Policy Roadblocks to Reach Key Populations with HIV/AIDS Services within the East African Community

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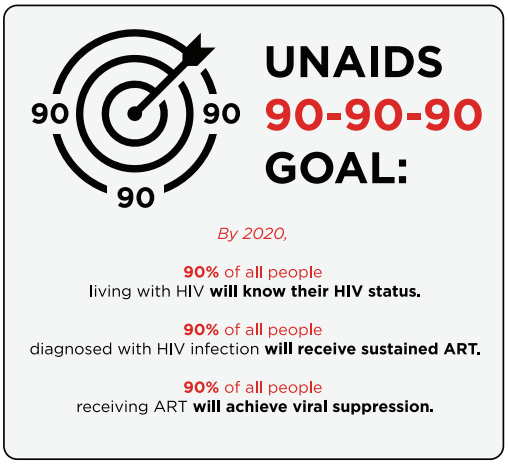
BACKGROUND



Burundi, Kenya, Rwanda, South Sudan, Tanzania and Uganda, comprise the partner states of the East African Community (EAC). Combined, these countries have approximately 4.9 million people living with HIV (PLHIV) – 13% of the global PLHIV population. EAC partner states have mobilized significant resources for HIV prevention and treatment services that have contributed to a decline in HIV prevalence. The HIV epidemic in these countries is generalized and also concentrated among key and vulnerable populations particularly criminalized groups: commercial sex workers, men who have sex with men, and people who inject drugs. To achieve 90-90-90, EAC partner states will require interventions focused on key populations and a supportive legislative and policy framework. This was one of the objectives of the EAC HIV and AIDS Prevention and Management Act 2012, which provides a harmonized framework to guide HIV responses in partner states and provide protection for key and vulnerable populations.

Through Abt Associates (Abt), the USAID funded Cross-Border Health Integrated Partnership Project conducted a desk review of EAC and partner states´ HIV related legislation, policies, and strategies. Abt sought to identify if partner states' legislation is consistent with the objectives of the EAC HIV legislation, specifically for protection of key populations. Abt focused on points of convergence and divergence, and fundamental issues affecting key populations.

RESULTS

The EAC HIV and AIDS Prevention and Management Act 2012 seeks to create a standard rights-based approach across the EAC for the HIV/AIDS response. Key provisions include freedom from discrimination, freedom of movement, access to appropriate care and treatment, non-disclosure of HIV status, prohibition of compulsory testing, and protection of vulnerable and most-at-risk populations.

EAC partner states have developed a rights- based approach in their legislation and have secured the right to access to health services including HIV services in their constitutions and/or health and HIV specific legislation. Countries have instituted agencies with the mandate to develop policies and standards, and propose legislation to support HIV prevention, care and treatment. This has facilitated rapid scale up of HIV services, robust monitoring and evaluation systems, and AIDS indicator surveys to provide up-to-date data on the epidemic to aid decision making.

Among EAC partner states, common positive elements include mandating provision of HIV services, maintaining confidentiality of HIV status and prohibiting discrimination in employment and admission to academic institutions based on HIV status. However, there are regressive elements such as mandatory disclosure to third parties without consent; criminalization of intentional transmission; criminalization of key populations; and mandatory testing of some populations which contradicts EAC legislation. These provisions, continue to propagate stigma and discrimination among key populations and impede their access to HIV prevention and treatment services. Figure 1 provides a comparison of the EAC HIV and AIDS Prevention and Management Act and EAC partner states' legislation.

DISCUSSION

EAC partner states have made great strides in addressing the HIV epidemic, resulting in reduced prevalence. However, to reach 90-90-90, additional efforts are needed to reduce pockets of infection among key populations. Criminalization of these groups hinders their access to HIV services and allows them to face continued discrimination. Fully aligning policies of each partner state with the EAC legislation will be a further step in addressing the stigma key populations face.

The EAC should engage partner states to harmonize their legislation and policies with the EAC HIV and AIDS Prevention and Management Act regarding protection of key populations. Once the EAC heads of state assent to East Africa Legislative Assembly (EALA)[1] laws, the partner states are expected to align their legislation to the EALA laws.

1 The East Africa Legislative Assembly is the legislative arm of the EAC.

Figure 1. Comparison of the EAC HIV and AIDS Prevention and Management Act 2012 and EAC partner states' legislation

Aligned to the EAC HIV and AIDS Prevention and Management Act 2012

Policy provision	Burundi	Kenya	Rwanda	South Sudan	Tanzania	Uganda
Mandate provision of HIV services without discrimination						
Prohibit discrimination at the work place based on HIV status				*		
Respect of persons and maintaining confidentiality of HIV status						
Voluntary testing						

Not aligned to the EAC HIV and AIDS Prevention and Management Act 2012

Policy provision	Burundi	Kenya	Rwanda	South Sudan	Tanzania	Uganda
Penal code criminalizes homosexuality, sex work and drug use						
Criminalization of intentional transmission			**			
Mandatory disclosure to third parties of HIV status without consent			no information found	no information found		
Mandatory testing in specific conditions**						

*No information found on a specific policy, but South Sudan has ratified the International Labor Organization's C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111) to develop a national policy protecting workers from discrimination.

**Rwanda criminalizes intentional transmission of a terminal disease but this provision does not specify HIV transmission.

***Includes clinical setting or in the opinion of a clinician, an incapacitated person, court order, sex offenders, and donated tissue or products.

The EAC should continuously monitor legislation in partner states that may potentially undermine the protections intended for key populations. Should laws that are inconsistent with the EAC HIV and AIDS Prevention and Management Act be passed, the EAC can intervene through EALA. Finally, the EAC should support countries to develop action plans to cascade the EAC HIV and AIDS Prevention and Management Act to relevant agencies for implementation.

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