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Key messages

- A rights-based and gender-responsive approach will enable countries to best respond to the COVID-19 crisis, including in the context of their ongoing epidemics of HIV, TB and malaria.
- The Global Fund remains committed to human rights and gender equality and will be guided by this commitment in its decision-making around COVID-19 and how best to adapt its operations.
- The Global Fund will remain a strong advocate for non-discriminatory, ethical and evidence-based health responses throughout the crisis.
- Any COVID-related modifications to Global Fund-supported programs will strive to ensure that human rights and gender-related barriers to health services are not exacerbated and that the health needs and human rights of those most vulnerable to COVID-19, as well as to HIV, TB and malaria, are met.
- Programs to remove human rights and gender-related barriers to HIV, TB and malaria services should be maintained or even strengthened and tailored to provide support also to the COVID-19 response and those most affected by the pandemic, including health care providers.
- Health systems and community systems will be strengthened by human rights programming to enable countries to better respond to COVID-19.
- Lessons learned and input from affected communities should inform the human rights programming and priorities in new Global Fund funding proposals.

Introduction

1. The COVID-19 crisis poses substantial and varied threats to countries in terms of potentially devastating effects on individual morbidity and mortality, on health systems and on Global Fund-supported programs to address HIV, tuberculosis and malaria. In the form of disproportionate, discriminatory and/or unscientific responses, the COVID-19 crisis also threatens health-related human rights, especially of the most marginalized communities in

¹ This guidance note is written for a large audience, including country teams and other Global Fund Secretariat staff, CCMs, implementers of Global Fund-funded programs, in-country partners and technical partners. It builds upon other guidance released by technical partners, community-based organizations and others, to provide guidance specifically related to the Global Fund’s approaches, decision-making and programming at the time of COVID-19. The guidance will be updated, as needed.
terms of access to health. Well-established HIV, TB and malaria services may be disrupted, and some members of HIV and TB key populations (who already before COVID-19 were facing many barriers to accessing health services) may face stigma and denial of health care (being judged unworthy of care) at health facilities that are overwhelmed by coronavirus-related demands. Quarantine or isolation may lead to coercion or situations where the basic needs of those quarantined are not met. Women, children and young people may find themselves sequestered in households where they face interpersonal violence with no possibility of escape. Prisoners, detainees, slum dwellers, persons with disabilities and refugees, among others, will face heightened risk of exposure. Physical distancing may be impossible for them and, in many circumstances, they will lack access to adequate sanitation facilities, such that key measures like regular, effective handwashing will be difficult or impossible. Individuals who are stateless or without appropriate documentation may also face additional difficulties in accessing information and access to remedies. Other measures, including legislative or policy measures, adopted by governments in the name of preventing further spread of the COVID-19 virus may be enforced in ways that lead to human rights violations (including violence and other abusive treatment), and some measures put forward with a public health justification may not meet international human rights standards, including being unnecessary, disproportionate and/or discriminatory. In some instances, such measures may interfere with the dissemination of evidence-based information about COVID-19 if governments deem this information, even if factual, inconvenient or at odds with the messages they wish to convey about the pandemic and their response to it. Finally, the consequence of having been diagnosed with COVID-19 may result in stigma in family, community, household and workplace even if a person has recovered.

2. During this crisis, the Global Fund remains committed to a human rights-based and gender-responsive approach. This commitment will enable the Global Fund and countries to respond more effectively to COVID-19 and mitigate the potential negative consequences of the pandemic on existing Global Fund-supported programs. It will do so by:

   a) focusing appropriate attention on the most vulnerable and marginalized;
   b) reducing disproportionate, unscientific and discriminatory responses;
   c) tailoring human rights programming to best address the challenges of COVID-19;
   and
   d) enabling the engagement of communities in GF programming, policies and policy-making processes.

This paper provides guidance on health-related human rights concerns in the context of COVID-19 and steps that are being taken by the Global Fund to address them.

Global Fund commitments on human rights and gender

3. The Global Fund’s strategic commitment to human rights and gender equality underscores the principle that protecting human rights goes hand in hand with protecting health. Safeguarding rights should not be jettisoned during this or any emergency. As COVID-19 threatens both public health and human rights, a commitment to a rights-based (and gender-responsive) response is important now more than ever.

4. The Global Fund’s commitment to human rights and gender equality, as outlined in the sub-objectives of Strategic Objective 3 of the 2017-2022 strategy, remains relevant in the COVID-19 crisis:

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

Minimum human rights standards

5. In addition to the Global Fund’s human rights and gender commitments, there are the critically relevant minimum human rights standards to which all grant implementers commit (as required conditions in any grant agreement signed with the Global Fund):

a) Non-discriminatory access to services for all, including people in detention
b) Employing only scientifically sound and approved medicines or medical practices
c) Not employing methods that constitute torture or that are cruel, inhuman or degrading
d) Respecting and protecting informed consent, confidentiality and the right to privacy concerning medical testing, treatment or health services rendered; and
e) Avoiding medical detention and involuntary isolation, to be used only as a last resort.

6. What do these mean concretely in these times of the COVID-19 crisis?

a) No discrimination in testing and in the provision of health care, including in relation to COVID-19, including with regard to key and vulnerable populations

No one should be denied COVID-related treatment and care on a discriminatory basis. This means that all those in need should have equal access to COVID-19 treatment and care; that ethical principles should guide the provision of scarce resources and services; and that no person or group should be denied care based on their health, social, legal or political status. This includes key and vulnerable populations in HIV, TB and malaria epidemics: for HIV, these include men who have sex with men, people who inject drugs, sex workers and transgender people; for TB, they include prisoners and other detainees, people living with HIV, migrants, slum dwellers, refugees and indigenous persons; for malaria, they include refugees, migrants, internally displaced people, and indigenous persons. This also means that no vulnerable populations recognized by the Global Fund, including women, adolescents, miners, minorities and indigenous people, and people with disabilities, should be denied COVID-19 care. In addition to these groups, health workers---including community health workers and volunteers---and elderly persons and others particularly at risk, for example younger persons with underlying health conditions, should also be considered vulnerable populations in the face of COVID-19.

Where triage situations require the rationing of scarce health resources, it will be vital to monitor whether people living with HIV and/or TB and key and vulnerable populations are being discriminated against or deemed unworthy of COVID-19 services, and whether stigma associated with HIV, TB or key population status becomes worse during the COVID-19 emergency. In this context, disaggregated data (by age, gender, and key population status) should be captured that will indicate whether anyone is being excluded from COVID-19 testing and care on these grounds.
b) Employing only scientifically sound and approved medicines or medical practices

COVID-19 is a novel coronavirus, and there remains uncertainty regarding the scope of community transmission, testing capabilities, and treatment and care. Fear, ignorance, disinformation and lack of resources may drive countries, communities and grantees to employ unscientific practices and treatments. Implementers of Global Fund grants must get the latest scientific information and resources and steer away from unsound medicines, practices and experimentation.

c) Not employing methods that constitute torture or that are cruel, inhuman or degrading treatment

Implementers of Global Fund grants must avoid practices related to quarantine, isolation, experimentation or treatment that may constitute cruel, inhuman or degrading treatment. Policies and practices that maintain detention or congregation in the face of the increased vulnerability to COVID-19 infection and lack of care should be strongly discouraged. Of particular concern are people held in prisons or jails, compulsory drug “treatment” centers, refugee camps, institutions for the elderly, disabled or mentally challenged, and in shelters for the homeless or for victims of violence or for key and vulnerable populations.

d) Respecting and protecting informed consent, confidentiality and the right to privacy concerning medical testing, treatment or health services rendered

As in the responses to HIV, TB and malaria, Global Fund grantees must maintain standards of confidentiality, privacy and informed consent in the provision of COVID-19 services and more broadly for people living with or affected by HIV, TB and malaria, including key populations.

e) Avoiding medical detention and involuntary isolation

Measures of “lockdown”, quarantine and/or isolation should be used according to scientifically sound principles and as measures of last resort. They should also be reviewable in the justice system. People subject to such measures should be informed in advance, as much as that is possible, about the expected duration of such policies and should be given the means by which to meet basic needs of food, shelter, and medical care during any quarantine, lockdown or isolation.

7. If someone believes that they have either experienced or witnessed a violation of any of these five human rights standards in a Global Fund-supported program, he or she can file a complaint with the Global Fund’s Office of the Inspector General. An organization may file a complaint on behalf of an individual or group that is directly affected, provided that it has a letter of authorization. The identity of the person making the complaint will remain strictly confidential, unless he or she provides consent for his/her information to be disclosed. Anyone reporting a violation may choose to remain anonymous. This can be done by email:
ispeakoutnow@theglobalfund.org; or by telephone:+1 704 541 6918 (Free service available in English, French, Spanish, Russian, Chinese, and Arabic).

Programs to remove human rights-related barriers to HIV, TB and malaria services

For HIV and TB, the seven key programs recommended by UNAIDS and supported by the Global Fund are: stigma and discrimination reduction; training for health care providers on human rights and medical ethics; sensitization of lawmakers and law enforcement agents; reducing discrimination against women in the context of HIV and TB; legal literacy; legal services; and monitoring and reforming relevant laws, regulations and policies.

In addition to these seven, for TB three additional program areas supported by the Global Fund: ensuring confidentiality and privacy; mobilizing and empower patients and community groups; and addressing policies regarding involuntary isolation or detention for failure to adhere to TB treatment, and making efforts to remove barriers to TB services in prisons.

For malaria, human rights and gender assessments of malaria-related risks and access to services should be undertaken, community systems strengthened and meaningful participation of affected populations ensured, laws, regulations and polices reviewed to enable malaria responses, and access to services for underserved populations such as mobile populations, refugees and others affected by emergencies improved.

(See “Further reading” below for links to the text of technical briefs on rights-based approaches to these programs.)

8. In its current strategy (as in the previous one), the Global Fund committed itself to scaling up, to comprehensive levels, programs to remove human rights-related barriers to HIV, TB and malaria services. (See box listing these programs.) It has made considerable progress, with much increased funding now going to these programs and many grantees having significant programs planned or in progress in current grants. However, given the COVID-19 crisis and how it will affect the allocation of human and other resources in health systems, it may not be possible or relevant, in the short term, to implement programs to remove human rights related barriers to HIV, TB and malaria services exactly as it was previously intended.

9. In this context, the Global Fund strongly encourages grantees to flexibly adapt programs to remove human rights-related barriers to HIV, TB and malaria services so that they can be continued or even scaled up, and to pro-actively use the activities and funding envisioned for these programs to also strengthen the fight against COVID-19 in their countries. These programs should be continued because they strengthen both health systems and community systems – two systems which are critical to an effective response to COVID-19 and which are threatened by the COVID-19 epidemic. The following paragraphs give examples of how programs to remove human rights-related barriers to services could be adapted:
a. Training of health care workers on human rights and medical ethics: In lieu of broad, in-person human rights training for health workers, the format of the trainings can be changed and COVID-19 information included, such as messages for health workers about stigma and the need to deliver services to key and vulnerable populations without discrimination, as well as the importance of confidentiality and informed consent. In addition, health workers should be regularly informed of their own rights with respect to protection from infection and compensation for occupational infection.

b. Stigma and discrimination reduction: Stigma and discrimination reduction activities for HIV and TB, including use of mass media, can be modified to include addressing COVID-related stigma and on the rights of both patients and health workers. Advocates experienced with stigma-reduction efforts should be empowered to monitor and address COVID-related stigma, including medically-unnecessary publication of the names or personal information of persons diagnosed with COVID-19.

c. Sensitization of lawmakers and law enforcement agents: Comprehensive training for police and law-makers on human rights related to HIV and TB may not be possible due to social distancing measures, but information platforms for law enforcement and legislative actors should be used and include messaging in areas such as:

i. Attention to elevated gender-based violence and other interpersonal violence risks linked to quarantine and isolation. National HIV responses in many countries have included the training and maintenance of special gender-based violence units among the police and in some cases strengthening of laws on gender-based violence and their enforcement, given the link between gender-based violence and HIV. Modified police training might focus on sustaining and scaling up these services in the COVID environment.

ii. For drug police and other “vice” police, information on COVID-19 risks faced by people who use drugs, sex workers, and gay men and other men who have sex with men, on principles of harm reduction-oriented policing.

iii. For all police and lawmakers, cautions against using criminal law and harsh policing to enforce quarantine or isolation policies, especially against key, vulnerable and marginalized populations.

iv. For lawmakers, advocacy for legal protections against unwarranted privacy and other violations against people diagnosed with COVID-19.

d. Legal literacy or “know your rights”: These programs now focused on HIV, TB and malaria can be widened to add simple, user-friendly information on COVID-19 services, the rights of persons diagnosed with COVID-19, the rights of those who are isolated or quarantined, and the rights of health workers.

e. Legal services: To the degree that any health-related legal or paralegal services can operate by moving to online or phone-based consultations, these should be supported to include COVID-19-related issues. But they should also receive continued and even increased support to focus on the continuing needs and rights of HIV, TB and malaria key populations and of recently released prisoners, as well as problems such as interpersonal violence in situations of quarantine – all of which might be exacerbated in the COVID-19 crisis.

f. Addressing discrimination and violence against women: There are many reports of women/adolescent girls experiencing elevated risks of interpersonal violence linked to quarantine or “stay at home” policies. Increased use of funds is recommended for social media, radio and other social media tools to communicate messages on healthy conflict resolution, stress and anger management in
community and other awareness campaigns – including information on services available; as well as for helplines for GBV reporting/referrals. Every effort should be made to increase the availability of safe shelters, special IPV/GBV police complaint departments, or other means of protection for people facing violence in the home. IPV survivors and communities should be adequately informed of the need to seek HIV post-exposure prophylaxis and other emergency services, including for sexual assault. Every effort should be made to keep available functioning reproductive health services and access to intermittent prophylaxis for malaria.

g. Programs for prisoners: A number of countries have released prisoners and pretrial detainees to avoid widespread COVID-19 transmission in prisons and jails. If there is a significant reduction in prison or remand populations, resources for HIV, TB and malaria services in prisons may be redirected to ensuring access to services in the community for released prisoners, including COVID-19 services, and addressing the stigma and basic needs challenges that they are likely to face. For prisoners and detainees remaining in custody, ART, opioid substitution therapy and prevention services must continue as essential services for those remaining in detention, and any reprogramming or simply expansion may focus on information for both prisoners and staff on COVID-19 prevention measures, support for their implementation, and measures to ensure referral to specialized care as needed.

h. Mobilizing and supporting patient and community groups: Local health committees and patient groups are likely to be overwhelmed with COVID-19-related matters during acute periods of the epidemic. If they are functioning (for example, by meeting virtually) and if they are able to influence health policy-makers, resources can support the development of simple advocacy materials for these committees on the importance of preserving access to HIV, TB and malaria services and reproductive health services. They should also be supported to monitor provision of COVID-19 care and support complaint and redress for those excluded from care. Participation of people affected by the three diseases, women, adolescents and key populations in health committees or patient groups is always important.

Strengthening community-based capacity to protect health rights

10. CBOs and networks of key populations: The capacity of CBOs and key population groups to reach their constituencies with information on COVID and other health services is crucial. If in-person meetings are not possible, they should be encouraged and given support to develop and use mobile phone networks, internet platforms, community radio or other means for reaching key populations. CBOs should be supported to develop user-friendly COVID-19 information tailored to the needs of particular key populations and to maintain, where possible, non-traditional health service venues for key populations (drop-in centers, etc.). For instance, CBOs and networks are uniquely placed and should be supported to address specific issues that may be faced by particular populations such as the following:

- **Sex workers** - crackdowns on sex work, brothels or sex work collectives in the name of COVID-19 control; lack of any safety net measures for sex workers who lose their livelihood because of coronavirus; insufficient access to information and support for harm reduction measures in the context of ongoing sex work

- **Men who have sex with men and transgender people** – crackdowns on safe spaces in the name of COVID-19 control, lack of resources, including prevention commodities, etc.

- **People who use drugs** – limited access to basic services that existed pre-COVID, including daily access to sterile injection or smoking equipment, daily opioid agonist
treatment, ART and hepatitis C treatment, etc.; for opioid agonist treatment, at least weekly or monthly take-home doses to reduce health facility visits; syringe programs that allow for more than one-to-one exchange (already important as good HIV and HCV prevention practice, and now all the more important to reduce visits to distribution points); scientifically sound information on COVID virus transmission risks related to injection with contaminated equipment, risks associated with underlying health conditions, importance of physical distancing, etc.

- **Refugees, asylum seekers and others affected by forced migration** – increased barriers to health services, including COVID-19 related services. Program planners and implementers should refer to the Global Fund’s guide to human rights and gender programming in challenging operating environments.

- **Minorities and indigenous peoples** who face entrenched systemic discrimination in access to health services are likely to be affected in terms of their access to preventative information due to language barriers or lack of access to national media. In addition, they may also face heightened stigma as health services become stretched and priority is given to others. (See “Further reading” below.)

11. Community-level health services and information will be vitally important at a time when clinics and hospitals are overwhelmed with COVID-19 efforts. CBOs, including organizations of and for key populations, are often the implementers of or key advocates for programs to reduce human rights-related barriers and ensure gender-responsive services. CBOs may complement, or be integrated with, government-supported community outreach work or other community-level services. The increased investment in human rights-related programs among many Global Fund grantees in recent years has often benefited CBOs that provide services to key populations or advocate for reduction of the human rights-related barriers that they face.

12. CCMs and program implementers need to do everything possible to sustain community health workers and CBOs doing important health and human rights work. For example:

   a) CBOs that provide HIV, TB or malaria services to key populations or conduct related advocacy may be unable to continue these activities because of illness or risks to their personnel, lack of community or government support, or being overwhelmed by COVID-related needs. In these cases, for CBOs that seek to continue operations, principal recipients should find ways to simplify procedures to enable them to get funding or additional staff quickly to see them through the emergency period. Those that are paid for results, including peer educators and outreach workers, should continue to be paid even if they are unable to do work in the community, and they should be supported to do outreach in ways that respect physical distancing requirements and/or via other means that don't involve face to face interactions (using various messaging and online platforms, etc).

   b) CBOs that are able to continue to operate should be supported to monitor the impact of COVID-19 on their constituent communities, including who is being excluded from services. CBOs might also help to monitor the impact of COVID-19 on health service providers in their communities. People who are continuing to provide services that require contact with other people should be provided with appropriate protective clothing.

   c) When CBOs and key population groups have to suspend their operations in the COVID-19 emergency, CCMs should: (a) help to determine whether their most essential services can be picked up by other entities for at least parts of their constituencies, and (b) advocate for them to keep their status as registered NGOs for when they will be able to resume activities in the future.
d) CCMs should ensure that CBOs and key population groups have the means and capacity for continued participation in country dialogues, development of funding requests, program evaluations and other Global Fund processes, including COVID-related modifications to existing programs.

e) CCMs should advocate for governments not to erect structural barriers to CBO operations and for government health structures to engage CBOs and key population groups meaningfully in decision-making on COVID-19 and other health policies and programs at all levels.

Funding applications for the 2020-2022 allocation

13. When it comes to funding applications for the 2020-2022 allocation, several challenges exist. One is ensuring that communities are involved in development of the proposals during the COVID-19 crisis. Another is to ensure grants contain solid, scaled-up programming to reduce human rights-and gender-related barriers to HIV, TB and malaria services. Lastly, it is necessary to evaluate how the COVID-19 crisis has weakened or strengthened health and community systems and how human rights funding can respond. In this context, it is important to:

   a) Assess the impact of COVID-19 crisis on implementers and beneficiaries of these programs so as to (re)define priorities and modalities of moving forward as necessary

   b) Learn lessons about how the COVID-19 crisis affected efforts to reduce human rights related barriers to HIV, TB and malaria programs, and where it created weaknesses, try to tailor grant proposals to overcome these

   c) Prioritize programs that will use existing resources most strategically to address the ongoing challenges of HIV, TB and malaria in a post-COVID-19 world

   d) Build sustainability by focusing on creating cadres of human rights expertise among health care providers and in communities (among police, traditional leaders, networks of key and vulnerable populations).

Longer-term implications

14. Finally, the COVID-19 epidemic is likely to starkly expose in the response to its urgent challenges the shortfalls in national health and community systems; the health and human rights impact of social, political and income inequalities; and the age and gender dimensions and dilemmas of epidemic responses. This will demonstrate once again (as the AIDS epidemic has) the centrality of human rights, gender equality and communities in any response to epidemic disease. This is an opportunity (though one no one would have wished for) to learn how to better tailor efforts to address human-rights and gender-related barriers to health services.

Conclusion

15. COVID-19 will cause profoundly difficult decisions to be made as resource-challenged health systems confront the need to save lives on an unprecedented scale. Efforts must be made to ensure that emergency measures do not leave out unpopular groups and/or do not
unduly undermine the rights of those needing HIV, TB and malaria prevention and care or worsen the situation of those key populations long denied respectful health care.

16. The commitment of Global Fund grantees to human rights standards and programming is crucial as COVID-related modifications to existing programs are considered. To the greatest degree possible in the face of unprecedented constraints, grantees should endeavor to fight all forms of discrimination and exclusion from essential care. They should seek program modifications that enable CBOs and others performing important HIV, TB and malaria services to continue work that feasibly can be sustained and to help address COVID-19 needs as much as possible. And they should do what is possible to ensure that the voices of those affected by HIV, TB and malaria are not silenced in health service-related decision-making. These measures will mitigate the suffering associated with the COVID-19 emergency and help to ensure the respect, protection and fulfillment of health-related human rights now and into the future.

Further reading

Global Fund gender and human rights guidance

Other resources


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2 Many new resources related to COVID-19 are currently being published, every week, so this list does not attempt to be comprehensive but only includes a few of the most relevant resources.