against refugees, lack of malaria prevention services for certain categories of workers, and exclusions related to poverty and geographical remoteness. Female-headed households may be excluded or disadvantaged with respect to insecticide-treated bednet programs or mosquito spraying programs, for example, and COE circumstances may increase the number and exacerbate the vulnerabilities of female-headed households. Women may also be disadvantaged in recruitment and hiring as workers in mosquito spraying and bednet dissemination programs, even though women workers may reach female-headed households more effectively than men. Programs to address these and other barriers may dramatically improve the sustainability and effectiveness of malaria prevention, diagnosis and treatment services. They are described in more detail in the GF Technical Brief on Malaria, Gender and Human Rights.[5]

III. Assessment and preparedness

The COE policy emphasizes the need for flexibility in grant design, selection of principal recipients, the making of what might otherwise be non-traditional partnerships, and other aspects of program implementation and evaluation. It is essential that situation assessments in COEs include attention to the human rights and gender equality situation and rights-related barriers to services as well as to procurement and other usual programmatic issues. To the degree possible, assessments should be based on sex- and age-disaggregated data with the recognition that barriers to services faced by women, girls and adolescents may be worsened in COEs though their need for services may be heightened.

- Are there new or previously unrecognized key populations affected by, or at high risk of, the three diseases due to large-scale forced displacement, breakdown of traditional community protection or solidarity mechanisms, breakdown of state services, an increase in violence or gender-based violence, changes in availability of employment, loss of health service providers, or other factors associated with the crisis? Are barriers faced by already identified key populations exacerbated in the crisis? What is the capacity of community-based organizations or other operational partners to help reach key populations?
- If there have been refugee movements or significant internal displacement of people, are those affected by displacement disadvantaged in access to health services by culture, gender, language, poverty, remoteness or other factors? Have populations affected by displacement been able to retain community-based organizations or organizational capacity to participate meaningfully in reducing discrimination and improving their access to health services?

[5] *Technical briefs. Malaria, Gender and Human Rights*. At https://www.theglobalfund.org/media/5536/core_malariagenderhumanrights_technicalbrief_en.pdf

- Are comprehensive sexual and reproductive health services accessible, available, acceptable and of good quality for all who need them, including adolescents and refugees? Are there conditions related to the COE that undermine the integration of HIV, TB and malaria services with sexual and reproductive health services; if so, how can those be overcome?
- Has the crisis increased the risk of intimate partner and gender-based violence? If so, why and in what ways? Who are the main perpetrators? Would changes in agricultural work patterns, patterns of searching for fuel or water, or safe paths to toilet facilities, for example, reduce risk? Are IPV and GBV survivors and communities adequately informed of the need to seek HIV post-exposure prophylaxis and other emergency services following episodes of violence? Are services accessible, adequate and non-discriminatory – including comprehensive reproductive and sexual health services for survivors?
- Has the acute or chronic crisis undermined mechanisms of protection and redress for patients excluded from health care or not receiving good-quality care? What patient rights protections are possible in the current situation? Do people have equal access to these protections?
- Have state functions been weakened to the point of undermining government health services and policy and program decision-making processes? If so, which authorities or institutions are operating health services, and what are the mechanisms for ensuring quality, accountability and non-discrimination in health services? Are there adequate controls on and support for gender-responsive approaches and welcoming services for refugees and others affected by acute emergencies? Are women included as decision-makers in emergency or ad hoc health authorities?

As human rights barriers are identified, every effort should be made to ensure that programs to address these barriers are funded in new grants or covered when grants are restructured in response to a COE situation.

Assessing barriers to services and risks of violence among sex workers in South Sudan

South Sudan attained independence in 2011 but has largely been in a state of political crisis and violent internal conflict since then. UN observers reported widespread gender-based violence. In 2015, the South Sudan People's Liberation Army (SPLA), the former insurgent movement that became the military authority of the new country, sought Global Fund support for its HIV program. A review of the concept note by the Secretariat flagged especially the risk of providing services safely to sex workers, a key population affected by both HIV and gender-based violence. The Global Fund supported an assessment mission by the Kenyan human rights organization KELIN to assess in detail the risks faced by sex workers and the possibilities for overcoming rights-related barriers to care and ensuring safe, non-stigmatizing, good-quality services. Some persons encountered by the KELIN team thought that funding the army to provide services for sex workers was a bad idea, but the sex workers themselves said they were more comfortable with the care provided by the army's facilities than that offered in the main hospital. The assessment team recommended that the grant include improving the capacity of all health workers to provide respectful, ethical and welcoming services for sex workers; training for health workers, police, army officials and local officials on GBV and the rights of sex workers, and provision of legal services for sex workers. A number of these elements were included in the grant proposal. In this case, a special assessment activity in a very difficult COE situation helped to bring out ideas for activities to address human rights barriers and to bring sex workers' particular challenges into focus.

IV. Programs to address human rights barriers in COEs: principles and examples

While it is not possible in all COEs to implement all of the programs to reduce human rights barriers that the Global Fund encourages grantees to include, there is always some sub-set of these programs that is both feasible and necessary for effective service delivery. Moreover, beyond particular programmatic actions, approaches to service delivery that are gender-responsive and human rights-based are always needed. Meaningful participation of affected populations is always important. Strategies that minimize the risk of sexual violence, such as locating services in safe zones and ensuring that health services are respectfully delivered to all without discrimination, exemplify rights-centered approaches.

With respect to the particular programs noted in section II above, those involved in planning and implementing Global Fund-supported programs should recognize that these programs can and should be adapted to various challenging environments. For example:

- If formal legal and judicial systems have been disrupted by an acute or chronic crisis, access to legal services may mean programs that support mediation with military authorities or other local powers or with traditional leaders to find ways to ensure access to non-discriminatory health services.
- Similarly, "know your rights" or rights literacy programs may mean developing information materials on health rights for refugees or linguistic minorities or helping communities to organize to realize their right to security from violence.
- Removing discriminatory gender barriers may be best focused on programs that empower women and young people may mean helping communities to focus on risks of violence at the hands of the military or in camp situations or on empowering women, men, LGBT people or adolescents to organize to assist each other in ensuring regular access to health services.
- Working to reform laws and policies that impede access to services may take the form of ensuring that providers of basic services – including health, food, security, housing – have procedures that are non-discriminatory and gender-responsive. It might also take the form of confronting punitive, unjust use of HIV or TB testing, unlinked to treatment, which may be a feature of some COEs, especially in situations of forced migration. Global Fund support may be sought for organizations that can advocate for changing these practices and ensuring access to HIV and TB testing and care that do not endanger people.

The Global Fund's COE Policy emphasizes that organizations that may be unlikely program partners in non-COEs may be essential partners in challenging circumstances; flexibility and creativity in forging partnerships in COEs is important. In acute emergencies, a range of experienced partners is likely to be on the ground, including organizations that can train and support community-based workers. But in chronic COEs, civil society organizations may be few and limited in capacity. Nonetheless, because of weaknesses in state-run services, community-based organizations (CBOs), including women's and human rights groups, may be the most important partners in COEs for reaching key populations with services and information. For example, where CBOs representing the interests of key populations have the capacity and networks to contribute meaningfully to services and outreach but are weak in other ways, Global Fund grants might support strengthening their capacity and should simplify procedures to enable them to get funding quickly and easily. CBOs may also play an essential role in community-based monitoring of barriers to health service access.

In some COEs, pregnant women may face greater barriers to access to the intermittent preventive treatment (IPTp) for malaria that is crucial for them. Refugee or internally displaced women may face cultural, linguistic or other discriminatory barriers to access reproductive health facilities that

deliver IPTp. Overcoming these barriers may require bridging maternal health and infectious diseases services and encouraging their collaboration.

Lessons from RaCE Program may inform rights-based malaria programs in COEs
With support from the government of Canada, the World Health Organization (WHO) and the International Rescue Committee are undertaking a malaria initiative called Rapid Access Expansion Programme (or RAcE 2015) in the Democratic Republic of Congo (DRC), a challenging operating environment where state institutions are weak, communications and transportation infrastructure is deteriorated, many regions have been destabilized by war, and many villages are far from health services.[6] In remote villages, young children and pregnant women in critical early stages of malaria may experiencing disabling complications or death before they are able to reach a health facility for care.

RAcE 2015 is training a large number of community-based volunteers in recognizing signs of acute malaria, rapid diagnostic testing, and treatment with artemisinin-based combination therapy. But even with the best-trained and equipped volunteers, the program would not work without efforts to sensitize CBOs, community and religious leaders, local officials and the population to the importance of this work and to mobilize all of these stakeholders to ensure that all people know where to find life-saving care. Health workers and district health managers also need to be on board to provide support to the volunteers and to ensure that they can refer patients for further care when they are able to reach health centers. RAcE 2015, which is being rolled out in a number of non-COE countries as well, may provide important lessons for empowering communities living in difficult and remote circumstances – even recently displaced communities – to take charge of ensuring access to malaria treatment when it is needed most.

GBV at the hand of military actors or others and intimate partner violence are exacerbated in many COEs. Including support for the crucial supplies and activities in the Minimum Initial Service Package (MISP) for reproductive health in emergencies may be one of the most important program activities to include in Global Fund-supported programs in COEs. The MISP is widely accepted by humanitarian organizations and includes emergency contraception, treatment of sexually transmitted diseases including HIV, and referral to counseling and support for GBV survivors. In some situations, these health responses to GBV would be effectively complemented by supporting advocacy against child marriage or "short-term marriages" to economic deprivation or other social practices that contribute to HIV risk or risk of GBV.

While violence against women and children is an urgent problem, in many COE situations it is the absence of comprehensive sexual and reproductive health (SRH) services, including emergency obstetric care, that pose the greatest risk of death and morbidity to women and adolescent girls. The MISP is a guide to essential SRH services beyond care for survivors of violence. Organizations experienced with the MISP guidelines and service standards can be especially important partners in COEs.

Where country coordinating mechanisms (CCMs) exist and are able to function, it is important to ensure that they include strong representation of key affected populations, women and youth. Participation of refugees and UNHCR in countries with large refugee populations may be equally important. If CCMs are not functioning, efforts should be made in whatever decision-making mechanism is established, to safeguard the interests of key populations, including those most marginalized by COE circumstances and refugees. Advocacy for non-discriminatory, gender-responsive programs should be brought to alternative coordination platforms, including health clusters and other such operational entities to ensure that key populations are reached.

[6] World Health Organization. Putting malaria treatment in the hands of communities (online feature). At: http://www.who.int/features/2013/africa-malaria-community-volunteers/en/

In COEs as in other circumstances, the country dialogue is a crucial opportunity for identifying gender-related and human rights barriers to services and planning programs to address them. Again, the meaningful participation of key populations and their allies is essential at this stage, as well as in preparation of the concept note.

Pre-positioning of medicines and other supplies or allowing more doses of medicines to be given than would be the case in non-COEs may be important measures. If so, efforts should be supported to reach those most likely to face discrimination or other rights-related exclusion.

V. Conclusion

There is a strong temptation in COEs to operate services in a top-down, non-participatory way, as is clear from the history of health programs in humanitarian crises. The Global Fund has long experience in programs that serve often marginalized populations and a commitment to human rights-based and gender-responsive programming as an essential element of effective and sustainable services. That the Global Fund's COE policy espouses flexibility in programming and creativity in building partnerships opens the door to innovative strategies that empower marginalized and displaced people to play a meaningful role in planning and implementing health services for their communities. It also allows existing Global Fund grants to be modified to address human rights barriers that arise with acute or chronic crises and to enable a strong emphasis on gender-responsive programming and protection from violence. It is hoped that this briefing note will assist CCMs and grant recipients to use Global Fund support in COEs in ways that overcome human rights barriers to HIV, TB and malaria services in effective and sustainable ways.