



# Report on the Interdisciplinary and Intersectional Dialogue on Un-policing Identity, Morality, Sexuality and Bodily Autonomy

**Accountability International (AI)**

in partnership with

**Global Health Justice Partnership, Yale University, ARROW and CREA**

with the support of

**Ford Foundation and the Ministry of Foreign Affairs of the Netherlands**

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**Accountability International (AI) in partnership with the Global Health Justice Partnership, Yale University, ARROW, and CREA, with the support of Ford Foundation, Wellspring Philanthropic Fund and the Ministry of Foreign Affairs of the Netherlands.**

Accountability International began the Challenging Criminalization Globally Project as a way to catalyze cross-movement involvement in rethinking and re-strategizing around how a larger variety of stakeholders can challenge criminalization collectively, with a particular focus on communities and civil society from the global South. In April 2018, Accountability International hosted an Inter-disciplinary and intersectional dialogue on un-policing identity, morality, sexuality and bodily autonomy, in partnership with CREA, the Global Health Justice Partnership, Yale University in New Haven, USA.

## **About the Project**

Across the globe and more disproportionately in the Global South, and increasingly in the Global North, courts, parliaments and law enforcement agencies have become avid proponents of using the coercive power of the law to police, control and punish a variety of behaviors which they have considered as contributing to 'moral decay'. The activities that come under this rubric include consensual sexual relations between people of the opposite sex, adultery, willful and/or unintentional transmission of HIV, same-sex or non-conforming gender relationships, sexual identity and expression, abortion, sex work, possession or publication of materials considered obscene, pornography, drug use among others. Beyond the criminalization of behaviors, increasingly the law is being used to penalize certain communities and individuals and subject them to systematic profiling and police harassment based on race, choice of work and other status, especially with a desire to impose an idea of collective morality. In these countries, vague, ambiguous, deliberately open-ended criminal provisions have been deployed to achieve these goals. Such penal provisions on vagrancy, loitering, public indecency, public nuisance, HIV transmission continue to be applied subjectively and with extremely wide discretion to police and impose subjective notions of identity, morality, sexuality and bodily autonomy.

The increasing surveillance, policing and burgeoning securitization of the private and the legislating of issues result in frequent abuses of human rights. By securitization AI refers to the greater extension of the governments' mandate to monitor, control and infringe on the freedoms of people, using the rationale of public safety. Terrorism, migration and climate change have all been contributing factors to increased securitization in the past decade. The goals and effectiveness of this approach must be challenged in order to ensure the realization of rights for the most vulnerable and those most-at-risk of intersectional

discriminations. Two global commitments compel a closer discourse on the overarching use of criminal laws to curtail personal liberties and diverse expressions of identity, morality, sexuality and bodily autonomy, and these are:

- the global commitment to end AIDS as an epidemic by 2030;
- achievement of the Sustainable Development Goals [SDGs], particularly Goals 3 [good health and wellbeing], 5 [gender equality], 16 [peace, justice and strong institutions] and 17 [partnerships for the goals].

Countries in the Global South bear the greater burden of the HIV pandemic and also face challenges to achieving sustainable development, from eradicating extreme poverty and hunger, ensuring universal education coverage and health care, cleaner global environment, gender empowerment and elimination of economic inequalities. However, rather than facing the significant challenges to securing rights, sustainable development and an end to AIDS, States focus on securing their borders and patrolling identity, morality, sexuality and bodily autonomy. Therefore, it is important to hold States accountable to these two global commitments by highlighting the impact these criminal provisions and their application will have on the successful attainment of these global ideals by 2030. It is acknowledged, neither of these issues, ending AIDS or achieving sustainable development, is conceptually value-neutral or silver bullets. However, they present a framework for potentially mobilizing civil society across the globe to explore deeper issues of inequality and pervasive social injustices using a nomenclature that is familiar and perhaps attractive to the primary duty bearer, which is the State. Like the public health lens, the development narrative is laden with criticism that potentially undermines the fundamental idea of the universality of rights, or at the very least distorts the necessity for this to drive State action towards achieving public health or development imperatives.

However, AI seeks to use the opportunities provided by the global solidarity among States to end AIDS as an epidemic and to achieve the sustainable development goals, to draw attention to the impact of criminal laws that impinge on identity, morality, sexuality and bodily autonomy especially in the Global South. In addition, AI aims to raise awareness among civil society groups in-order to mobilize action and to challenge criminalization in these areas.

## **Project Objectives and Expected Outcomes**

The project has three main objectives:

**Objective 1:** Mobilize a critical mass of stakeholders to advance a global discourse on the impact of penal provisions on the achievement of the end of the AIDS epidemic and the achievement of the SDGs.

**Objective 2:** Support communities and activists in Africa, Asia, Latin America and the Caribbean taking actions to challenge criminal provisions on identity, morality, sexuality and bodily autonomy.

**Objective 3:** Provide platforms for evidence-based engagement and dialogue between government representatives, policymakers and civil society organizations using regional inter-governmental mechanisms.

### **Short-term Outcomes**

1. Provide support for the mobilization of a critical movement of stakeholders from the Global South by engaging in trans-regional discourse on the impact of criminal laws policing identity, morality, sexuality and bodily autonomy, and challenging criminalization through innovative means.
2. Identification of communities and activists in Africa, Asia, Latin America and the Caribbean taking actions to challenge criminal provisions on identity, morality, sexuality and bodily autonomy.
3. Build three platforms for evidence-based engagement and dialogue between government representatives, policymakers and civil society organizations using regional inter-governmental mechanisms.

### **Long-term Benchmarks**

1. Greater accountability and progressive, positive action by States on commitments to end AIDS as an epidemic and to achieve the SDGs by 2030 through reform of criminal laws impacting on identity, morality, sexuality and bodily autonomy.
2. Improved health, human rights and social justice outcomes for communities as result of reform of criminal laws impacting on identity, morality, sexuality and bodily autonomy, and/or the applications thereof.

## Executive Summary

AI, in partnership with ARROW, CREA and GHJP, aims to mobilize a critical movement of diverse stakeholders (including activists, academics, policymakers, media practitioners, economists, development agencies, multilateral institutions and the private sector) to advance a global discourse on how criminal provisions on identity, morality, sexuality and bodily integrity restrict the successful achievement of the end of AIDS and of the Sustainable Development Goals (SDGs), particularly in the Global South. In order to advance this conversation, our collective efforts focus on creating spaces for civil society to engage with the issues and network with new allies to build our collective analysis and advocacy capacity. The global gathering brought together diverse stakeholders to innovatively engage with the underlying causes of expanding criminalization, to engage with new partners and to rethink and undo existing and as pending punitive, retributive “solutions.” The purpose was to stimulate an interdisciplinary and intersectional dialogue on un-policing identity, morality, sexuality and bodily autonomy, drawing upon global experts and activists in the Global South and the Global North.

The two-day dialogue was structured around five panel discussions, two group discussions and report back sessions and a public event to facilitate cross-issue and regional conversation and understanding, bringing together 39 participants.

The four themes arising from the dialogue were: 1) the impact of human rights abuses experienced; 2) the political context, including the pushbacks against progressive laws on sexual and reproductive health and rights (SRHR) and the impact on communities; 3) ongoing and potential strategies to counter criminalization at different levels and 4) intersectional collaboration and mapping by sectors and regions.

The term criminalization is used in this report to broadly cover a range of criminal laws, legal and social practices and norms, both informal and formal, that target and discriminate against a range of vulnerable populations and communities in many countries of the world. At stake are the rights to bodily autonomy, dignity, privacy and sexual choice, as well as access to SRHR without stigma. The human rights violations that result from criminalization include: police brutality, denial of access to services and information, wrongful arrest, rape and murder. As a result of growing conservatism, religious fundamentalism and the shift to the right by governments, participants in different regions witnessed the threat of repressive laws proposed by governments that seek to close down reproductive health counseling and education services, police same-sex and non-conforming sexual and gender identities and rollback abortion laws. In increasing numbers and in many countries, people are incarcerated as a result of laws criminalizing HIV status. The severe penalties for homosexuality, abortion and non-disclosure of HIV status are invoked in many countries, and are commonly justified by morality, religion and protection of “family values”.

Over the course of the two days, participants engaged in dialogue aimed at opposing the injustices perpetrated under criminalization. This resulted in the formulation of strategies to counter social exclusion and moral panic, framed within a human rights perspective, including: litigation strategies in

criminal courts; gathering of information for evidence-based reports to submit to human rights bodies and interregional and intercontinental structures, where governments may oppose criminalization; cross-movement building by key movements (such as sex workers, people living with HIV (PLWHIV), lesbian, gay, bisexual, transgender and intersex people (LGBTI)); and development of SRHR organizations in which the experiences of those represented are heard and central to advocacy; identification of entry points to raising human rights violations within county-level reporting frameworks, emphasizing how discrimination and stigma are in conflict with the “leave no one behind” messaging of the SDGs; creation of materials and resources to build advocacy networks and popularize agreements, principles and resolutions that expose the intransigence of criminal law in conflict with human rights; and development of normative justice guidelines by jurists to guide lawmakers and courts to halt criminalization of HIV and sex work.

Lastly, the proposal to map possible areas of collaboration, drawing on the strategies discussed during the dialogue, was a step toward envisioning a movement to challenge criminalization globally.

## DAY ONE

On day one of the dialogue, participants discussed successes and challenges that they faced in challenging criminalization across different sectors and regions.

In the case of sex work, criminalization affects sex workers’ livelihoods as it is not recognized by most countries’ labor and/or human rights frameworks. Sex workers are confronted by rape, police brutality, denial of access to services and use of petty offences law. Advocacy is directed towards the recognition of a framework that would allow sex work to continue as a profession and means of livelihood. On abortion rights, transnational activism by national SRHR movements is needed to prevent the pushback due to increasing global conservatism and populism. In Indonesia, a cross-movement partnership consisting of an alliance of SRHR organizations, the women’s movement, students and others are mobilizing opposition to a proposed revision of the penal code which will affect sexual minorities, and their exercise of sexual and reproductive rights. Lastly, increased work on HIV criminalization has allowed a close monitor of global trends on HIV criminalization. International networks of PLWHIV are challenging laws where PLWHIV are convicted for “crimes” contrary to international human rights guidelines. The overall discussion highlighted that the authority of the law is used to both protect and punish, and that sometimes criminalization has little to do with the law.

Criminalization plays out differently across various legal regimes and contexts, which can create both opportunities and barriers to solidarity and coalition-building. Participants shared that criminal law, as part of a broader legal human rights framework, can present barriers to accessing health services. In some contexts, dual or plural legal systems exist in which customary law play an important role in social values and practices. Global human rights language is often in conflict with customary norms. The value of incremental litigation was discussed as a way of defending LGBTI and sex worker rights in Southern Africa.

The strategy of showing how broader criminalization impacts on fundamental human rights afforded to everyone in society has been mostly successful. The feminist justice movement in India is pushing for new legal language in response to the over-criminalization of young people below the age of 18; in the name of “protection”, young people are denied many of their rights, including sexual and reproductive health education, and many are incarcerated for under-age consensual sex.

Participants highlighted that “morality” needs to be resituated for stronger engagement with faith-based organizations and to question the reasoning behind criminalization. For example, there is a need to challenge religious myths by bringing faith leaders face-to-face with LGBTI leaders and considering alternative examinations of sacred texts. Likewise, the importance of normative guidance on decriminalization of sex work was raised. The aim is to link health and safety issues, and to work with the World Health Organization (WHO) to develop the core message that all countries should work towards decriminalization and repeal the unjust application of laws against sex workers. Moreover, work is also being done supporting norm development and movement building around abortion, sex work, adolescent sexuality, HIV, sex outside marriage, and same-sex sexuality issues with the development of educational materials describing the common reasons for criminalization and counterarguments. An intervention in the Caribbean region works with courts and the Inter-American System for the protection of human rights to inform and challenge criminalization around sexual orientation and gender identity (SOGI).

Overall, the discussion illustrated a broad range of approaches to reversing criminalization, which combined strategic litigation, advocacy, consultation and collaboration, and joint efforts of organizations to defend rights. In the final session of the first day, participants were divided into groups to discuss the themes, common justifications for criminalization, possible linkages across issues, priorities for cross-issue collaboration and additional areas that could be covered.

## DAY TWO

The second day of the dialogue focused on: the intersectionality of criminalization, gender and sexuality; the work by justice and global human rights bodies; and strategies and entry points into the SDGs to advance decriminalization. In the discussion on gender and sexuality, participants shared the experience of being falsely arrested, the humiliation of being violently searched and the mis-gendering of trans people by police. Trans diverse people are targeted under arbitrary laws and confront problems because gender identity is often subsumed under sexual orientation. Speaking about Argentina, it was said that an “un-policing” response to criminalization was not the most important priority for full realization of rights. Regardless of whether laws are progressive, health service delivery is disappearing due to austerity measures.

Criminalization results in exclusion but also arises from exclusion. Strategies that focus on public policy on education, health and labor conditions in addressing gender and social inequalities and injustice were most effective. The discourse around over-criminalization in India reinforces the idea that the only way to

be heard in the larger world is through the discourse of victimhood, which creates “perfect victims” who need protection by the state, often at the expense of sexual rights and women’s rights to bodily autonomy, which tend to frame women as “bad.” There is a need to balance law with the goals SRHR education as a more effective form of protection. In South Asia, the alignment of language with values of democracy, equality, freedom and sexual morality has sometimes been effective in changing laws affecting LGBTI persons. In Pakistan, a progressive transgender bill<sup>1</sup> was been passed in 2018 by a Muslim senate government, as a result of civil society advocacy. Lastly, the need for inclusivity was highlighted; the focus on decriminalization often misses the experiences of intersex, trans diverse and lesbian communities, for example, and the violence that they experience.

The discussion of international human rights mechanisms focused on two global commitments: the SDGs and the commitment to end AIDS by 2030. Despite being enshrined on the principle of ‘leaving no one behind’, continued stigmatization and criminalization of LGBTI persons threatens the achievement of several SDGs by 2030. These include:

- SDG 3: ensure healthy lives and promote well-being for all at all ages
- SDG 5: achieve gender equality and empower all women and girls
- SDG 10: reduce inequality within and among countries
- SDG 16: promote just, peaceful and inclusive societies

The SDGs provide an opportunity to challenge criminalization through the reduction of inequalities within and among countries (Goal 10.2 and Goal 10.3). Participants noted that criminalization and morality policing are *designed* to leave certain people behind. The people most at risk for poor health and well-being (SDG 3) and gender inequality (SDG 5) are concentrated in the Global South and increasing in the Global North. Age, sex, race and immigration status can exacerbate vulnerabilities. As a possible solution, the use of specific, inclusive indicators in monitoring the SDGs would ensure that implementation of the SDGs does not leave anyone behind.

In discussion about reports to the UN Human Rights Council (HRC), participants noted that women who do not conform to gender stereotypes, have abortions, engage in sex work, use drugs and/or are HIV-positive, are particularly vulnerable to discrimination resulting from criminalization.

It is important to emphasize that there are human rights that states are expected to legally protect. In the High-Level 2016 report, the UN Secretary General called for decriminalization of HIV non-disclosure. This was followed by a statement signed by 12 UN agencies in 2017. A meeting was convened by the UN agencies and the UN Office of the High Commission for Human Rights (OHCHR) to develop principles to guide courts and legislators. Additionally, the UN HRC is doing work that connects with policing, bodily autonomy, criminalization and SOGI in the context of attacks on the human rights system. Participants

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<sup>1</sup> [http://www.senate.gov.pk/uploads/documents/1520932539\\_231.pdf](http://www.senate.gov.pk/uploads/documents/1520932539_231.pdf)

stated that bodily autonomy is being delegitimized by states. The HRC has and will continue to engage around SOGI in a number of ways, including special rapporteurs and reports.

In the next session, participants were strategically divided into four expert groups to cover Africa; Asia and the Pacific; Latin America and the Caribbean; and one that had a Global reach. The aims were to map the work currently being done on different levels (policy, community, or institutional), to identify the challenges that exist in different areas and to share ideas for advocacy messages and campaigns.

In concluding the dialogue, the conveners shared agreement that the ground covered during the two-day dialogue had helped to establish common areas of commitment and intersectional collaboration which would be continued. These commitments included further dialogue around the proposed advocacy and campaign interventions in the three regions at the 2018 AIDS conference.

## DAY ONE

### Opening remarks and introductions

**Moderators:** AI, CREA, GHJP

**Rapporteur:** Juliet Ryan

Opening remarks were provided by AI, CREA and GHJP. GHJP reported that they decided to participate in the dialogue in order to support activism in constrained spaces, with a particular focus on HIV and AIDS activists. GHJP supports cross-sectional conversation between experts. CREA, a feminist human rights organization, shared that their primary motivation was to partner with activists, organizations and experts on criminalization, driven by the need to create critical spaces to rethink and inform actions aimed at challenging criminalization. Reflective spaces make it possible to share information, think critically, strategize approaches and return to work motivated and energized, which CREA found valuable. AI's executive director welcomed participants to the dialogue via video and highlighted that a new perspective is necessary to globally challenge criminalization, including: the religious and cultural beliefs and fundamentalism that currently reinforce the criminalization of sex work; the denial of the right to bodily autonomy and integrity; anti-abortion laws and laws on exposure to HIV risk. As a result of these elements of criminalization, communities continue to be denied fundamental human rights.

The first CCG conference was held in 2016 and there is a continued need for momentum to create change. AI's work on law and policies on the African continent showed that successful challenges require investment in advocacy to shift attitudes.

## Panel Discussion 1: Encounters with Criminalization: Experiences Across Communities and Issues

**Objective:** To ground the meeting in the experiences of activists who are challenging criminalization, as a means to understand current successes, challenges and barriers, and to look forward to what is on the horizon.

**Moderator:** Phillipa Tucker (AI)

**Rapporteur:** Juliet Ryan (Yale University)

The first presentation in this panel discussion focused on the human rights abuses experienced by sex workers, specifically in Africa. The first African Sexworker Conference held on 3-5 February 2009 in Johannesburg, provided a platform where sex workers could speak about human rights violations. The violations experienced and discussed were murder, rape, police brutality and the denial of access to services. Sex workers have identified the need to create awareness around human rights violations, and to look at innovative and creative ways to challenge the “criminality” of sex work.

Within Africa (except Senegal, where sex work is legalized), and in most countries of the world, the state controls how sex work is conducted (i.e. illegally). In many countries the remnants of colonial laws provide the rationale to criminalize sex work (for example, in former Portuguese colonies). Sex workers are actively speaking out on human rights violations and there is agreement that decriminalization of sex work is needed. The broad aim is to build a framework that would allow sex work to continue as a profession and a means of livelihood. Different strategies have been applied to address policymakers. In Kenya and South Africa there have been attempts to legally challenge the petty offenses (for example, drug charges) that most sex workers are charged with. In practice, the current laws criminalizing sex work do not work. Implementing these laws requires catching offenders in the act of sex work (that is, observing services and the exchange of money). The nuances of how these laws are implemented and enforced are therefore left to interpretation by the arresting officer, who has the power to abuse enforcement of petty offenses laws. Sex worker cases that have gone to high and/or supreme courts show that there are certain biases and prejudices against sex workers that are fundamentally at odds with the Universal Bill of Rights. In the murder of a sex worker in South Africa (Kylie v CCMA labor rights case), the court ruled in favor of the sex worker, but it did not change the law criminalizing sex work. South African members of the sex worker community, in alliance with women’s rights organizations, have formed a coalition to actively engage members of Parliament to call for decriminalization of sex work. The acknowledgement by policymakers that sex work even exists within the African continent is a step that is still needed.

There have also been attempts to shut down sex worker communities by abolitionists, particularly in response to initiatives that support decriminalization. Few global rights bodies have openly stated their position on sex work. There are global, national, regional and local level conversations, but no common voice that speaks to what the ideal approach to sex work would be in any given context. Two opposing views exist: one based on sexual morality criminalization and one based on labor decriminalizing. There

is a need to document what how communities of sex workers are challenging criminalization. On the African continent, outdated laws that borrow from or maintain colonial law are still in effect. There is a need to identify other approaches that do not perpetuate abuses and violations of human rights. Organization and mobilization to challenge the criminal laws that affect sex work is important. Similarly, there is a need for the formation of alliances across movements with common positions.

In the second presentation in this panel discussion, the right to abortion and SRHR were discussed within the context of sexual choice and bodily autonomy. Current and historic criminalization of abortion in Europe was used to highlight the shortcomings of policies addressing SRHR violations. Several European countries do not impose conditions for abortion, while in others the law only allows abortion on the grounds of health, socio-economic status or to save a woman's life. The laws vary greatly on many elements, such as gestational and age restrictions, waiting periods, whether abortion is available on request, restrictions on the woman's age, and whether criminalization is direct or indirect. Abortion is completely criminalized in Malta, San Marino, Lichtenstein and Andorra. At the time of the panel discussion, the penalty for abortion was up to life imprisonment in Northern Ireland and the law banned any information sharing on abortion. The Republic of Ireland's referendum on whether to legalize abortion, held on May 25, 2018, reflected national mobilization around the issue<sup>1</sup>. In Poland, where abortion on demand has been illegal since 1990, calls for referendum face a demand for total restrictions challenges in the move by the right wing will impose total restrictions. In Finland, Iceland, Monaco and the United Kingdom, abortion is legal, yet there are severe restrictions and waiting periods. There is also the problem of a rise in conscientious objection (from doctors refusing to perform abortion). As a result, women may be forced to travel elsewhere even though it is legal in their setting (for example, in Italy). In the countries where abortion is legal on request, access to abortion varies widely and depends on socio-economic conditions.

The history of abortion is as old as pregnancy, as are efforts to criminalize and invalidate women's autonomy. The website "4000 Years for Choice"<sup>2</sup> provides a timeline of the various histories of abortion and legalization. In Europe, despite the secular state, the church still plays a role in the denial of women's bodily autonomy. One aspect of criminalization in the European context is the current emergence of right-wing populism and conservatism, which pose risks and pushback against abortion rights. There are problematic links between the pushback on constitutional reforms and right-wing governments. Feminist groups in Ireland and Poland reported continuing the fight against constitutional reforms by right-wing governments.

The discussion highlighted the need for analysis of discourses among abortion rights groups. For example, approaching abortion purely from the public health lens may fail to address women's right to individual decision-making power and migrants' rights. National abortion rights campaigns have shifted to working with labor unions and sex worker organizations to seek transformative and transnational solidarity. Abortion as an issue intersects with the right to bodily autonomy and choice at multiple levels. Laws disproportionately affect black and working-class women, migrant communities, and the rights of

pregnant LGBTI and non-binary persons, as a result of structural racism and inequality. In Ireland, the decriminalization of sex work and abortion movement highlighted voices of those who regretted work or actions. Rather than the voices of those most marginalized around SRHR. The exercise of power by the state on the one hand, protects women from gender violence, and on the other, exerts power to control women's bodily autonomy and suppress sexual rights. This requires that SRHR be analyzed with an intersectional justice approach.

The third presentation in the panel discussion highlighted the increasingly precarious environment in which SRHR are experienced in South Asia, particularly in Indonesia, where sexuality, privacy and morality have come under the spotlight following the government's plan to introduce a regressive criminal code. Since 2015, conversations around the revision of the criminal code have intensified, focusing largely on morality. Approximately 80% of the Indonesian population is Muslim, and law reform is widely seen as a move towards greater conservatism. Should the revised criminal code draft be passed, a person could go to prison for up to nine years for extramarital sex, same-sex relations and for distribution of information about contraception or abortion-related services. In the current regulations, contraception and abortion are not criminalized. The criminal code is based on the Dutch colonial era dating back to 1918.

SRHR groups have concentrated on opposing the reforms at the Constitutional Court and House of Representatives. Since December 2016, abortion, and then extramarital relations and cohabitation, were contested. In December 2017, the court rejected the revisions, but the battle moved to the House of Representatives and public debate. More than 30 organizations have been campaigning under an alliance with task forces focusing on women's rights and health rights issues. Their aim is to mobilize international awareness and support from the UN Human Rights Commission. At the same time, national lobbies have mobilized and held meetings with government and lawmakers. Incidents of violence against the LGBTI community have increased. It was reported that between 2017 and 2018, there was a rise in persecution of lesbian couples in private and public places. There have been several attacks by religious groups against LGBTI couples. Greater awareness of how the revision of the criminal code can harm people has been raised, drawing on the work of women's organizations, student groups and SRHR organizations. The implications are that the revised criminal code would hamper the Indonesian government's plans to achieve the SDGs related to SRHR, health and gender equality. The increasing persecution of, and discrimination against, vulnerable groups such as LGBTI people, women, victims and survivors of rape and transgender people works against these goals and would worsen if the revised criminal code is passed.

The fourth presentation in the panel discussion described the current context of criminalization of HIV in the U.S., to provide an overview of the legal policy landscape and implications of HIV criminalization. One of the challenges in addressing HIV criminalization in the U.S. is that criminal laws exist at the state level, meaning that 50 different states have different laws. Some states have laws making transmission of HIV illegal, while in others an accusation of non-disclosure of HIV status before having sex is a crime. Other states do not have specific laws on HIV transmission but still have other laws that target people with HIV. Persons who test HIV-positive in health clinics are required to sign a form stating that they agree with the

criminal implications of not disclosing and to agree to disclose their HIV status to partners. There are significant barriers to wanting to disclose HIV status or encouraging partners to get tested. These barriers go beyond criminalisation. For example, in a recent case, a woman with two children and an HIV-positive second husband was targeted by the first husband who called state child protection services to take her children away, on the grounds that her husband was HIV-positive.

Although there have been some attempts to pass federal legislation that would prevent prosecution at state level, most activism is at the state level. There have been some changes in the states of California, Colorado and Iowa recently as a result of advocacy. The work in the U.S. on HIV criminalization is often in the context of “mass incarceration” where African American persons are criminalized more than any other race.” According to the panelist, *“advocacy on challenging criminalisation is driven mainly by HIV advocates who are white and middle or upper class, who do not understand criminal justice work”*. As a result, the legal and political strategies of these activists may not be effective for securing the rights of all people.

There is no clear-cut consensus about whether HIV criminalization should be ended. In debates within the Black, Latino, and LGBTI communities, the majority view is that people should go to jail for spreading HIV. Among the communities most impacted by HIV criminalization, people have accepted this logic. However, the HIV anti-criminalization movement is important in terms of deepening racial justice. The impact of the “war on drugs” on communities of color is seen as disconnected from the HIV anti-criminalization movement, and this gap should be bridged. Biomedical advances, HIV treatment and PrEP create a conflict: there is 21<sup>st</sup> century medicine and research, and a 19<sup>th</sup> century understanding of laws on infectious diseases. However, if a legal framework is built around the virally suppressed, the problem of racial disparities among people who can access viral suppression does not disappear. Beyond HIV criminalisation, there has been an increased focus to other diseases: hepatitis, meningitis and TB. Diseases that people living with HIV are disproportionately burdened with. There is also the problem of negative media reporting and journalism aggravate the problem as they report to cases of HIV transmission as a crime. This fuel the ways in which people understand both the epidemic and the criminal laws.

A global movement to end HIV criminalization has been built with global guidance and recommendations. In much of the world, it is a crime to expose others to HIV, especially through sex. The question that needs to be asked is: *“What is HIV criminalization?”* The term “HIV criminalization” is used broadly, and “the unjust application of general criminal or similar laws to people living with HIV, based solely on HIV-positive status”. Guidance on the unjust application of HIV transmission criminal law is that it should be used only when there is proven malicious intent. However, there are also many who believe that criminal law should never be applied to anything related to HIV. It was noted that criminalization is a growing global phenomenon that has only recently been recognized as a public health and human rights issue because of the arbitrary and selective prosecutions that take place. In Africa, the impact is borne disproportionately by women while in Europe and Canada the impact is felt mostly by migrant communities. Sex workers are particularly vulnerable to being targeted in HIV criminalization globally.

One of the consequences of women's vulnerability to laws criminalizing HIV is the deepening of social inequality. When a woman reports domestic violence, the man can claim that the woman did not disclose HIV status, and she can end up in jail. As a result of limited access to competent defense lawyers, many people plead guilty, even though it is possible to challenge prosecution. In some cases, there is also disproportionate sentencing that exists around HIV criminalisation: vehicular homicide carries a lesser penalty than the charge of exposing someone to HIV.

Many PLWHIV are being convicted of "crimes" contrary to international guidelines. There are 70 countries in the world with HIV-specific laws and there have been a number of new laws proposed. In Chile and Brazil, for example, new criminalization laws have been proposed. In the U.S., the PEPFAR initiative has reportedly spread an HIV criminalization approach, especially in some African countries. Additionally, Russia is reported to now have more HIV-related prosecutions than the U.S. While there are many countries without HIV-specific laws, general laws are often applied (i.e. attempted murder, bodily harm, murder). The important point was made by Justice Edwin Cameron at the last pre-conference that HIV criminalization makes it more difficult for those at risk of HIV to gain access to prevention and testing, and harder for those who are HIV-positive to seek access to testing and treatment. To oppose abuse of the law, human rights arguments have been used. For example, in Kenya, a confidentiality argument was used (i.e. the law cannot ask someone to disclose HIV status without the receiving end keeping it confidential). Following a huge amount of advocacy in Malawi, the parliament came to understand why HIV criminalization is a bad idea and they therefore have no HIV provisions. A national movement has been built in Mexico to end HIV criminalization and for a change in laws on HIV.

In 2010 a handful of people were doing HIV anti-criminalization work and it did not receive much attention. Previously, in 2008, there was a call for a global movement, whereas, more recently, the Oslo Declaration on HIV Criminalization<sup>3</sup> was adopted by civil society in 2012. Networks of PLWHIV and human rights defenders are now leading a worldwide HIV justice movement. A Media Toolkit<sup>4</sup> on how to address the criminalization of HIV is needed to address the misinformation.

## Discussion

The discussion of the presentations highlighted that HIV criminalization is often driven by conservative faith leaders, who do not understand the problem. The choice is presented to either *prevent* HIV or *prosecute* HIV, assuming it was not possible to do both. Criminal law is an ineffective tool to prevent HIV and help improve the lives of PLWHIV. Criminal law should be a last resort, not the first resort. There are many reasons why people cannot disclose their HIV status. These include gender-based violence, risk of assault or murder after disclosure to partner(s) and the real fear around these issues. Unjust prosecutions impact on women in particular. Although many faith leaders and lawmakers think that the laws of criminalization are being enacted to protect women in their constituency, in effect they do much more harm. It was agreed that education is needed to change lawmakers' views. There is a need to build

community rapport, and to deconstruct harmful beliefs in communities living with HIV and communities of color where dominant oppressive beliefs exist. More community educational work at the community level is needed around dealing with how HIV is contracted before discussing the law. Much criminalization has its roots in religious fundamentalism and the question of how groups are addressing this arose. It was said that conservative religious groups are being confronted on the issue of gender equality, HIV and LGBTI bills in Indonesia, as well as in public discourse and court.

The role of regional and continental structures and human rights instruments for intervening in the violence and abuse of sex workers was raised. The response indicated that the issue of sex work has been raised with the Inter-American Commission on Human Rights. The African Union Commission may also have a role to play in addressing sex workers' rights, but had not been approached at the time of the meeting. Following the UN Sexual Orientation and Gender Expression (SOGI) resolution<sup>5</sup> there has been more active engagement to address violence against sex workers using international human rights mechanisms such as the Convention on the Elimination of Discrimination Against Women (CEDAW)<sup>6</sup> Committee, writing shadow CEDAW country reports in Kenya and Senegal during the Universal Periodic Reviews (UPR). The African Union Commission, during the drafting of the revised African health policy instruments, approved 18 months ago, did not include criminalization in its approach.

The politicization of criminalization under the guise of morality was evident from all of the presentations. The need to confront the rollback of progressive laws on SRHR and right-wing discourses, which compromise access to HIV and other sexual and reproductive health services and delivery, emerged strongly.

#### Footnotes

1. The result of the referendum in the Republic of Ireland was in favor of abortion, repealing the eighth amendment which banned abortion. In Northern Ireland, abortion is illegal, and its law has been called incompatible with human rights. See: <https://www.independent.co.uk/news/world/europe/irish-abortion-referendum-result-official-yes-votes-count-latest-repeal-a8370851.html>
2. See: <http://www.4000yearsforchoice.com>
3. Oslo Declaration on HIV Criminalization, prepared by civil society in Oslo, Norway, 13<sup>th</sup> February 2012. <http://www.hivjustice.net/oslo/>
4. See: <http://hivjusticeworldwide.org/> and [hivjusticeworldwide.net](http://hivjusticeworldwide.net) for a Media Toolkit.
5. Resolution adopted on June 30, 2016, 'Protection against violence and discrimination based on sexual orientation, and gender identity'. See Human Rights Watch report, June 30 2016: <https://www.hrw.org/news/2016/06/30/un-makes-history-sexual-orientation-gender-identity>
6. CEDAW was adopted in 1979 by the UN General Assembly. It is often described as the international bill of rights for women. It consists of a preamble and 30 articles that define what constitutes discrimination against women and establishes an agenda for national action to end such discrimination. see: <http://www.un.org/womenwatch/daw/cedaw/>

## Panel Discussion 2: How Does Criminalization Play Out Differently because of Various Legal Regimes?

**Objective:** To gain a sense of how our contexts create opportunities and barriers to solidarity and coalition-building as a result of similar or different contexts of criminalization.

**Moderators:** Alice Miller and Mindy Roseman (Yale University)

**Rapporteur:** Ashley Andreou (Yale University)

The first presentation in this session focused on access to health and HIV services and how criminal law acts as a barrier to universal health services access, especially in the context of sustainable development. Work in this area is convened with UN agencies through UNAIDS, to support individuals in addressing the punitive laws that may increase HIV prevalence within a community. Cross-movement conversations require collaboration and the breaking of silos, as the issues are interdisciplinary. Much of this work is based on the report of the Global Commission on HIV and the Law<sup>1</sup> on the intersection of HIV and law, which also speaks to the law on the street (i.e. the “undercurrent” of law). The criminalization of HIV and its effects on populations are covered in this work.

For this conversation on un-policing morality and sexuality, there is a need to address the complexity of plural legal systems. There are currently formal plural legal systems in several countries that impact populations differently. Customary laws are legal instruments, legal systems or obligatory rules of conduct that are integral to the social or cultural and economic setting, treated as law. There is often no coherence between formal law and customary law, with no guidance for how they work together. Customary law is not as precise as criminal law, while formal criminal law is very precise. Speaking specifically about constitutional litigation, three constitutions in Africa recognize customary laws, one in South America, a few in the Caribbean and, in part, in Canada. In Eastern Europe and South Asia, there are 22 constitutions that recognize customary law. Policymakers in the Global North have asked why LGBTI groups in Africa were obsessed with religion; religion is often the base for a customary legal system that governs lives. To avoid falling into the same silos, we need to recognize that customary law *is* law and that it has many of the same features that apply in punitive legal systems. The gatekeepers of such systems are important if changes are to be made within them. When people bring deep knowledge of customary law and social values, it is possible to make progress. Likewise, it should be noted that global human rights language is often in conflict with customary norms. There is a need to continue to broadly speak about the idea of criminalization, beyond sex work, abortion and HIV. This means stepping away and accepting that activism may involve diverse languages, rather than the right/wrong dichotomy (e.g. “good women” vs. “bad women”) and require thinking in more complex ways if movements are to be built. There is broad agreement and momentum behind the SDGs, but they need to be relevant locally and to groups living under plural legal systems.

The second presentation focused on litigation strategies to challenge human rights abuses against sex workers and LGBTI people in Southern African countries where these are criminalized. The approach of

incremental litigation has helped decriminalize LGBTI groups and sex work in some Southern African settings. This approach encourages the courts to establish and uphold what are understood as fundamental rights, and that broader criminalization laws impact negatively upon these rights. While the ultimate goal is decriminalization, the incremental litigation approach constitutes the small steps towards that goal. In Zambia, for example, the choice was between arguing for decriminalization of sex work or working through the criminal case procedure. As the time was not right to challenge decriminalization, the criminal procedure was challenged, and the case was acquitted. The courts were unable to find conclusive evidence for a sex work conviction. This was also a strategic approach when used in Zambia when a human rights defender who was working on the right to free expression went on public television to talk about how same-sex relations needed to be decriminalized. The police were outside the recording studio by the time the human rights defender was done with the radio show. The incremental litigation approach was also used in Zimbabwe, in a case in which a transgender woman was arrested by police for using a bathroom under a public nuisance law. It is not possible to criminalize someone's status; however, the courts can criminalize acts such as use of toilets. Fundamental freedoms are afforded to everyone in society, and the courts affirmed the importance of how fundamental freedoms apply to everyone. This approach has demonstrated an incremental movement towards widespread decriminalization, creating space where individuals can frame their issue as a basic right (i.e. the right to health services or the right to due process) and create precedents. Activists are steering many of conversations about criminalization towards incremental litigation. Courts are also much more willing to step in and affirm human rights, when they see that the activists have engaged with different sectors and with governments.

In addition, the second presentation also focused on feminism in India and the need for inclusion of rights-based language in the law. People below the age of 18 are criminalized perceived acts of participating in sex in the name of "protection" and many young people have been denied their rights as a result, with many of these going to prison. At the same time, the youth are denied education on sexual and reproductive rights as well as access to services (for example, anatomy images are seen as inappropriate). Abortion below the age of 18 is illegal. Furthermore, there is a false separation between young people who do and do not deserve protection, and the meanings of the law's intended goal of protection, particularly as situations differ across class, caste and racial, ethnic and religious groups. The criminal aspect has been in the foreground, while the resulting incarceration has lagged behind in the conversation. Moreover, juveniles in India have similar experiences to young women in Brazil and the policing of bodies in female genital mutilation (FGM) in Egypt. More stringent laws tend not to work. The justice framework in India could learn from different movements; for instance, from the successful work led by younger girls in Africa on FGM. Education could be provided to young people per the constitution and laws addressing juvenile justice<sup>2</sup>, if human rights language is used to position the law as a protective instrument within the SHRH framework. The women's movement in India has struggled with universal laws being applied across all religious groups and is sensitive to how customary law is applied within a stratified society, when girls and women have different experiences of the law.

The third presentation in this panel examined how specific contexts can create opportunities or barriers to solidarity in Mexico, by looking at different issues. Firstly, abortion has been decriminalized in Mexico. Despite its legal status, there is still a lack of information about the justice system and reproductive rights, resulting in limited abortion access. Secondly, in 27 states, the law penalizes “the risk” of “contagion”, and as of 2012, 400 people had been convicted. Thirdly, technically, sex work is not criminalized. However, one can be convicted for exploiting a “prostitute”. Mexico has seen a strong appeal to criminalization for prevention and protection against violence. Rape, sexual assault, trafficking and gender-based violence have been criminalized in all 30 penal codes within Mexico. However, the movement for reproductive health has not appealed to a discourse on criminalization in working for SRHR rights to be realized. In this fragmented framework there is a need to show the costs of criminalization and explore the alternatives. There are unintended consequences which penalize the women further. For example, women must face the criminal justice system as victims/survivors in gender-based violence cases (instead of punishing male perpetrators). It is necessary to reassess strategies of protection and to question whether they have been successful. Advocacy efforts were invested in talking to lawmakers and prosecutors in past years; now, there is a need to create spaces for honest reflection in order to rethink how limited resources can be used to build broader alliances for solidarity across different issues.

The last presentation of the panel highlighted the need for broader approaches and alliances, as well as online information resources, to counter criminalization of HIV in the U.S. Proposed solutions can tend to focus narrowly on an organization’s agenda rather than on the array of legal and other resources that are needed in the larger context of the movement. Following research with 25 different criminal cases in the U.S., a role was identified for national and state-based organizations to be visible leaders, while small organizations work as the engines of change. Turning to the unwritten law, the example of challenging HIV criminalization in Kenya using the argument of abuse of confidentiality posed the question whether HIV exposure should be criminalized. Asking this question in context could increase understanding of how all the people with HIV in relationships are hurt by such criminalization. Public awareness-raising was needed, for example, by engaging with neutral public officials – prosecutors, and health department officials – through (politically neutral) workshops on sexually transmitted infections (STIs) and criminalization. In two cases in the U.S., it was noted that the majority within the general population of those incarcerated for HIV exposure were sex workers: in Georgia there were 533 arrests, and in California 600 arrests. People who are criminalized with HIV are disproportionately sex workers or people of color. If the goal is to have a state-based movement to change the laws, there is a need to think about including allied groups, who may not be LGBTI -identified, but who strengthen opposition to the injustice that is perpetrated.

## Discussion

The moderators highlighted that all of the presentations had noted how normative legal systems are permeable to human rights. Human rights could be part of the problem or part of the solution, depending on how they are used. Notions of protection from others is one of the ways to look at human rights; at

the same time, it may enable other developments that can take away from people's rights. Such rights have unintended consequences and uneven application, affecting different groups differently. To uphold legal systems, it is necessary to be mindful of how human rights are applied in each context. There is a need to ensure the formal legal system is engaging with customary or other legal systems, so that they are not excluded. The incremental justice approach did not undermine a campaign for comprehensive rights; it was rather that, in practice, it is easier to question issues through litigation that are based in human rights, which is most relatable to the courts. In each region and area there was conversations of differences between activists. The question was raised of how to improve language around rights in order to build collaboration. It was noted how criminalization can shut down civil society resistance and prevent critical conversations from taking place, taking up space that anti-stigmatization and education discourses legitimately occupy.

#### Footnotes

1. See report: <https://www.undp.org/content/dam/undp/library/HIV-AIDS/Governance%20of%20HIV%20Responses/Commissions%20report%20final-EN.pdf>
2. Juvenile Justice Act, 2015; Prohibition of Child Marriage Act, 2006; The Protection of Children from Sexual Offences Act, 2012.

### Panel Discussion 3. Strategies and Tactics for Challenging Criminalization

**Objective:** To develop a common understanding of what strategies and tactics have worked well and what strategies and tactics have worked less well or not at all. What are some of the new ideas on the horizon?

**Moderator:** Susana Fried (GHJP/CREA)

**Rapporteur:** Poonam Daryani (Yale University)

The first presentation in this panel discussion focused on strategies that engage people of religious faith in Africa, Europe and the Caribbean to counter HIV criminalization and SOGI-related prejudice within the church. In question are, firstly, religious institutions that have canon law, and secondly, religious traditions. There is a need to challenge religious myths, and to bring faith leaders face-to-face with LGBTI leaders to explore alternative examinations of sacred texts. Theology is a very wide concept and people need to understand that it is not a monolith. A call for religious balance is necessary to challenge religious homophobia. One method is to open dialogue between faith leaders and LGBTI people. Another method is to work with human rights agencies and academics to articulate what family and traditional values mean for LGBTI persons. The representation of the history of homosexuality through the lens and narratives of African people themselves is important in this work. A further method is being visible as queer persons of faith, and to raise the standard of inclusive theological studies. More practically, this work entails looking at legal and illegal forms of discrimination in service provision and in the workplace to show how people use religious beliefs to justify denying care to LGBTI people.

The second presentation in this panel focused on global strategies that challenge the criminalization of sex work. Over the last eight years, the focus has been on three milestones agreed on by the UNAIDS' advisory group on HIV and sex work. Representatives were able to provide technical and academic support and expertise in what was very much an equal partnership. The goals were to produce four papers on the following topics: (1) laws, policies, practice relating to sex work; (2) conflation of sex work and trafficking; (3) economic structures; and (4) reducing demand for unprotected paid sex. Global advocacy has called for states to move toward decriminalization (i.e. removing criminal penalties for purchase and sale of sex work and other activities related to sex work). The development of normative guidance is supported by the World Health Organization (WHO) with the core message that all countries should work toward decriminalization and repeal the unjust application of laws against sex workers. A WHO Implementation Tool (IT) makes a commitment to communities to de-penalize sex work, to decrease fear and increase condom use. Both representation and inclusion of sex workers in the legal reform process and the acceptance of grey literature and qualitative research work by sex workers are needed. A rights-based policy means ensuring sex workers' voices are heard as part of consultation and includes sex worker mobilization and alliance building. As of the time of the meeting, sex work organizations and alliances were organizing globally in 88 countries.

The third presentation in the panel focused on an advocacy project and some of the problems in developing educational materials on abortion, sex work, adolescent sexuality, HIV, sex outside marriage and same-sex relationships. The project aimed to 1) build capacity and understanding of issues; 2) foster

intersectional, cross-sectoral analysis; and 3) support norm development and movement building broadly around these issues. A policy on sex work, mobilization of resources, and the development of a media strategy took three years. One problem was that organizations did not want to be seen as “light on trafficking”; in response, the question that had to be asked was whether it is possible to talk about sex work and not talk about sex workers being charged with trafficking. Similar complications arose with abortion rights. There is a need to talk about pregnant women using drugs and those who are charged with murder for accessing an abortion, and to be willing to stand up for these individuals who are vulnerable in advocacy. To develop intersectional and cross-sectoral analysis, educational materials have included how states criminalize across the SHRH issues. A toolkit for local level activists was in the pipeline, with plans for developing campaign strategies being discussed.

Lastly, the fourth presentation in the panel discussed approaches adopted to challenge the criminalization of SOGI within inter-American institutions and systems (for example, in inter-American court and human rights structures). In 2006, a human rights coalition was established to lobby and advocate for decriminalization of SOGI. Subsequently, as a result of advocacy, the Panama General Assembly was the first political body to recognize gender identity in documents in 2007. The Organization of American States (OAS), as the political structure that protects and promotes human rights in the Caribbean region, has a commission in Washington D.C. and a court in Costa Rica. In the last 10 years, the Inter-American Commission on Human Rights (IACHR) has heard and understands SOGI issues as a result of more dialogue and thinking about how to address stigma, violence and discrimination. A handful of countries in the Caribbean still criminalize consensual same-sex relations. Recently, the high court in Trinidad struck down Sections 13 and 16 of the Sexual Offenses Act. Local organizations estimate the litigation will continue for a few years. There are now more countries where there is an attempt to decriminalize through litigation, and at the same time to engage with community, media and mainstream human rights organizations. As a result of advocacy, the OAS general assembly started issuing resolutions on SOGI. In 2013, the vast majority of countries that were still criminalizing started putting footnotes in the resolution and there was pushback. In 2014 to 2015, two footnotes were removed, yet many more still need to be removed. IACHR, instead of calling for decriminalization, preferred to call for a moratorium on the SOGI laws. In its advisory opinion (2018), the IACHR have included the obligation of states to protect the diversity of families. However, it also promoted criminalization of same-sex relations. Nonetheless, in terms of tactics and strategies, the inter-American system is an important regional forum to work within. The current commissioners are engaged with the Caribbean, while previous commissioners had not given attention to the Caribbean region.

## Discussion

The moderator focused on some of the cross-cutting ideas in the presentations. These included: (1) the importance of having alternative interpretations and doing that in a way that creates space for all of the issues; (2) the need to challenge orthodoxies, and how to do so in a way that links the issues; and (3) the importance of reclaiming collective histories and presenting them in different ways. While connections

between sex workers' rights and labor movements have been established, the question was asked whether the link could be made more fully. The response elaborated that criminalization of clients (i.e. the Swedish model) reproduces violations and vulnerabilities to violence in the working conditions of sex workers, and that this rhetoric should be challenged. The International Labor Organization (ILO) considers sex work to be a form of work, in both the formal and informal economies. It was noted further that male and transgender sex workers are completely invisible in the Swedish model. The problematic view that to decriminalize sex work is to automatically support trafficking was raised. Attempts to engage constructively with Equality Now, as one example, were reported to have been met with a hostile response. A pushback against sex workers' testimonies of violence occurs because there is conflation with trafficking (i.e. where sex work occurs under conditions of forced labor), so clarity is important to avoid anti-trafficking groups' attempts to roll back advocacy for protection of sex workers from human rights violations. The question was asked whether there are sectors or movements to consider as unlikely allies in the movement against criminalization. In the responses, it was stated that with the instability of heteronormativity, there were many unexpected allies among religious clergy. It was also stated that the advocacy for recognition of sex work has meant influencing the decisionmakers who listen to evidence. It was suggested that a "values clarification" exercise across movements was a useful exercise for building broader solidarity. Additionally, it was stated that in Guyana, the strongest allies of the LGBTI movement have been mainstream human rights organizations.

## Thematic Discussion and Breakout Session: Identity, Morality, Sexuality and Bodily Autonomy

**Objective:** To begin to build cross-movement collaboration and cross-issue understanding by working together to consider some of the key questions faced in challenging criminalization.

**Moderator:** Bob Mwiinga Munyati (AI)

**Rapporteurs:** Poonam Daryani and Sarah Aquilla (Yale University)

### Questions:

1. Thematize how the work to challenge criminalization is organized (general areas). Do the themes **“Sexuality, Morality, Bodily Autonomy and Identity”** work for you? What would you add? What would you take away?
2. What do you see as some of the **common justifications for criminalization**? Different justifications across issues and legal regimes? In addition to some of the issues that have already been raised.
3. To what extent are there **linkages across the issues** that are criminalized from your perspective? How can we organize differently across movements?
4. What would be the priorities for **building cross-movement collaboration**? What are the long-hanging fruit, what is strategic to push? What would be the catalyst of a domino effect, etc.?
5. Are there particular issues that might lend themselves to cross-movement collaboration?
6. What are linkages and additional criminalization areas you want to cover?

### Breakout groups' report backs

#### Group 1

##### 1. Themes:

- there is a need to humanize how criminalization is organized around themes
- when it comes to identity, is it identity or is it expression? Group consensus is that it is through the entry point of expression that we target identity.
- morality applies to drug use, and bodily autonomy is linked to that
- in addition to morality there is the issue of intersectionality: the most affected in the prisons are Black or Latino communities
- where are rights, privacy, dignity, and discrimination falling? These should be cross cutting.

##### 2. The common justifications:

- to control “unruly” bodies
- government protection of women and of unborn; upholding certain women’s protection
- protection by the state of values which the state determines and criminalizing the minority
- giving prominence to the public interest, nationalism and protection of the family are seen as justified

3. Links across issues:

- across the issues we have common enemies, such as anti-rights groups controlling sexuality
- the framing of accountability at certain levels brings us all together

4. Priorities in cross-movement collaboration:

- upholding basic human rights
- recognizing the social norms behind the sensitive issues
- cross-movement coherence on the issues
- the low hanging fruits are definitive issues that we can all mobilize around. A domino effect may be possible by setting legal precedents which then need to be followed by other courts and influence regional courts and institutions

## Group 2

1. Themes:

- there was discomfort with linking legality and morality
- the rights of people with disabilities and over-criminalization is a possible way to counter the criminalization approach
- some arguments that are used may hold more themes, for example: protection of the “good’ people” or protection as stopping exploitation of the vulnerable
- the characterization of sex workers in general (for example, home wrecker, diseased individual) needs to be countered

2. The common justifications:

- family values have been adopted by religious people to justify abuse of law

3. Links across issues:

- bracketing of people can be harmful, some do not (self-)identify. The rigidity of politics and branding or classifying people can also hurt and undermine the movement

4. Priorities in cross-movement collaboration:

- there is a need to address moral panic around youth
- in some states, such as Florida in the U.S., there is support for the law that does not touch sex workers

5. Additionally

- it was raised the point that the notion of ‘low hanging fruit’ is problematic as it could imply someone will get tossed under the bus – it means easy political picking.

### Group 3

#### 1. Themes:

- the question was asked whether it was possible to disentangle morality from sexuality
- black women understand their spirituality as part of their person; it would be impossible to separate them

#### 2. The common justifications:

- the group felt that “justifications” produced a sense and feeling of “othering.” Being collectively joined in opposition, there is need to examine how othering is achieved. However, simply identifying the othering is not enough if it is to be tackled

#### 3. Links across issues:

- our commonality calls for finding what frames we want to work within. An example is that structural inequalities and class-criminalization is most always felt by marginalized people in the workplace

#### 4. Priorities in cross-movement collaboration:

- funding scarcity to do movement building
- one problem is that the stigmatization creates fear. It is easier to run away from stigmatized issues than to confront them, and this is one issue that may be important to build a movement

#### 5. Additionally:

- we need to disentangle to what extent we look to the state and be clearer in our analysis of what role the state plays
- we need to step back to review our past work and identify how the state’s power has changed, and what we perceive as the responsibility of the state and what it can provide
- some states are functioning, while some are corrupt
- there are States trying to align with people and resources, and participatory democracy. While democracy may preach consensus, it is not taking time to reach the community

#### 6. Moreover:

- the framework we work from for bodily autonomy must move away from judgmental notions of “good” and “bad.” It needs to be as broad as possible (no matter our opinion)

### Group 4

#### 1. Themes:

- the themes are only about consenting adults, not 12-year-olds up (i.e. youth and adolescents).

2. The common justifications:

- the question was raised around how criminalization is justifiable as a means to protect children, if it is in breach of children's rights

3. Priorities in cross-movement collaboration:

- is society running away from arguments that seem sensible but end up being problematic?
- are we losing sight of the idea of changing the system?
- we need to ask why society keeps reinforcing the idea that some sex is good, and some is bad, and that the criminalization system is good and there is little wrong with it.

4. Additionally:

- the use of vagrancy laws to arrest LGBT people has the potential to connect with how the laws intersect with poverty and structural inequalities

5. Moreover:

- we need to find alternatives to criminalization
- it is not who is getting hurt by the system, but how do we fight it

## DAY TWO

### Panel Discussion 4: Criminalization, Sexuality and Gender

**Objective:** to discuss some of the ways in which different understandings of, and practices of, gender underpin different forms and practices of criminalization. How do we work with some of the key issues around sexuality and bodily autonomy, such as choice and consent?

**Moderator:** Susana Fried (GHJP/CREA)

**Rapporteur:** Andrea Espinoza (Yale University)

The initial discussion was about what gender means in the context of the criminalization of sexuality. Arbitrary laws are used to target transgender people. These include criminal nuisance laws, for which bathroom they choose to use; impersonation laws for, for example, “impersonating” a woman; and loitering laws to arbitrarily arrest trans diverse sex workers. During the panel, a spotlight was placed on the lived experience of being arrested as a transgender person:

*“In January 2014 I was in a hotel in [location] and met a young man, who I only later learned was a politician. He called me over and said that his colleague was not liking what I was doing and did not explain what that was. He then said that if I wanted to leave, I needed to provide them with money. He then called someone on the phone and within minutes the police, with guns, came to arrest me. I was put in a room with several men. The next morning, I was waiting for my first gender verification check, where I was stripped naked, then taken to another hospital for a second one because they were not happy about the verdict from the first one (saying that I was a transgender and not a male). The second doctor also said I was transgender. For the three days I was there, I could not be released on bail because they could not find my papers. On Saturday morning I went to court, and because it was a weekend the prosecutor was not working. The junior prosecutor that took the case, did not know what to do with the fact that I was a transgender and so I was released. He was so upset upon my release that he wanted to take my life and I had to hide. Being forced to take off my clothes for someone to confirm my gender was utterly humiliating. Why do we need to go through this? The whole conversation about transgender is often subsumed under sexual orientation. This was the conversation when I was released, around sexual orientation instead of my gender identity.” – Anonymous*

In 2015, the police were charged in connection with the arrest related in the above quote. In 2017, when the judge asked the police for the reasons for making the arrest, they answered, “He is a man in a dress, so he deserves to be punished.” There is no law that states this in the country where the arrest took place. This example served to illustrate the problem of police ignorance about trans rights and the law.

The second presentation in the panel focused on the un-policing of sexuality and SRHR in the context of Argentina, where the growing feminist movement does not welcome criminalization alongside many other, progressive laws. It was stated that “un-policing” is never enough on its own, and there is a problem when it is disassociated from the material conditions that are necessary for the realization of rights. The focus is on public policies on education, health and labor conditions. Criminalization may result in exclusion; however, it also arises from exclusion. For example, privileged women have always had access to abortion in sanitary conditions, but the facilities are not accessible to poor women, even where it threatens their life. Un-policing is not conceivable without public policy and resources to end inequalities. Since the more conservative government in Argentina in 2016, there is an increasing shortage of resources and funding for SRHR. SRHR programs are being dismantled, but not the law that supports the provision of services. Many programs that are willing to provide services to trans diverse people are struggling because they do not have medicine, doctors or other important resources.

The third presentation in the panel focused on the women’s movement and its work on sexual violence in India. The women’s movement in India began when women recognized that they were invisible in the law and saw the need for criminal law to respond to their experiences of sexual violence. However, 20 years later, more laws and more punishments are still being demanded by the movement, despite the current laws’ shortcomings and failure to protect marginalized women. The presenters felt that the only way to be heard outside of their movement, is through the discourse of victimhood. In advocacy, the term “modern day slavery” is used and frames feminists in the roles of “saviors” and “evangelists.” At the same time, the laws on consensual sexual activity have not been questioned.

There has been recent reform and change resulting from protests by ordinary people (such as students.), who did not use feminist or human rights channels and discourse. As a result, the State made some changes, which had not been achieved by the efforts of the women’s movement for 30 years prior. New groups are now taking ownership of law reform. More people have found a voice (as a democratic space) and NGOs have become more visible as a result of social media. There have been demands by activities made for a setting up of a sexual offender registry and a law on marital rape. The legal age of marriage was raised from 16 to 18 years. While the legal age of marriage is now 18, the age of sexual consent is still 16. So youth and adolescents are sometimes incarcerated for consensual sex, because they admit consent. Adolescents are now being made to believe that sexuality is a crime. When they cannot have sex “legally”, they ran away and get married to have sex “legally”. This is an example of how the law in practice is different from the way it is written.

Lastly, the fourth presentation in the panel discussed the challenges of organizing with youth on LGBTI issues in Asia. While SRHR organizations wanted to work on LGBTI issues, this idea was met with a lack of tolerance by the general public. The entry point, However, when the organizations narrowed their focus to work on only trans issues, this was met with more support. In Bangladesh, in particular, many trans people were being murdered, and it was not possible to broaden their work to all aspects of LGBTI discrimination and criminalization due to limited resources.

To further expand their LGBTI work, Asian activists have moved toward working on language, religion, culture and visibility. In India, activists are working to challenge the courts to make same-sex relationships legal, while in Nepal, consensual same-sex acts were successfully decriminalized.

Aligning advocacy language to reflect values of democracy, equality, freedom and sexual morality has been effective in some instances. In Pakistan, a transgender bill was passed by the senate due to activist organization and education, which was met with empathy. Similarly, Taiwan in 2017 passed laws permitting same-sex marriage, attributed to feminist movement's support of the LGBTI movement. It can therefore be said that analytical tools around the intersectionality of issues are important for movement building. Further, advocacy must rely on the power of language and how to be strategic in its use.

## Discussion

The importance of the interpretation of the law was discussed by participants. For example, in India, the Sexual Act does not describe lesbian sex because it was not penetrative. The reading of legal text is important, and it is police who often do the reading, not judges. Police ignorance was shown in a gang rape case, where the rape law did not include transgender women. When a trans rape survivor went to the police, she was made the perpetrator and not the victim. In this case, described during the first presentation, the actions of the judge who heard the case were described as "fair," because he used the proper pronoun for the transgender person and appeared to understand what it meant to be transgender.

The question of narratives which use the term "victim" to raise awareness of sexual violence was discussed. When there are no "victims" in an advocacy strategy, participants felt that some organizations do not want to partner with them. Victim-based language is loaded, and often abused politically. The law in India says that sexual harassment will only be prosecuted when there is harm to the victim's dignity. It was questioned what this meant in wider application. In the U.S., misogyny, homophobia and transphobia can be part of street harassment. The way State violence oppresses people vis-à-vis women requires a response to it and exposing the fallacy of the 'stereotyped' victim narrative.

Masculinity, especially in relation to criminalization, was identified as missing from the discussion. Often it is masculinity that is the gender identity that is most criminalized in its relations to age, class, ethnicity and discrimination. Further, the stereotypical narrative of women as victims (for example, portrayal of women as unable to make their own decisions, helpless and needy of protection by the state) relies on a co-construction of men as aggressors.

Participants also identified a need for clarity on the goals of child protection, including the legal age of consent for adolescent consensual sex and how this may conflict with the legal age of marriage. The age of consent to sex and age of consent to marriage must be clearly differentiated but aligned. Adolescents

experience and experiment with sexuality, and it is well established that youth who are informed about SRHR are better able to protect themselves and make informed decisions about sex.

## **Panel Discussion 5: The Existing Work with various Decision-Making Bodies to Challenge Criminalization Globally through the Use of International Human Rights Mechanisms, the SDGs and 2030 as an Opportunity & Entry Point**

**Objective:** To identify opportunities for government representatives, policymakers and civil society organizations using regional inter-governmental mechanisms, to challenge criminalization with the aim of achieving the global and regional goals (ending HIV by 2030 and the Agenda 2030, particularly SDG 3 (good health and wellbeing), SDG 5 (gender equality), SDG 10 (reduced inequality) and SDG 16 (peace, justice and strong institutions)).

**Moderator:** Bob Mwiinga Munyati (AI)

**Rapporteur:** Sophie Wheelock (Yale University)

The presentation focused on monitoring human rights abuses and the decriminalization of non-conforming gender expression and sexual orientation in the Asia-Pacific region. There are 124 states where same-sex activity is not legal, amongst them a number of Pacific islands where both male and female same-sex sexual activity is criminalized. However, female to female relations are not criminalized in many countries (for example, in Bangladesh, India, Pakistan, Myanmar, Papua New Guinea). The region is facing a range of new penalizations as well as significant new sexual rights and freedoms in Vietnam, Pakistan and Nepal. In Indonesia, challenges loom and LGBTI advocates fear the country is on the brink of re-criminalizing same-sex sexual relations. In Malaysia, gender expression and sexual orientation are political issues. Conversion therapy is present across the country, and religious leaders talk about LGBTI people as if they pose a threat to the state. The criminalization of women's sexuality is also present, though not as visible, in the policing of women's bodies within the frame of marriage and conception.

The SDGs' plan is to "leave no one behind", but there is a definite resistance to LGBTI people. Goal 10 is about reducing inequalities within and among countries (see 10.2 and 10.3).<sup>1</sup> This is one of the few goals (UN definition, "By 2030, empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status.") where the status of "other" is mentioned. For this reason, adding qualitative indicator can be used to measure progress on its implementation with refers to LGBTI persons. SDG 10.3 has what most statisticians would consider a very weak indicator: the "proportion of population reporting having felt discrimination [...]."

SDG 16 is to "promote a peaceful society [...]," where reducing all forms of violence is implicit. One of SDG 16's indicators is the number of people who have been subjected to sexual violence. If a bridge is built from the work of the UN Human Rights Council (HRC) to the SDGs, then more qualitative data can be added. The way to strengthen accountability involves enacting a monitoring framework for SDGs 10 and 16, so that their implementation can be tracked and questioned. The consolidation of the state identity with a national religion or a dominant ethnic group negatively affects work on sexual rights and identity,

and work with other affected religious minorities and ethnic groups. Convergence of these struggles could be critical to building a broader base needed for success.

Secondly, the presentation spoke to coordinated work within the UN system to address discrimination against women and criminalization, in particular. The work of monitoring discrimination is undertaken by different UN experts in different regions of the world. One of the concerns in this process is how stereotypes are used to repackage discrimination against women as traditional and moral, especially through criminalization. Thematic reports are submitted to the HRC<sup>2</sup>, and findings are raised directly with government officials on a range of issues. Attention is drawn to discrimination with the weight of the UN behind the reports. In the fight against criminalization, it was noted that women who do not conform to gender stereotypes, have abortions, engage in sex work, use drugs, and/or are HIV-positive, are particularly vulnerable and susceptible to discrimination. Urgent appeals have been made in situations where human rights violations are imminent; for example, the flogging of a woman prosecuted for “indecent” dressing, among others.

The central theme of the SDGs is “to leave no one behind”. The point made here was that criminalization and morality policing are *designed* to leave certain groups and people behind. The people most exposed to these harms are concentrated in the Global South, but increasingly those in the Global North are also impacted. Age, sex and race can exacerbate vulnerabilities, as does immigration status. The stand-alone SDG 5 on gender equality needs to be seen as a cross-cutting issue, along with SDG 3 on health. SDG 8 on sustainable economic growth can also be used to question the use of criminal law and policing; in holding women back, it holds everyone back. In using the SDGs as entry points to advocate against criminalization, it is important to continue to emphasize that there are human rights that states are legally expected to protect. SDGs may not be legally binding, but some of these rights must be prioritized. Human rights monitoring and documentation bodies are a part of the challenge of implementation of the SDGs. They should go beyond discussing health and bringing specific issues like stigma and the role it plays as a barrier to universal access to health services.

Thirdly, the presentation spoke to a project to identify and elaborate a set of legal principles and ideas to help legislators, courts, and advocates address the human rights impact of criminal laws. It entailed looking specifically at the issues related to sexuality, reproduction, drug use and HIV non-disclosure. The work arose out of a longstanding concern about discrimination experienced by PLWHIV. It was a watershed moment when the UN Secretary General called for decriminalization of HIV non-disclosure in a 2016 high-level report. It was important to get a joint-statement with other UN agencies about fighting discrimination in health care, especially the laws that have negative health outcomes. A short inter-agency statement was signed by 12 UN agencies in 2017. In February 2017, a meeting was convened with the UN Office of the High Commission for Human Rights (OHCHR) on sexual and reproductive health and the criminalization of HIV, with the aim was to develop principles to guide courts and legislators. The OHCHR also had a meeting last year in Geneva related to gender. There is impetus behind the urgency to develop legal principles by jurists to address the human rights impact of criminal laws on PLWHIV. Key legal

principles aid in the crystallization of rights. The goal is to bring together a group of distinguished jurists, scholars and lawyers who are practicing in this area, as well as members of the judiciary. In relation to the SDGs, an analytical framework is being developed to tackle questions around the legitimate and illegitimate practices of criminal law that are obstacles to health, amongst others. Civil societies' contribution to litigation, for example, by contributing amicus briefs, is also an important strategy that can be used to fight criminalization.

The last focus of the presentation was on the international context and opposition to human rights, particularly in relation to sexual orientation and gender identity (SOGI). The HRC is one UN institution where international human rights abuses are tabled. The HRC was formed in 2006 and is working on policing, bodily autonomy, criminalization and SOGI, within the context of attacks on the human rights system. Their work is conducted in: contexts of cultural relativity and the rise of fundamentalism; contexts where ideas of sovereignty are used to reject colonial histories, but to also close off discussions on sexual rights; contexts where there is a clamp down on civil society spaces; and against a backdrop which frames a binary choice is human rights vs. development. It is not possible to talk about this work without talking about right-wing NGOs and religious fundamentalisms. Bodily autonomy is being de-legitimized by states, creating silos of what is legitimate and what is not. There is the overarching context of dynamics between the Global North and South, and the conditionalities of aid, including attacks on rights, language and the positioning of SOGI concerns as Northern, or Western. This takes place in the context of neoliberal politics and the legacies of colonialism and imperialism. How do we challenge policing and criminalization when the context is so much larger? The context of Global North and South boundaries is no longer real, as they are blurring with economic alliances. SOGI is being used to satisfy demands of local movements, shape electoral politics and promote national or regional identity. Many countries still have some form of criminalization that is specific to sexual orientation or gender identity. As a human rights political body of the UN system, a number of ways of engaging around SOGI exist for the HRC, including special rapporteurs and reports. It was noted that the solitary focus on decriminalization in these spaces often misses the experiences of trans diverse communities. Lesbians are also often completely invisible, as the law mainly targets men who have sex with men (MSM). There is a need to ensure that the ways that women and trans diverse people are criminalized and experience violence are included.

Increasingly, LGBTI movements do not see decriminalization as enough. It is easy for states that do not have criminal laws on the books to point fingers at states that do. The expression "low-hanging fruit" to describe decriminalization does not mean it is not important, but that there are other issues that need to be taken seriously as well.

## Discussion

The need for accessible human rights models and guidelines was raised. Work is underway on a set of guidelines issued by jurists which are similar to the Yogyakarta Principles, adopted in 2006 and updated in 2017, on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender

Identity, Gender Expression and Sex Characteristics<sup>3</sup> or the Siracusa Principles.<sup>4</sup> The aim is to help legislators and advocates assess criminal laws or to develop laws on these issues. The importance of including the Global South in this work was stressed. The geopolitical context was raised in order to map partnerships, based on political contexts and opportunities. There are two parallel tracks, both of which must be considered: the work by jurists on the normative legal approach, and the people working in local contexts who think that decriminalization is not the complete answer. The need for conversations on unintended consequences of promoting omnibus HIV/AIDS bills, particularly across Africa and the Asia-Pacific region, was raised. It was asked: “why do we need HIV/AIDS specific bills anymore? Why are we supporting HIV-specific laws, even if they are not criminal?”

Addressing women’s rights and the universality of rights, AWID has produced a report entitled “Rights at risk” (available in English and Spanish)<sup>5</sup>. The analyses how discourses of the opposition endanger and erode the rights of women. The question is, how can the work of feminists and sexual rights movement come together? The fault lines in feminist communities mean sometimes supporting agendas of those who are in opposition to sexual rights. A strategy is needed for SRHR organizations to address this incongruence around rights.

During the discussion on the SDGs as a strategy, several issues were raised. First, participants raised the need for research, or expert opinion, that can establish how criminalization can hamper the achievement of the SDGs. Second, participants felt it is a problem that the SDGs are not binding, that reporting is entirely voluntary and that the status of human rights in the 2030 Agenda is tenuous. Two other approaches are to report on CEDAW or the Beijing Platform of Action (which is aligned with achieving reproductive health in SDG 5). Resources on LGBTI reporting within the SDGs are in the most recent Universal Periodic Review (UPR) processes. If the principle of non-discrimination is to “not leave anyone behind,” it is possible to insist that there is nothing in the SDGs that is inconsistent with the human rights obligations of states. The Yogyakarta principles were noted as a reference point for SOGI human rights guidelines. However, it was noted that the absence of some violations, particularly violations in the private sphere, by non-state actors and violations against lesbian communities, need to be addressed.

#### Footnotes

1. See: <https://sustainabledevelopment.un.org/post2015/transformingourworld>
2. See: Human Rights Council, Thirty-fifth session, 6-23 June 2017, “Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity,” [https://www.ohchr.org/Documents/Issues/SexualOrientation/A\\_HRC\\_35\\_36.docx](https://www.ohchr.org/Documents/Issues/SexualOrientation/A_HRC_35_36.docx)
3. Emerged from the intersection of the developments in international human rights law with the emerging understanding of violations suffered by persons on grounds of sexual orientation and gender identity and the recognition of the distinct and intersectional grounds of gender expression and sex characteristics. See: <https://yogyakartaprinciples.org/>
4. Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights 1984, submission by the International Commission of Jurists. It addresses the abuse of applicable provisions allowing governments to limit and derogate from certain rights contained in the

International Covenant on Civil and Political Rights. <https://www.icj.org/siracusa-principles-on-the-limitation-and-derogation-provisions-in-the-international-covenant-on-civil-and-political-rights/>  
5. See: [https://www.awid.org/sites/default/files/atoms/files/ours\\_trends\\_report\\_2017\\_en.pdf](https://www.awid.org/sites/default/files/atoms/files/ours_trends_report_2017_en.pdf)

## Group Discussion: Stakeholder Analysis on Challenging Criminalization Globally

**Main objective:** To gather and analyze stakeholder information, to determine the best approaches to collectively challenge criminalization based on identity, morality, sexuality and bodily autonomy at national, sub-regional and global levels.

**Sub-objectives:** To map the work that people are doing on different levels: policy, community, or institutional; to identify the challenges that exist in different areas, at the personal level and the regional level; to start looking at areas to focus on in the next year and a half in the regions Asia and the Pacific, Africa, Latin America and the Caribbean.

**Moderator:** Amr Awad (AI)

**Rapporteur:** Devin Race (Yale University)

### Description

Each group was asked to develop three specific advocacy messages and campaigns for each region. It was emphasized that under the Challenging Criminalization Globally project, there is funding for three campaigns, broken into the three regions: Asia and the Pacific, Africa, Latin America and the Caribbean. Groups that did not align by one of these regions could choose a region. A global group was also formed. Thinking about the cross-movement collaboration allowed participants to envision how those movements could look. This was followed by a plenary session with everyone for discussion.

## Group report-backs

### *Asia and the Pacific Group*

The priority was to work on different ideas and within the context of the safety of activists being a challenge. The political context is unstable in the region; issues are *de*- and then *re*-criminalized. Donors expect organizations to do what their mandate says, even though every local context is different. There is a lack of allies or common ground. There is also a lack of alternatives to criminalization. In addition there is lack of support for challenging criminalisation by Governments. There are no capacity building tools or strategies within the groups in the community to advance the discussion around challenging criminalisation. There is little research being done in the region, and little data to contribute to concrete solutions that can help groups to realize objectives. Health care providers and representatives of other institutions do not actually know when a new policy has been introduced or a policy has been legalized, and do not realize its importance. Clear language and communication are needed when approaching the state. We need a shared platform to participate and give clarify the state on what is actually needed from the community.

Some attainable goals are to develop a research toolkit and build capacity for advocacy. Research on the death penalty law, for example, shows that it has disproportionate impact on marginalized groups. The law changes according to your class, sect, and religion. Lastly, people who are willing to share their

experiences and stories are needed to come forward, to be a part of awareness raising campaigns to end violence against marginalized groups.

### ***Africa Group***

Three main advocacy messages were identified after discussing questions around the definition of criminalization. In many contexts there are laws, practices and norms that are incorrectly said to “criminalize.” The advocacy approach needs to separate what has been criminalized from practices and norms.

The group noted that traditional family values are not harmful except when they exclude people. Criminalization is often problematic because they are laws from the 1800s which are still in effect today. A better understanding of African history and sexuality in the region needs to be built. Sex work and abortion could be seen as a violation in the African context because it violates communities’ current understandings of morality. Terminology, morality and religious context are important in understanding criminalization. In Africa, there are diverse countries and languages, and many words to describe gay people. In the gay community, the words are made acceptable within the community.

Advocacy is needed to create awareness around the law. As a result of a campaign in Nigeria, there were zero convictions on homosexuality, in spite of the death penalty in existence. However, LGBTI people were persecuted by other laws, such as vagrancy laws.

In any campaign, a community with shared values is envisaged. The Botswana government, for example, talks about diversity and inclusion, and campaigns there have worked with in this framework for advocacy.. In addition, the national documents need to inform language for the campaign, instead of broader language that the government has not signed onto nationally. Rather than targeting groups, campaigns should highlight how group members are part of families and communities in societies. For example, a campaign may use phrases such as “my friend had an abortion” or “my sister is a sex worker with three children.” This begins building public support so that group members are not seen as the “other,” but as part of the community. Another way in which language in campaigning is important is to distinguish between legal criminalization and police street practices which, in effect, criminalize.

### ***Latin America and the Caribbean Group***

The group focused on the Caribbean, which tends to be grouped with Latin America but is a different regional context. The campaign idea was to focus on criminalization and poverty as part of a broader campaign. It was asked: “Who is being put in prison as a result of these categories? Who are we leaving out?” The idea was that this would draw more allies together across sectors, without gender and sexuality as the only driving issue. The conservative, religious ideology of gender ideology is used as grounds for attacking abortion and other issues in different regions, so there is a need to unpack what gender ideologies are saying and react appropriately to defend the rights of choice and autonomy, using evidence. Research on alternative approaches and diverse community-based responses is needed.

### **Global Group**

One of the ideas shared was the need for a strategy on “what not do,” that is, to compile knowledge about what global campaigns can do incorrectly. The objective is to deactivate the trend towards criminalization and to make donors accountable. The campaign will help donors realize that their approaches to funding can exacerbate the move toward criminalization. A donor campaign to be aware of is the Spotlight Initiative. Based at UN Women, it includes several UN groups which will bring funding to 28 countries to do work on violence against women. There are some mechanisms for civil society engagement at the national, regional and global level. They claim to operate with a “leave nobody behind” approach and also claim to care about elevating LGBTI issues. For those from countries where the Spotlight Initiative is operating, there is an opportunity to engage in the civil society process to ensure the money is used in ways that are useful and move an anti-criminalization agenda forward.

Lastly, the idea of “false protections” was also discussed. In terms of popularizing existing documents, the UN Resolution on SOGI<sup>1</sup> has moved the message strongly forward.

### **Footnote**

1. Resolution on June 30, 2016, on “Protection against violence and discrimination based on sexual orientation, and gender identity,” see HRW report, June 30 2016, <https://www.hrw.org/news/2016/06/30/un-makes-history-sexual-orientation-gender-identity>

## Feedback and Closing Session: Agreements and Commitments

**Objective:** to share what each organization that organized the event plans to do with the outcomes of the dialogues.

**Moderators:** AI, CREA and GHJP

**Rapporteur:** Devin Race (Yale University)

**Bob Mwiinga Munyati (AI):** The partners who have facilitated this meeting want to talk about what the next steps are from the conversations and thinking about what challenging criminalization looks like. There is a now a sense of what we want to commit to as organizations.

**Alice Miller (GHJP):** At this stage, we are just starting with ideas. GHJP is a university platform at Yale, with the law and public health schools. There is a lot of interest from students and faculty to make our research useful. We are trying to do a scholarship that builds a bridge between research and advocacy. The faculties of GHJP all have a basic decriminalization position on everything. GHJP is publishing a report around “human trafficking intervention courts,” an example of unmeetable promises: you cannot rescue someone from trafficking and say that they are a criminal at the same time. GHJP will keep putting material on its website, including on regulation of gender and sexuality. There are resources for sex workers to go to CEDAW and to make claims with documentation. Without the documentation to bring to the treaty, the treaty framework is not going to change. GHJP have also been insistent that “women” means all women, and trans/cisgender need to be treated differently. The same commitment that brought us to host this meaning is there. Another commitment is a book project, where the book is, first, an opportunity to build connections between scholars and activists in different regions. Second, the book is a means to explain how the fault lines that have been talked about have worked out historically, and where they are in the current context. Third, the book is a means to also share the local projects GHJP is working on with the global community, so there are national, global, and local components.

**Bob Mwiinga Munyati (AI):** AI thanks all the organizations. Under our objective, to build the discourse around challenging criminalization, AI is holding a pre-AIDS conference dialogue on July 22, 2018. This will be a chance to explore and push the boundaries around the discussion in a larger group. There is a space for this event, and ideas for advocacy and alliances would be great to bring to it. Some direction and ideas have come from reflections in this meeting. Another commitment AI is working on is a publication on the criminal laws on identity, sexuality and expression, in partnership with Harvard Law. Likewise, it was highlighted that further conversations around the publication are very welcome. Civil society groups should indicate that they would like to have a case study report on a particular issue. Another objective of AI is to support communities and activists in the three regions mentioned; to challenge law provisions around identity, morality and sexuality; and to have advocacy campaigns in these regions, working with partners coming from both the Global North and South. Two or three people from each region will interact with partners in the Global North for a short-term fellowship, in order to build capacity for challenging criminalization, and for transfer of ideas between South and North and vice versa. A further objective is

to provide a platform for evidence-based engagement with regional and governmental level institutions to affect policymakers and policymaking. Moreover, AI is committed to engaging the African Union Commission and similar regional structures to have an event at regional meetings to advocate for the importance of challenging criminalization, (i.e. fora where governments are in attendance). Lastly, AI does not have knowledge in every region, especially in Asia, and needs to have partners. AI intends to make sure that these events happen in as many regions as possible.

**Rupsa Mallik (CREA):** For CREA, one of their deepest commitments have been around being a bridge between movements, creating critical spaces where movements and activists can come together and, amongst themselves, debate some of the deep fault lines that are very much still present and out there. Any longer-term approach of thinking around criminalization and posing challenges to it needs to have that as a starting point. There are deep divisions on many issues; the issues are often fragmented and ghettoized. There is need to think through a longer-term vision and framework. A lot of opportunities will emerge from the scholarship from the book project. CREA has done a series of global dialogues, not only to build conversation but also to interrogate different issues more deeply, to develop a frame within which to think about decriminalization. CREA will continue to create the opportunities to come together and dialogue. These conversations need to be converted into resources that are accessible to diverse activists, so that more and more people can engage in these conversations, if they do not have the opportunities at the national level.

## Discussion

The question was raised as to how to move from decriminalization as a project to its integration into all aspects of practice. The issue can turn into one of “what is the use of the law in general,” inadvertently advancing criminalization for one group of people at the expense of the other. It was noted that the convening of dialogues had more of a global perspective. Holding dialogues at the local, regional, and national levels is the next step. It was expected that activists would come up with some non-negotiable issues at the global level. However, the processes of convening, advocating, generating knowledge and working together can continue to grow. Participants felt that there are like-minded people who can work together, as there is discrimination and different degrees of criminalization across the issues; it is possible to build a critical mass. The point was raised that faith-based practitioners who are inclusive and can help drive forward some of the issues, were missing from the conversation. Historically, they have been ostracized from their faith communities for the very reasons that they take a different view around sex work, abortion and SOGI. It was also important to emphasize that in academia, it is important to open up spaces for people to go to African stories and research. In [*location*] the politicians were suspicious about the production of materials about homosexuality, because they thought they were produced by politicians in the Global North. Now that there is work that has been put together by African scholars, the accusation does not hold. The relationship between the Global South and North is a mutual relationship with mutual benefits. Getting caught up in the idea that “the Global North is coming to impose on the Global South” is not helpful, and dialogue between the two must be on mutual ground. Discussing ally-building,

participants brainstormed about who is doing what work. The resulting planning involved recognizing that people and organizations have different levels of experience. In response, it was stated that the dialogue had opened an inclusive and open space across the sectors and regions.

It was noted that achieving decriminalization would not be easy, and advocacy would require more allies in order to achieve this goal. The linkages made in the dialogue were interesting to participants because they were made by a spectrum of constituencies in the same room. While there are some forms of criminalization that are wrong, there are others, such as in the area of violence against women, where it is necessary. However, the question remains: “how much criminalization is needed?” It is necessary to reflect these nuances in how the message is presented; there needs to be an understanding on where the movement is headed in moving away from criminal law as the only way to deal with sexuality. Making these linkages is exciting, but not a core part of the work for many of the participants. There is a need for alliances rather than joining together in blind solidarity. Looking forward, the important question was how to keep this macro-community together.

Participants wondered about how to capitalize on the Bodily politics, a premier on criminalisation of sexuality and reproduction. led by Amnesty International There are opportunities to bring people together cross-movement, and to make the project more robust. In response, it was stated that the book project would not deal with some aspects of criminalization (for example, drug law or trafficking). Further, the question was raised as to whether it would be possible to work with local activists to ensure the resulting work would contribute to political interventions.

Moreover, it was noted that the dialogue had provide a birds-eye view of criminalization in different communities and regions. The struggle is larger than a single situation or context. The group felt that this work to bring all communities together in thinking and strategizing about criminalization in their individual contexts needs to continue. There are different battles and realities at each local level. Inter-movement work on each decriminalization issue can continue, but only if the work is carried forward by the communities.

Lastly, the dialogue had provided a space for conversations on SRHR and decriminalization issues impacting trans diverse communities. The ground-up approach of the dialogue enabled knowledge transfer and peer learning, and this can be taken forward to develop more nuanced approaches. Participants noted that the dialogue exposed them to new ways to approach decriminalization, shaping fresh thinking and lessons to be taken back to their work. Lastly, the core organizers were acknowledged and thanked. Discussion of plans for moving forward from this dialogue will be held at a later date.

## Analysis and Conclusion

Several themes emerged from the two-day CCG interdisciplinary dialogue on un-policing, morality, sexuality and bodily autonomy.

The **first theme** was the **consequences of criminalization**, under various laws and legal practices, and the human rights violations that are experienced by affected communities in many regions. These range from wrongful arrest, police brutality and denial of access to services and information, to rape and murder. The experiences across communities reflect that human rights violations and abuses are increasingly sanctioned by states, even though they are not legitimate exacerbate the problem by creating greater stigmatization and discrimination of vulnerable communities and are in conflict with international human rights. The impact of right-wing policies and religious fundamentalism is felt in many regions and is resulting in the rollback of laws and access to services and information on SRHR. Political environments where social debate and organization around criminalization are policed or denied resources pose constraints to debate, resistance and opposition by civil society and organizations. Across the sectors, LGBTI communities and people in many countries live with the threat of the death penalty or life imprisonment. In some countries the same penalty exists for abortion and the right to abortion is under jeopardy. The introduction of punitive law for PLWHIV's non-disclosure of status in many countries is resulting in wide scale incarceration. Lastly, the unjustified violation of sex workers' human rights is still treated as normative in most countries.

The **second theme** focused on **effective strategies for challenging criminalization** using multiple approaches across regions, drawing on an intersectional justice lens. The following legal and human rights-based strategies were proposed: the need for an international normative human rights framework agreed by high-level members of the judiciary and experts to guide lawmakers and courts in both the Global North and South; the need to oppose any law on HIV as counter-productive and ineffective in reducing vulnerability to HIV; the need to challenge colonial laws that are the basis for discrimination and criminalization; and the use of incremental litigation in criminal cases to challenge nuisance and other laws used against sex workers and LGBTI persons.

Moreover, organization by affected communities is needed for the decriminalization movement to grow. PLWHIV, sex workers, SRHR activists and LGBTI people are working within their own networks and in alliances through cross-sector solidarity building. Organization is needed both within and across sectors, while working at local, regional and international levels. Relatedly, the work being done by affected communities and representative organizations to undertake research and to build a strong evidence base is critical for laying the ground for normative guidance internationally. This can be the first step in securing the commitments of global organizations, donors and agencies to support decriminalization. To counter religion-based homophobia and transphobia, and denial of sexual rights and bodily autonomy, stronger engagement with alternative and inclusive religious texts and histories was identified as necessary. In Africa, this was important where homophobia is often justified on the idea that homosexuality is a

Western import. In Asia, engaging with progressive religious scholars of Islam is necessary to counter regressive laws. In countries where there are plural systems (where constitutional law exists in parallel with customary or religious law), both systems of law need to be engaged with for change to occur.

Another **theme** that discussed was the **dissemination of resources** to support activists and for public education, as well as materials development for awareness raising campaigns. Criminalization of affected communities occurs in several ways which are not uniform. As a result, country level campaigns need to be informed about local struggles, including the laws and their implementation, as well as discriminatory practices resulting in human rights abuses. In questioning the grounds for suspension of human rights through criminalization of vulnerable communities at the country level, it was possible to popularize the messages contained in agreements, principles and UN resolutions which have been adopted to set human rights standards. It was proposed that evidence of human rights abuses be reported to the UN HRC and other UN structures that address discrimination. Evidence-based presentations opposing criminalization need to be made to as many of the inter-regional and continental structures as possible, where governments and regional bodies are represented. Monitoring of the SDGs was also explored as a strategy to ensure that voices are heard, particularly on the implementation of SDGs 3, 5, 8 and 16, as criminalization “leaves many people behind” through discrimination. Data collection on the human rights obligations of governments, the effects of criminalization as discrimination, and violence, inequality and stigma as barriers to SRHR are needed, in addition to the achievement of the SDGs. Participants also recommended the writing of shadow reports to CEDAW, the CEDAW Committee and the Beijing Platform of Action on the discrimination experienced by vulnerable groups of women due to criminalization.

Lastly, the **cross-sector, intersectional justice issues** that emerged from the dialogue highlighted the potential for strategies to draw from local, national, regional and global activism. Mapping some of the strategies to intervene in the three regions and at the global level was productive in building common ground to work collaboratively to remove barriers to universal access to SRHR services and achievement of the SDGs. Work was begun to establish a way forward based on advocacy and evidence-based interventions at different levels.

A number of challenges raised during the dialogue drew attention to the **sensitivity needed in interventions** that involve broad collaboration across affected sectors and regions. These included differences in gender ideologies, exclusion language used in advocacy and the representation of the affected communities in strategies that affect them. There was a need for a values clarification audit across sectors. For example, the conservative gender ideologies that deny sexual rights to women and sexual minorities can be identified and responded to. The basis for denial of rights was often based on ignorance and done in the name of the protection of the family. In relation to campaigns, belonging, family diversity, family values and the right to care and services can be used to counter exclusion and stigma, especially among faith-based organizations. A further problem raised was the frequent exclusion of transgender and women in work related to SOGI silenced their experiences of violence. The complexity of the issues confronted across groups and regions highlighted the need for sensitivity over language, clarity

on shared values, the need for broader alliances (for example, with migrant communities and anti-racism, labor, anti-incarceration and anti-poverty movements) to be effective. In addition, the question was posed as to whether un-policing and decriminalization were enough to address the issues at hand. Participants felt it was necessary to work to advance normative justice and guidance, as well as work with activists on the ground.

The **conclusion and feedback session** from the dialogue organizers on the commitments made to take the process forward were welcomed. There was agreement that the important work begun during the dialogue of sharing the impacts of criminalization and strategies to confront it, are critical to discussing collaboration and movement building. The recommendations from the meeting involve ongoing intervention, research and collaboration aimed at building solidarity and alliances to challenge criminalization globally.

## Annexures

### Challenging Criminalization Globally (CCG) Inter-disciplinary and intersectional dialogue on un-Policing identity, morality, sexuality and bodily autonomy – Concept Note

16-17 April 2018

Yale University

New Haven, Connecticut, USA

**In partnership, with** CREA and Global Health Justice Partnership, Yale University

**Funded by Ford Foundation and Ministry of Foreign Affairs of Netherlands**

#### Background

Across the globe and more disproportionately in the Global South, courts, parliaments and law enforcement agencies have become avid proponents of using the coercive power of the law to police, control and punish a variety of behaviors which they considered as contributing to ‘moral decay’. In the Global North, sometimes in highly punitive forms, criminalization of issues such as the transmission of HIV, hepatitis and tuberculosis have been accepted or are in the pipeline. The activities that come under this rubric include consensual sexual relations between persons of the same sex, sodomy, abortion, sex work, adultery, possession or publication of materials considered obscene, pornography, drug use, among others. Beyond the criminalization of behaviors, increasing the law is being used to penalize communities and subject them to systematic profiling and police harassment based on race, choice of work, other status especially with a desire to impose an idea of collective morality. In these countries, vague, ambiguous, deliberately open-ended criminal provisions have been deployed to achieve these goals. Penal provisions on vagrancy, loitering, public indecency, public nuisance, and HIV transmission, for instance, continue to be applied subjectively and with extremely wide discretion for the police to impose subjective notions of “unacceptable” identity, morality, sexuality and bodily autonomy.

The State’s penchant for imposing a homogeneity of behavior defies the very logic of humanity – the diversity of human experience. This increasing securitization of the private (i.e. the use of “protecting public safety” as an excuse to infringe on individuals’ rights – especially to their rights to privacy and their freedom of movement, expression and association) and the legislating of issues which could more appropriately be addressed by shifting the collective consciousness, must be challenged. They must be challenged in order to ensure accountability to the most vulnerable and those most-at-risk of intersectional discriminations.

Two global commitments compel a closer discourse on the overarching use of criminal laws to curtail personal liberties and diverse expressions of identity, morality, sexuality and bodily autonomy, and these are:

1. The global commitment to end AIDS as an epidemic by 2030 and the Agenda 2030's mandate to "leave no one behind"; and
2. Achievement of the sustainable development goals [SDGs], particularly Goals 3 [good health and wellbeing], 5 [gender equality], 16 [peace, justice and strong institutions].

Countries in the Global South bear the greatest burden of the HIV pandemic. They also face challenges to the achievement of sustainable development -- eradicating extreme poverty and hunger, ensuring universal education and health care, a cleaner global environment, gender empowerment and the elimination of economic inequalities. Despite these pressing issues, a major implication of State preoccupation with policing of identity, morality, sexuality and bodily autonomy is the undermining of the fundamental rights of people to live lives of dignity and achieve self-actualization. In short, this means the ability to exercise their full range of human rights and fundamental freedoms is strongly impeded and equitable and sustainable development is hampered. It is therefore important to hold States accountable to their global commitments by highlighting the impact these criminal provisions and their application will have on the successful attainment of these global ideals by 2030.

It is acknowledged that neither ending AIDS or achieving sustainable development are conceptually value-neutral or silver bullets. However, they present a frame for mobilizing civil society across the globe to explore deeper issues of inequality and pervasive social injustices using nomenclature that is familiar and perhaps attractive to the primary duty bearer, the State. Like the public health lens, the development narrative by itself is laden with assumptions that potentially undermine the idea of the universality of rights, or at the very least distort the necessity for this to drive State action towards achieving public health or development imperatives. However, AAI seeks to use the opportunities provided by the global solidarity among States to end AIDS as an epidemic and to achieve the sustainable development goals, to draw attention to the impact of criminal laws that impinge on identity, morality, sexuality and bodily autonomy, especially in the Global South, to raise awareness among civil society groups and mobilize action to challenge criminalization in these areas.

### **2018 CCG Experts Meeting**

Building on the work done at the 2016 AI (previously known as AIDS Accountability International/ AAI) and Ford Foundation Challenging Criminalization Globally Pre-Conference that focused on gender & sexuality (de)criminalization, AAI will be joining with CREA, and the Yale University Global Health Justice Partnership (GHJP) to gather advocates and policy experts on criminalization and a range of related fields for an innovative discussion that highlights the linkages across issues and movements and focuses on "What next?"

AI, in partnership with CREA and GHJP, aims to mobilize a critical movement of diverse stakeholders (including activists, academics, policymakers, media practitioners, economists, development agencies, multilateral institutions and the private sector) to advance a global discourse on how criminal provisions

on sexuality, identity, and bodily integrity restrict the successful achievement of the end of AIDS and the achievement of the SDGs particularly in the Global South. In order to advance this conversation, our collective efforts will focus on creating spaces for civil society to engage with the issue and network with new allies to building our collective analysis and advocacy capacity.<sup>1</sup>

This global gathering will bring together diverse stakeholders to engage innovatively with the underlying causes of expanding criminalization; to engage with new partners; and to rethink and undo existing as well as pending punitive, retributive ‘solutions’.<sup>2</sup> The convening will be held 17-18 April 2018 at Yale University. The purpose of the convening is to stimulate an inter-disciplinary and intersectional dialogue on un-Policing identity, morality, sexuality and bodily autonomy. Drawing upon experts who will be participating in the 51st session of the UN Commission on Population and Development (9-13 April, New York), this meeting will focus on accountability of States to the global commitments to ending AIDS by 2030 and the achieving the sustainable development goals. Some of the specific objectives of the experts meeting will be to:

1. Facilitate discussions among participants about underlying causes of expanding criminalization, and securitization<sup>3</sup> and identify areas/projects for potential collaboration and re-examine existing, pending punitive and retributive ‘solutions’, including with the input of “unusual suspects” like business, tech and data experts and the media.
2. Organize presentations by some participants on “discussion briefs” (commissioned in advance by AI) that analyze various penal provisions curtailing non-hegemonic expression of identity, morality, sexuality and bodily autonomy in the three regions that are the focus of this project - Africa, South-East Asia and the Latin America and Caribbean - and their implications for achieving the global, as well as regional development goals and commitments to end AIDS as an epidemic by 2030. Feedback on these briefs will be provided in the meeting and incorporated into a next draft of the briefs. (See more below).
3. Conduct stakeholder mapping on work on challenging criminalization, identification of opportunities for collaboration and cross-movement work sharing. This is aimed at providing a better understanding of current on-going work on criminalization globally.

*About the briefs and compendium:*

**Select participants will be invited to present discussion briefs which (after feedback in April meeting, and editing with AI) will be included into a compendium/report to be launched next year.**

These discussion briefs will be presented at the April convening, and will cover the work done by several partners on challenging criminal laws that impinge on identity, morality, sexuality and bodily autonomy. The brief can cover but is not limited to the following issues:

- Conceptualize the problem of the criminal law

- What does reform on challenging criminalization look like with country/region? (including reflection on what challenging criminal law would look like).
- Call to action (How to mobilize other social justice actors)/recommendations

A detailed request for discussion briefs will be sent out to specific participants in due course.

## Notes

1. Following this convening, the global discourse will continue at the 2nd Challenging Global Criminalization pre-conference at AIDS2018, the International AIDS Conference [IAC] in Amsterdam. The pre-conference will provide an opportunity for stakeholders to take stock of the progress since the first Challenging Global Criminalization pre-conference at AIDS2016 in Durban, South Africa, including the impact and achievements of this project.

2. AAI will publish a compendium of analyses presented at the April convening. The compendium will focus on penal provisions that curtail non-hegemonic expression of identity, morality, sexuality and bodily autonomy in Africa, South-East Asia and the Latin America and Caribbean (the three regions of AAI's project) and their implications for achieving the global and regional development goals, human rights obligations and commitments to end AIDS as an epidemic by 2030.

3. By securitization AAI refers to the greater extension of the governments mandate to monitor, control and infringe on the freedoms of people, using the rationale of public safety. Terrorism, migration and climate change have all been contributing factors to increased securitization in the past decade. Although more research has been done on this issue in the Global North, it is also a considerable problem in the Global South, and has led to the extension of criminalization of behaviors that never existed before.

## Dates and Venue

The experts consultative meeting is scheduled to held from 17th to 18th April in New Haven, Connecticut, USA. The exact venue of the meeting will be communicated in due course. On 19 April, the group will meet with donors, colleagues and other stakeholder for a ½ meeting in New York.

## Participants

It is anticipated that the experts meeting will bring together a total of 30 - 40 participants. The following criteria has been used to identify participants:

- Participation in the Durban CCG Preconference in 2016.
- Diverse selection of stakeholders including activists, academics, policymakers, media practitioners, economists, development agencies, multilateral institutions and the private sector.
- Selection of stakeholders from the Global South engaged on work which is currently focused on criminal laws policing identity, morality, sexuality and bodily autonomy, and challenging criminalization.

## Logistics and Language

The Accountability International will cover the meeting costs including (meals and stationary) related to the experts meeting. In addition, AI and CREA will provide travel support related to accommodation, air tickets and/or train associated with their respective representatives to the meeting (participants from the Global South). Where applicable, all participants are requested to obtain their visa from the embassy of the United States of America in their respective countries. A refund to AI and CREA funded participants will be provided for the visa application. Due to logistical limitations, the meeting will only be conducted in English. One AI staff member speaks French and Spanish and can be of limited assistance on clarifications but is not an interpreter.

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## 2. Programme

<b>DAY ONE : 17<sup>th</sup> April 2018</b>		
<b>Time</b>	<b>Programme Details</b>	
<b>08:15</b>	<b>Shuttle from Hotel to Meeting Venue</b>	
<b>08:30 – 09:00</b>	<b>Breakfast</b>	
<b>09:00 – 9:30</b>	Opening remarks and introductions	AAI CREA GHJP
<b>09:30 – 11:00</b>	<p><b>Panel Discussion:</b> Encounters with criminalization: experiences across communities and issues</p> <p><b>Objective:</b> Grounding the meeting in the experiences of activists who are challenging criminalization, as a means to understand current successes, challenge and barriers, and to look forward to what might be on the horizon.</p>	<b>Moderator:</b> Phillipa Tucker (AAI)
<b>11:00 – 11:15</b>	<b>Tea Break</b>	
<b>11:15 – 13:00</b>	<p><b>Panel Discussion:</b> How does criminalization play out differently because of various legal regimes</p> <p><b>Objective:</b> Gaining a sense of how our contexts create opportunities and barriers to solidarity and coalition-building as a result of similar or different contexts of criminalization</p>	<b>Moderator:</b> Alice Miller and Mindy Roseman (Yale University)
<b>13:00 – 14:00</b>	<b>Lunch</b>	
<b>14:00 - 15:45</b>	<p><b>Panel Discussion:</b> Strategies and tactics for challenging criminalization</p> <p><b>Objective:</b> Developing a common understanding of what strategies and tactics have worked well and what strategies and tactics have worked less well or not at all. What are some of the new ideas on the horizon?</p>	<b>Moderator:</b> Susana Fried (GHJP/CREA)

<b>15:45 – 16:00</b>	<b>Tea/Coffee Break</b>	
<b>16:00 – 17:30</b>	<p><b>Thematic Discussion and Breakout session:</b> Identity, morality, sexuality and bodily autonomy</p> <p><b>Objective:</b> Begin to build cross-movement collaboration and cross-issue understanding by working together to consider some of the key questions we face in challenging criminalization</p>	Moderator: Bob Mwiinga Munyati (AAI)
<b>17:30-18:00</b>	<b>Report back and preview of following day</b>	Bob Mwiinga Munyati (AAI)

<b>DAY TWO: 18<sup>th</sup> April 2018</b>		
<b>Time</b>	<b>Programme Details</b>	
<b>08:15</b>	<b>Shuttle from Hotel to Meeting Venue</b>	
<b>08:30 – 09:00</b>	<b>Breakfast</b>	
<b>09:00- 09:30</b>	<b>Recap of Day 1</b>	TBC
<b>9:30 – 10:30</b>	<p><b>Panel Discussion:</b> Criminalization, sexuality and gender</p> <p>Objective: discuss some of the ways in which different understandings of and practices of gender underpin different forms and practices of criminalization. How do we work with some of the key issues around sexuality and bodily autonomy, such as choice, consent, etc?</p>	<b>Moderator:</b> Susana Fried (GHJP/CREA)
<b>10:30 - 10:45</b>	<b>Tea/Coffee Break</b>	
<b>10:45 – 13:00</b>	<p><b>Panel Discussion:</b> The existing work with various decision-making bodies to challenge criminalization globally through the use of international human rights mechanisms, the SDGS and 2030 as opportunity/entry point.</p> <p><b>Objective:</b> Identify opportunities for government representatives, policymakers and civil society organisations using regional inter-governmental mechanisms to challenge criminalization with the aim of achieving the global and regional goals [Ending HIV by 2030 and the Agenda 2030 particularly Goals 3 (good health and wellbeing), Goal 5 (gender equality), Goal 10 (reduced inequality) and Goal 16 (peace, justice and strong institutions) among others.]</p>	<b>Moderator:</b> Bob Mwiinga Munyati
<b>13:00 – 14:00</b>	<b>Lunch</b>	
<b>14:00 – 14:15</b>	<b>Changing of meeting rooms</b>	All

<p><b>14:15 - 15:30</b></p>	<p><b>Group Discussion:</b> Stakeholder analysis on challenging criminalization globally</p> <p><b>Objective:</b> Gathering and analysing stakeholder information to determine best approaches to collectively challenge criminalization based on identity, morality, sexuality and bodily autonomy at national, sub-regional and global levels.</p>	<p><b>Moderator:</b> Amr Awad, (AAI)</p>
<p><b>15:30 – 15:45</b></p>	<p><b>Tea/Coffee break</b></p>	
<p><b>15:45 - 17:00</b></p>	<p><b>Feedback and closing session:</b> Agreements and commitments</p>	<p>AAI, CREA and GHJP</p>
<p><b>17:30 – 20:00</b></p>	<p><b>Public Event</b></p> <p>Global Health Justice Partnership: Building movements to challenging criminalization globally: a roundtable discussion on un-policing identity, sexuality, morality and bodily autonomy</p>	

### 3 List of participants

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## 4 Participants Bios

### **Alejandra Sardá-Chandiramani, Association for Women's Rights in Development (AWID)**

Alejandra Sardá-Chandiramani is a Latin American feminist and sexual rights activist who has been active nationally in her country of origin, Argentina, regionally and internationally since the early 90s. She has pursued studies in psychology, gender and human rights. Within the feminist and sexual rights movements Alejandra's organizing work encompasses from starting a pioneer out lesbian feminist group to co-coordinating sexual rights coalitions lobbying at the UN and the OAS. Alejandra worked 5 years for Mama Cash developing the fund's unique Women's Funds programme which also gave her expertise in feminist philanthropy. She is currently AWID's Director of Programs, as well as a Board Member for Akahatá-Equipo de Sexualidades y Géneros and an Advisor to the Astraea Lesbian Foundation for Justice and to Mama Cash.

### **Alice M. Miller, Global Health Justice Partnership, Yale University**

Alice M. Miller, JD is Co-Director, Global Health Justice Partnership between the Law and Public Health Schools at Yale University. Miller's work focuses on critical engagement with the theory and practice of engaging with rights claims sexuality and gender in rights, health and law. This work includes attention to women's rights, sexual and reproductive health and rights, including LGBTI rights, the role of the criminal law in human rights, sex work, sex worker rights and anti-trafficking frame, human rights and humanitarianism, health as a human right and the interplay of domestic and international law in developing new rights norms. Her experience encompasses not only scholarship but more than two decades of advocacy and training with NGOs in the US and globally, as well as with UN and other inter-governmental agencies. She teaches with the goal of facilitating analytically rigorous, inter-sectionally reflective practitioners and advocates. Miller has taught in policy, law, and public health schools at Columbia University and Berkeley before her appointment at Yale, as well teaching in independent sexuality and rights institutes in the Mexico, the Netherlands, Turkey and India

### **Amr Awad, AIDS Accountability International**

Amr Awad is a medical doctor who holds a master of epidemiology and population from the American University of Beirut. Amr has 14 years of experience in health area with particular focus on monitoring, research, and Evaluation including developing situation analysis, end line evaluations, knowledge management products, evaluations capacity building and supervising consultants among others.

Amr is currently the Senior Researcher for AIDS Accountability International. Before joining AAI, Amr worked as research and evaluation consultant for different international agencies like UNFPA, WHO, Save the Children, Plan International, American Bar Association, Management Sciences for Health and ICFI. He also worked as M&E specialist staff with UNAIDS, UN WOMEN, USAID, and IPPF.

Amr also serves as research instructor for Geneva foundation for medical education and Research. He was a co-author in Cambridge press book "Public Health in the Arab World" and WHO study on risky youth behaviors in EMRO region.

**Bob Mwiinga Munyati, AIDS Accountability International**

Bob Mwiinga Munyati is a Zambian and a Senior Researcher at AIDS Accountability International (AAI) with an academic background in Demography and Economics from the University of Zambia and a Masters of Public Health (Epidemiology) from University of Cape Town. Bob has for the past 5 years managed the SRHR global and African regional commitments section of AAI's work with particular focus on the Maputo Plan of Action, ICPD Beyond 2014 and Sustainable Development Goals. In addition to the above, Bob currently managed AAI's CCG project. With more than 10 years of work experience, Bob has previously worked for Clinton Health Initiative Access, Population Services International, and Centres for Disease Control and Prevention, and Family Health International 360 in various research and programmatic portfolios in the area of sexual and reproductive health and rights

**Carrie Eisert, Amnesty International**

Carrie Eisert is a policy adviser, researcher and human rights advocate working at the intersections of sexual and reproductive rights, health, and drug policy. Currently a Policy Adviser for Amnesty International, she is working on a project exploring the human rights impacts of laws and policies that criminalize key aspects of sexuality and reproduction. She completed Amnesty International's *Criminalizing Pregnancy*, a report on the human rights impact of laws policing pregnant women. Prior to joining Amnesty International as a 2013 Mellon/ACLS Public Fellow, she was a faculty member for IHP Cities in the 21<sup>st</sup> Century: People, Planning, and Politics, an experiential education and social justice program. She has also served as a lecturer at Princeton University, teaching on race, drugs, and drug policy, and critical perspectives on "global health."

She holds a BA with honors in Psychology and Studio Arts from Wesleyan University, and an MA and PhD in the History of Science and Gender and Sexuality Studies from Princeton University. Her research covers the cultural history of pharmaceuticals, focusing on representations of women in popular culture, psychology and advertising.

**Catherine Hanssens, Center for HIV Law and Policy**

Catherine Hanssens, Executive Director and Founder, has been active in HIV legal and policy issues since 1984. Previously, Hanssens was AIDS Project Director at Lambda Legal, where she led Lambda's HIV-related litigation and policy work. She also worked with the AIDS Law Project of Pennsylvania, where she created and managed one of the first medical-legal partnerships in the country, with on-site HIV legal services in several hospitals and clinics. While a staff attorney at the New Jersey Department of the Public Advocate, Hanssens successfully litigated the state's first cases on involuntary HIV testing, a class action challenge to segregation and mistreatment of prisoners with HIV in the New Jersey state prison system,

and the only federal appeals court case recognizing the right of incarcerated women to funded elective abortions. She also has been a visiting clinical professor at Rutgers University Law School-Newark and Director of the law school's Women and AIDS Clinic.

**Cynthia Rothschild, Independent activist and consultant**

Cynthia Rothschild is an independent activist and consultant with a focus on United Nations advocacy and policy, sexual rights, LGBT issues, HIV & AIDS, and women human rights defenders. A human rights, sexual rights and feminist activist for over 20 years, she has worked with global networks and NGOs within and outside the US, including the Center for Women's Global Leadership (where she was the Senior Policy Advisor from 2005-2009), and a number of women's and reproductive rights groups and AIDS service organizations. Cynthia is a trainer and facilitator, and also has supported NGOs in organizational development projects, including in work related to UN advocacy at the Human Rights Council and the Commission on the Status of Women. In 2011 and in 2015, Cynthia consulted with the UN Office of the High Commissioner for Human Rights (OHCHR), where she made significant contributions to the UN's two groundbreaking reports on discrimination and violence based on sexual orientation and gender identity. She is the author of *Written Out: How Sexuality is Used to Attack Women's Organizing*; the co-author of *Strengthening Resistance: Confronting Violence Against Women and HIV/AIDS*, and Amnesty International's *Crimes of Hate, Conspiracy of Silence: Torture and Ill-Treatment Based on Sexual Identity*. Most recently, she edited "Gendering Documentation: A Manual For and About Women Human Rights Defenders." She was a member of the Board of Directors of the Astraea Lesbian Foundation for Justice from 2010-2015 and of Amnesty International USA in the early 2000s.

**Dalia Abd El-hameed, Egyptian Initiative for Personal Rights (EIPR)**

Dalia Abd El-hameed is the Head of the Gender Program at the Egyptian Initiative for Personal Rights (EIPR). She previously worked in the Right to Health Program, at the same NGO, where her mandate included activities related to national and international advocacy for reproductive rights. Dalia is also co-founder of Operation Anti-Sexual Harassment (OpAntiSH), a grassroots movement that resists mob sexual assaults in Cairo. Dalia's current mandate includes supervision of the work of sexual and reproductive health and rights, along with other issues related to gender mainstreaming and equality between sexes. She is also an MA student in the Sociology/Anthropology program at the American University in Cairo.

**Daughtie Ogutu, African Sex Workers Alliance (ASWA)**

Daughtie Ogutu is the current Executive Director and Founder of African Sex Workers Alliance (ASWA). Winner of the Leadership Excellence Award ICASA 2017. Daughtie is a front liner in creating awareness and advocating for the rights of sex workers at national, regional and global levels including lobbying and advocacy for policy reform and Decriminalisation of sex work. Daughtie is known for her articulation in addressing critical issues such as stigma and discrimination and violence faced by sex workers across the globe. Her dedication to highlighting the issues of sex workers, places her as a strategic

ally to Global HIV and Human Rights organisation where she serves on numerous committees and board of directors representing sex workers and Key Populations in Africa and globally.

**Edwin Bernard, HIV Justice Network**

Edwin Bernard is the Global Coordinator of the HIV Justice Network, working with organisations around the world to end criminal *or similar* laws, policies and practices that regulate, control and punish people living with HIV based on their HIV-positive status. Edwin also co-ordinates the HIV Justice Worldwide campaign, an initiative of ten civil society organisations working together to end overly broad HIV criminalisation.

**Emily Nagisa Keehn, Harvard Law School**

Emily Nagisa Keehn is the Associate Director of the Academic Program at Harvard Law School's Human Rights Program (HRP). Her work primarily focuses on the intersection of human rights issues with penal systems, gender, and health. Prior to joining HRP, she was the head of policy development and advocacy at Sonke Gender Justice in South Africa, where she directed advocacy and research focused on HIV and AIDS, sexual and gender-based violence, and penal reform. She is co-founder of the Detention Justice Forum, a coalition that advocates for the rights of people in detention in South Africa. Previously, she was a researcher at the Health & Human Rights Law Project at UCLA School of Law, and a Fellow of the University of California Global Health Institute's Center of Expertise on Women's Health and Empowerment.

**Estefanía Vela Barba, Sexual and Reproductive Rights Area at the Centro de Investigación y Docencia Económicas (CIDE)**

She heads the Sexual and Reproductive Rights Area at the Centro de Investigación y Docencia Económicas (CIDE), a public university in Mexico City. She is also developing her doctoral research (J.S.D.) at the Yale Law School, which is focused on critiquing the turn to criminalization to protect women's rights in Mexico.

**Fanny Catalina Gómez-Lugo, Synergía**

Fanny Catalina Gómez-Lugo is the Senior Director of Policy and Advocacy at Synergía - Initiatives for Human Rights since 2017. Prior to that, she worked as the human rights specialist coordinating the execution of the legal work, projects, and activities of the Rapporteurship on the Rights of Lesbian, Gay, Bisexual, Transgender and Intersex Persons (LGBTI) at the Inter-American Commission on Human Rights (IACHR), since February 2012. She worked at the IACHR since July 2007, where she started as a fellow, for the Rapporteurship on the Rights of Women. Professor Gómez-Lugo is a graduate from Andrés Bello Catholic University (Venezuela). She earned a LL.M. with a concentration in international law from McGill University, Canada. On a scholarship from the University of Chile, she pursued graduate studies in "Human Rights and Women: Theory and Practice". She completed the Women's Law and Public Policy Fellowship Program (WLPPFP) at GLUC. She has collaborated with Human Rights Watch and the Canadian HIV/AIDS Legal Network. She is currently an Adjunct Professor at the Law Faculty, Georgetown University, where

she teaches courses on human rights, sexual orientation and gender identity, and sexual and reproductive rights. For 2016-2018, she was the Adjunct Professor for the Fact-Finding Practicum of the Human Rights Institute at Georgetown Law, which focused on the rights of LGBTQ people in El Salvador and Guyana.

**Frenia T.A.D.S.Nababan, Indonesian Planned Parenthood Association/ PKBI**

Frenia coordinates advocacy and campaign strategy for various issues related to PKBI's work such as on Child marriage, Sexual Violence, LGBTIQ rights, Safe Abortion for the Indonesian Planned Parenthood Association/ PKBI ([www.pkbi.or.id](http://www.pkbi.or.id)), a nonprofit organization in Indonesia that works on sexual and reproductive health and rights and has offices, clinics and youth centers in 25 provinces across Indonesia. Frenia holds a masters degree in communication, and she believes that unity is a crucial factor to create a social change. Therefore since 2010, Frenia has been actively involved in the various coalition, partnerships and movement related to health, human rights and social justice on the national and regional level.

One of the strongest examples is her involvement in criminal code reformation alliance (aliansi reformasi KUHP), an alliance that consists of more than 30 organizations in Indonesia with focus on law reform and human rights. In 2015, she began her advocacy work on Indonesia's revision of the criminal code, especially focused on sexuality sexual and reproductive health, and women rights. Together with members of criminal code reformation alliance, she wrote three publications which aim to block the attempt to criminalize sexuality in the revision of criminal code (in constitutional court and in the Indonesia parliament).

Other than criminal code reformation alliance, she is also part of GKIA (partnership for maternal and child health movement) governing body, the core team member for ASEAN Youth Forum, coalition 18 + (the anti-child marriage advocacy and campaign), an anti-sexual violence campaign with the Save our Sisters (SOS) network #gerakbersama and KITASAMA (Right Here Right Now Indonesia).

**Geetanjali Misra, CREA**

Geetanjali Misra is the Co-Founder and Executive Director of CREA. Geetanjali has worked at the activist, grant-making, and policy levels on issues of sexuality, reproductive health, gender, human rights, and violence against women. She has taught as an adjunct professor on the intersection of LGBT issues, sexual rights and public health at the Columbia University Mailman School of Public Health. Before joining CREA, she was Program Officer, Sexuality and Reproductive Health for the Ford Foundation in New Delhi and supported non-governmental organizations in India, Nepal, and Sri Lanka working on sexual and reproductive health and rights. She also co-founded SAKHI for South Asian Women in 1989, a non-profit organization in New York, committed to ending violence against women of South Asian origin. Geetanjali currently chairs the Board of Reproductive Health Matters (UK), a global peer reviewed journal on sexual and reproductive health and rights. Formerly, she was Chair of the Board of Mama Cash (the Netherlands), a Board Member of FHI 360 (USA) and also served as President of the Board of the Association for Women's Rights in Development (AWID) where she led a strategic planning and organizational development process leading to changes in leadership roles and structure. In the past, she

held several key advisory roles such as being a Member of Cordaid's Expert Advisory Group (the Netherlands), served as a core member of the Action Plus Coalition for Rights, Education and Care in HIV/AIDS (India), was regional and global advisor for Global Fund for Women (USA) among others. She writes on issues of sexuality, gender, and rights, and has co-edited *Sexuality, Gender, and Rights: Exploring Theory and Practice in South and Southeast Asia* from SAGE and author of *The Power of Movements* published by AWID. She holds Master's degrees in International Affairs from Columbia University, US, and in Economics from Syracuse University, US.

**Jaime Todd-Gher, Amnesty International**

Jaime Todd-Gher is a human rights lawyer specializing in issues of gender, sexuality and health. She is Legal Advisor at Amnesty International where she leads a project focusing on the human rights implications of punitive laws and policies regulating sexuality and reproduction. Jaime has also worked as a Human Rights Advisor and Programme Officer with the WHO and UNAIDS, and a Global Advocacy Fellow with the Center for Reproductive Rights. She engages in human rights litigation and advocacy before United Nations and regional human rights bodies and supports national-level advocacy strategies with partner organizations worldwide. Jaime holds an LL.M. in international law and gender from American University, Washington College of Law, a J.D. from the University of San Francisco, School of Law, and a B.A. in sociology from the University of California, Santa Barbara.

**Jasmine Lovely George, RESURJ**

Jasmine Lovely George is a lawyer, and a sexual and reproductive health advocate from India. She has founded Hidden Pockets, a community interest startup working on access to sexual and reproductive health in cities. She is passionate about changing technology spaces and making them more inclusive for people from all genders. She has been working with diverse minority groups and has been working on changing the narrative around pleasure, access and technology. She is fellow of Women Deliver as well as a YCI Champion.

**Jide Macaulay, House of Rainbow**

Reverend Jide Macaulay is the founding Pastor and CEO of House of Rainbow CIC. British-Nigerian, Anglican, HIV+ activist, Author, holds a degree in Law, masters' degree in Theology and Post-graduate certificate in Pastoral Theology. He served from 2007 to 2013 as Executive Board member and Co-Chair of Pan Africa International Lesbians and Gay Association. He is currently Regional Africa Representative of Global Interfaith Network, Board of Trustee at Kaleidoscope Trust UK, and a Trained Volunteer Champion at Afruca Children's Charity.

**Joe Wong, Asia Pacific Transgender Network ("APTN")**

He is a trans advocate with experience in community organising, and targeted interventions and programmes relating to rights, general health and sexual health of gender and sexual minorities. For the

last 7 years, Joe has contributed to APTN's growth, as their former board and steering committee member (2010 - 2013), and currently as APTN Programme Manager. Joe had been actively leading in the transgender HIV response well-before he assumed his role at APTN in 2010. He was the driving force behind the Asia-Pacific Trans Health Blueprint, a regional contextual map outlining key challenges, gaps, and interventions for transgender people in the region. He has written on and implemented best practices and continues to prove that there can be no real response to the advancement of trans sexual health and human rights without the presence, voices, and contributions of transgender people. On his own, he handles transphobia with stoic resilience.

#### **Kene Esom, UNDP**

Kene Esom works with UNDP's HIV, Health and Development Group as Policy Specialist: Human Rights, Law and Gender. Before joining UNDP, Kene worked on various human rights and social justice issues including rights in conflict, forced migration, gender-based violence, sexual orientation and gender identity, at policy and programme development levels. He has supported communities to engage in national, regional and global policy spaces to address exclusion, marginalization and State accountability. Prior to his development, human rights and social justice work, Kene was in private practice as a barrister-at-law. He has a Masters of Law (LLM) in human rights and democratization from the University of Pretoria, South Africa. Kene's role advances the UNDP HIV, Health and Development Group's priorities on promoting gender equality and empowering women and girls, and enabling legal, policy and regulatory environments for HIV and health which also includes engaging with stakeholders in efforts to mitigate the negative impact of overly broad criminalization.

#### **Kenyon Farrow, Treatment Action Group**

Kenyon Farrow has been an HIV prevention and treatment activist and writer since 1998, when he joined the staff at AIDS Task Force of Greater Cleveland. Since then, Kenyon has worked on campaigns that bring together HIV, criminal justice, and housing policy issues focusing on black and LGBTQ communities. As the former executive director of Queers for Economic Justice, Kenyon worked on a movement-building project to strengthen the connections of grassroots LGBTQ organizations to national racial and economic justice policy issues. In addition, he helped launch Project UNSHACKLE, a national network of HIV and criminal justice advocates while at Community HIV/AIDS Mobilization Project (CHAMP). Organized a faith-based project creating a campaign for Black LGBT people of faith at the New York State Black Gay Network. He also worked as communications manager for Housing Works. He currently serves on the board of Streetwise and Safe in NYC.

#### **Laura Katzive, Wellspring Philanthropic Fund**

Laura Katzive is a Senior Program Officer in the Reproductive Rights and Women's Rights Programs of Wellspring Advisors, a philanthropic consulting firm that coordinates grantmaking for clients interested in advancing the realization of human rights and social and economic justice. Laura's grantmaking includes support for strategies aimed at advancing reproductive rights in the US and globally. Before joining Wellspring in 2010, Laura worked at the Center for Reproductive Rights, for four years serving as Deputy

Director of the Center's International Legal Program. During her time at the Center, Laura advocated at the UN, supported international litigation, and developed tools and resources to advance global legal advocacy. Laura received a JD and an LL.M in International and Comparative Law from Cornell University and a BA from Haverford College.

**Madhu Mehra, Partners for Law in Development**

Madhu Mehra is a feminist lawyer, a founding member and Executive Director of Partners for Law in Development (PLD), a legal resource group working in the fields of social justice and women's rights in India. She works primarily in India, South Asia and the Asia-Pacific, in programming, training, research, and policy advocacy; engaging as well with the international human rights system. Her fields of expertise are: CEDAW and international human rights law; feminist and critical legal perspectives in law and rights based programming. Her work in respect of women's rights has been intersectional, taking into account the impact of class, poverty/development, ethnic, caste, cultural identity politics and sexuality, and has published on these themes. Her regional engagements are through the Asia Pacific Forum for Women, Law and Development (APWLD) and International Women's Rights Action Watch (IWRAP-AP). She undertook the review of 15 years of the mandate of the UN Special Rapporteur on Violence against Women.

**Mari-Claire Price, RESURJ**

Mari-Claire has been a member of RESURJ since 2012 and is currently a member of the secretariat. Mari-Claire has worked in the field of Sexual and Reproductive Rights for over 8 years, most recently as the Executive Coordinator of the Youth Coalition for Sexual and Reproductive Rights and Executive Coordinator and Board member of YouAct, European Network for Sexual and Reproductive Rights. Alongside working with homeless and at-risk young people in Croatia, Bosnia, Vietnam and Nigeria, Mari-Claire has worked on various projects within her own community in the UK; on projects focused on housing for young people leaving care, empowerment programs for young women leaving prison, entrepreneurial projects for young people from low-income communities and developing and delivering sexual health programs with homeless young people in London through the UK Family Planning Association and Centrepoin. Mari-Claire was previously the youth coordinator with FORWARD UK working with young women from Female Genital Mutilation practicing communities in the UK. Mari-Claire has also worked as a Campaigns Officer and on an IPPF research project related to child marriage and holds a degree in development studies and women in Islam from Middlesex University.

**Maya Zaman, Forum for Dignity Initiatives-FDI**

Maya Zaman is a transgender rights activist from Pakistan. She is a young transwoman representing strong transgender community members in Pakistan. She is president board of directors at Forum for Dignity Initiatives-FDI, a research and advocacy forum working for the promotion of human rights of sexual and gender minorities in Pakistan. Maya faced all kind of stigma and discrimination from her family to larger society, her family abandoned her because of her gender identity and expression but she did not give up

on her struggle to create an enabling environment for her community fellow to be accepted and celebrated as equal citizens of Pakistan.

Maya is among a few who completed her graduation from a mainstream university in Pakistan with all her expression and gender identity out loud. She is one of active members for national task forces on the rights of transgender protection policy and legislation in Pakistan."

### **Melissa Upreti, Rutgers University/UNWGDAW**

Melissa Upreti is a human rights lawyer and women's rights advocate who has spent nearly two decades advocating for the recognition and fulfillment of women's rights through the use of national, regional, and international law and mechanisms. She has led fact-finding missions, undertaken strategic litigation, built the capacity of civil society organizations and provided technical support for law reform to governments in Asia.

Ms. Upreti started her career working for a feminist legal advocacy organization and The Asia Foundation in Nepal. Upon receiving her LL.M. from Columbia Law School in the United States, she joined the Center for Reproductive Rights where she was the founding attorney of the Asia program. Building on the success of a series of capacity building initiatives on strategic litigation in India and Nepal focusing on maternal mortality and access to safe abortion, she led the conceptualization and launch of the South Asia Reproductive Justice and Accountability Initiative which has resulted in precedent setting cases on contraceptive access and obstetric fistula in Asia. She actively facilitated and participated in the first CEDAW Special Inquiry in Asia in 2012 and was co-petitioner in the landmark case, *Lakshmi Dhikta v. Nepal*, which recognized access to abortion as a constitutionally protected right. She has worked closely with regional mechanisms to advance women's reproductive rights including the South Asian Association for Regional Cooperation to strengthen regional commitments to end child marriage and played a key role in bringing about the adoption of the Kathmandu Call for Action to End Child Marriage in South Asia in 2014. Ms. Upreti has written and lectured extensively about women's reproductive rights and the importance of legal accountability. Her articles and other publications on women's reproductive rights and discriminatory practices such as child marriage have been used by activists to develop legal strategies and in courses on human rights.

### **Mindy Jane Roseman, Yale University**

Mindy Jane Roseman is the Director of International Programs and Director of the Gruber Program for Global Justice and Women's Rights. Prior to joining Yale Law, Roseman was the Academic Director of the Human Rights Program and a Lecturer on Law at Harvard Law School from 2005-2016 where she taught courses on gender and human rights, as well as reproductive health and justice. Roseman was also an instructor in the Department of Population and International Health at Harvard School of Public Health. Before joining Harvard, Roseman was a staff attorney with the Center for Reproductive Rights in New York, in charge of its East and Central European program.

As both a researcher and advocate, Roseman specializes in international health and human rights, particularly as they relate to gender, sexuality, and reproduction. She has fostered the development of health and human rights norms, as well as their implementation, at the international and national level. Roseman received her J.D. from Northwestern University School of Law and served as an Articles Editor on its *Law Review*. She also received a Ph.D. from Columbia University, in Modern European History with a focus on reproductive health. After graduating from law school, she clerked for Judge John F. Grady, Chief Judge, U.S. District Court, Northern District, IL.

**Neil McCulloch, Global Network of Sex Work Projects (NSWP)**

Neil McCulloch is Senior Policy Officer with the Global Network of Sex Work Projects (NSWP), since 2010. He leads on the development of advocacy tools that will strengthen the work of NSWP's regional networks and member organisations in campaigning for the rights of female, male and transgender sex workers and amplify the voices of sex workers globally. He has previously spent over 20 years managing health services, as a service provider, strategic planner and a commissioner in the UK public and voluntary sectors, including working with people living with HIV, children and young people, refugees, asylum seekers and LGBT communities.

**Phillipa Tucker, AIDS Accountability International**

Phillipa Tucker is an European-African human rights activist with a focus on HIV and sexual and reproductive health and rights. Phil is the Research and Communications Director at AIDS Accountability International (AAI). At AAI she focusses on rights for sexually and gender diverse people, women, girls, prisoners and youth. Throughout her career Phillipa's passion for ethical, inclusive and participatory research methodologies has resulted in needs-based, collaborative, high quality and useful research processes and outputs. Phillipa is at her happiest when she is allowed to develop innovative opportunities to merge her roots in pedagogy, community work, political theory and a desire for high design and accessible communication to improve access to human rights.

**Poonam Daryani, Yale Global Health Justice Partnership**

Poonam Daryani is the 2017-2018 Clinical Fellow with the Yale Global Health Justice Partnership. She is a public health practitioner invested in health equity and social justice for historically marginalized communities. Her background includes building anti-oppression public health workshops, teaching in Malaysia as a Fulbright grantee, as well as managing an India-based maternal health initiative. As a Johns Hopkins-Pulitzer Center Reporting Fellow, Poonam also explored the long-term impacts of the Zika epidemic on caregivers in the northeast of Brazil. Poonam holds a B.A. from Scripps College and a MPH from Johns Hopkins University.

**Ricky “Rikki” Nathanson, Trans\* Research, Education, Advocacy & Training (TREAT)**

In September 2015 she formed Trans\* Research, Education, Advocacy & Training [TREAT], which seeks to address the rights issues in the education, advocacy and training about, and to, the basic violations of the human rights of the trans\* diverse and gender non-conforming population of Zimbabwe in the areas of health, justice and the socio economy. TREAT is based in Bulawayo, Zimbabwe. TREAT was subsequently registered as a Trust early 2017.

She belongs to the following regional and international bodies: The Southern Africa Trans Forum [SATF] serving as Secretary; The Trans\* Women’s Feminist Institute; The All Africa Trans\* & Intersex Committee; and, The Africa Key Populations Expert Advisory Group to the UNDP.

She serves on many regional Boards – locally, regionally and internationally: Sexual Rights Centre [SRC] and POW WOW – Zimbabwe; Social Health Empowerment [SHE], African Men for Sexual Health and Rights [AMShER] and ENZA Research – South Africa, Trans Bantu Association Zambia and The International Reference Group of Trans Women [IRGT] in the fight against HIV/AIDS.

Professionally, she holds a qualification with the Institute of Chartered Secretaries & Administrators of Zimbabwe.

**Rupsa Mallik, CREA**

Rupsa Mallik is Director, Programmes and Innovation at CREA. Over a decade and a half Rupsa has been engaged in advocating for sexual and reproductive health and rights and gender equity and justice in various capacities. She holds a Masters degree in Women and Development from the Institute of Social Studies, The Hague, The Netherlands.

**Sai Jyothir Mai Racherla (Sai), ARROW**

Sai Jyothirmai Racherla is currently the Programme Director at The Asian Pacific Resource and research Centre for Women (ARROW). She come with a background in nutrition, population Studies and research. Sai has been involved in the monitoring of the ICPD Programme of Action and the currently the Sustainable Development Agenda in the Asia Pacific region, and the regions of the Global South. Her other key focus area of work revolves around young people including young LGBTIQ people access to sexual and reproductive health and rights (SRHR) without stigma, discrimination and violence.

**Sannia Sutherland, Caribbean Vulnerable Communities**

Sannia Sutherland is Project Coordinator at CVC Former Director of Technical Coordinator/Programme Management with the Ministry of Health of Jamaica, she brings to the team 15 years of knowledge and experience in Programme Management, HIV & AIDS and Communication.

**Sarah Aquilla, Yale Global Health Justice Partnership**

Sarah Aquilla is the program coordinator for the Global Health Justice Partnership at Yale Law School. As coordinator, Sarah oversees the daily operations of the budget, media, programs, events, and websites. Prior to the GHJP, she was a program manager in the executive education department at the Yale School

of Management. Sarah has a heart for global justice and spent 5 years working for a nonprofit, preparing and sending teams out to do humanitarian aid work all over the world. Some of her favorite places to work were China, Brazil, and Panama. She has a BS from Sacred Heart University and originates from Long Island, NY.

### **Sequoia Ayala, Sister love**

Sequoia graduated from the American University Washington College of Law (WCL) in May 2016. As a dual JD/MA candidate, she will receive her Master's degree in International Development with a concentration in nonprofit management in December 2016. She is passionate about human rights and access to justice, with an emphasis on bridging the gap between politically marginalized communities and access to civil legal assistance. While in law school, Sequoia represented clients who had been subjected to partner violence in the District of Columbia and Maryland on immigration and family law matters through her participation in the Women and the Law Clinic. As a law clerk with Maryland Legal Aid, Sequoia assisted low-income Marylanders on matters related to Family Law, Consumer Law, and Elder Law and successfully designed a clinic outreach framework and workshop for *pro se* litigants in domestic family law cases. While at WCL, in addition to serving on the executive boards of the Women's Law Association and Action for Human Rights, Sequoia founded the Parents Attending Law School Association and advocated on behalf of pregnant and parenting students. Her work as a research assistant with the Impact Litigation Project involved addressing innovatively the relationship between gender and religion-based violence and repression in Latin America. Sequoia is a trained facilitator of intercultural dialogue and prior to law school, facilitated a PAHO-sponsored program, *Familias Fuertes*, designed to strengthen interfamilial communication within Latino families on issues including sex and reproductive health. A proud University of Georgia alumna and native Georgian, Sequoia resides in Atlanta with her husband and two sons.

### **Sri Agustini (Agustine), Ardhanary Institute**

Sri Agustini (Agustine), director of Ardhanary Institute (LBT research, publishes and advocacy center), creates ways for Indonesian lesbians, bisexuals, and transgenders female to male (LBT) and broader society to acknowledge the existence and sexual rights of LBT's through capacity building, advocacy and community-building. Agustine, herself a lesbian, is bringing awareness of the issues facing this marginalized and strongly discriminated against LBT to the attention of the mainstream Indonesian society. She is also working for Sexual and Reproductive Health and Rights (SRHR) issues to mainstreaming gender and sexual diversity in SRHR program. This year (2018) she started as a lawyer of LGBTI that faces the criminal act in Indonesia.

### **Susana T. Fried, Global Health Justice Partnership**

Susana T. Fried is a Fellow at the Global Health Justice Partnership (Yale University) where she focuses on strengthening engagement, understanding, focus and commitment to right-based, progress and participatory action on human rights, sexuality, gender, sexual orientation and gender identity/expression, HIV, and health. Her work on sexuality, rights, bodily autonomy and sexual conduct emphasizes building voice and capacity and sustaining alliances across issues and communities. Susana

has worked in a senior staff capacity or as a consultant with a wide range of women's rights, human rights, sexuality-related rights and SRHR organizations, including UN Development Programme (UNDP), Open Societies Foundation, Astraea, ICASO, the Center for Women's Global Leadership, Amnesty International, OUTRIGHT Action International (formerly the International Gay and Lesbian Human Rights Commission), the International Women's Health Coalition, the Harvard School of Public Health, WHO, and the UN Office of the High Commissioner for Human Rights, among others. She has spoken and written widely on topics related to gender-based violence, sexuality, health and rights. She is currently a Board member of the Positive Action for Girls and Women Fund and the Athena Network and sits on the Advisory Committee of Human Rights Watch's Lesbian, Gay, Bisexual, and Transgender Rights Program.

**Tashwill Esterhuizen, Southern Africa Litigation Centre (SALC).**

Tashwill Esterhuizen is employed as an LGBTI and Sex worker Rights Programme Lawyer at the Southern Africa Litigation Centre (SALC). SALC is a regional human rights organisation who envisage to remove legal barriers (affecting minority groups and key populations) through strategic litigation and advocacy. Tashwill holds an LLB from the University of Cape Town (UCT) and is an admitted attorney of the High Court of South Africa. He has extensive experience in public interest and human rights law litigation and advocacy. Prior to his employment at SALC, he was employed as a litigation attorney at Socio- Economic Rights Institute of South Africa (SERI), where he was involved in a number of public interest litigation cases in South Africa which includes the provision of housing and shelter to vulnerable groups and consumer protection.