

# Use of the Expert Consensus Statement on the Science of HIV in the Context of Criminal Law

July 2018 - June 2020



## Interim Scoping Report

## Acknowledgements

This report was written by the HIV Justice Network's Senior Policy Analyst, Sally Cameron.

We would like to sincerely thank the 20 co-authors of the Expert Consensus Statement on Science of HIV in the Context of Criminal Law, as well as colleagues at the International AIDS Society (IAS), International Association of Providers of AIDS Care (IAPAC), the Journal of the International AIDS Society (JIAS), and the Joint United Nations Programme on AIDS (UNAIDS).

Thanks also to the HIV Justice Network team and our colleagues on the HIV JUSTICE WORLDWIDE Steering Committee: AIDS Action Europe, AIDS and Rights Alliance for Southern Africa, Canadian HIV/AIDS Legal Network, Global Network of People Living with HIV, International Community of Women Living with HIV, Positive Women's Network-USA, Sero Project and Southern Africa Litigation Centre, as well as numerous colleagues who are members of the HIV JUSTICE WORLDWIDE coalition.

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## Executive Summary

The [Expert consensus statement on the science of HIV in the context of criminal law](#) (Expert Consensus Statement) is the result of a process initially developed by a partnership comprising the International AIDS Society (IAS), the International Association of Providers of AIDS Care (IAPAC), the Joint United Nations Programme on HIV/AIDS (UNAIDS) and HIV JUSTICE WORLDWIDE<sup>1</sup>.

It describes current evidence on HIV transmission, treatment effectiveness and forensics so that HIV-related science may be better understood in criminal law contexts. Authored by 20 of the world's leading HIV scientists, and endorsed by more than 70 additional expert scientists, as well as IAPAC, IAS and UNAIDS, the Expert Consensus Statement was published in the peer-reviewed *Journal of the International AIDS Society* (JIAS) in July 2018.

In early 2020, the HIV Justice Network undertook a rapid scan to collect information about how the Expert Consensus Statement has been used since its publication to explore whether it has satisfied the aims of the original project.

The scan found that the Expert Consensus Statement is meeting both its primary aim (to support defence arguments in HIV criminalisation cases) and its secondary aim (supporting lobbying for law and policy reform) in many jurisdictions.

The scan also found that the process of developing and promoting the content of the Expert Consensus Statement has delivered additional benefits that further support advocacy efforts to end HIV criminalisation.

In summary, the Expert Consensus Statement is being used to:

- Assist HIV criminalisation defence arguments and strategic litigation, changing courts' understanding of transmission risks associated with HIV and the effectiveness of modern treatments.
- Shape advocacy for law and policy reform, including mobilising stakeholders to lobby for reform, delivering law and policy reform, improving legal and judicial practice, facilitating community advocates' access to government and judicial bodies, and gaining support from public health bodies and customary and religious leaders.
- Inform scientific and medical thinking, including being cited in many peer reviewed articles and in scientific and medical press, being hosted on the sites of scientific/medical/academic organisations, and being ranked the #1 JIAS article to date.
- Develop stronger relationships that cross silos and advance capacity, enabling efficient and informal communications between partners to rapidly move projects forward, with Expert Consensus Statement authors supporting community organisations by assisting in

<sup>1</sup> The HIV Justice Network serves as the secretariat for [HIV JUSTICE WORLDWIDE \(HJWW\) Steering Committee](#) comprising: AIDS Action Europe, AIDS and Rights Alliance for Southern Africa, Canadian HIV/AIDS Legal Network, Global Network of People Living with HIV, HIV Justice Network, International Community of Women Living with HIV, Positive Women's Network-USA, Sero Project and Southern Africa Litigation Centre. Visit [the HJWW website](#) for more information about the HIV JUSTICE WORLDWIDE coalition.

defence cases, answering ad hoc questions and co-authoring abstracts, presentations and articles.

- Disseminate accurate, positive messages about people living HIV and the issue of HIV criminalisation, including facilitating keynote addresses and presentations at notable conferences and meetings, and generating global mainstream, community and social media. Ultimately, interest in the Expert Consensus Statement has elevated the global conversation about HIV criminalisation, with co-ordinated messaging translating into a powerful positive narrative in many sites.

## Background

During 2017 and 2018, the HIV JUSTICE WORLDWIDE (HJWW) Steering Committee undertook a lead role coordinating a Secretariat of partners<sup>2</sup> to support the development of an academic paper outlining current science on HIV transmission and treatment.

The primary aim of the project was to produce a document which could be used by scientific experts when giving evidence for the defence in HIV criminalisation cases. A secondary aim was to consolidate scientific evidence which might be persuasive when advocating for law and policy reform.

In July 2018, the resulting peer-reviewed [Expert consensus statement on the science of HIV in the context of criminal law](#) (Expert Consensus Statement) was published in the *Journal of the International AIDS Society* (JIAS), authored by 20 of the world's leading HIV scientists and [endorsed by more than 70 additional expert scientists from 46 countries](#), as well as IAPAC, IAS and UNAIDS. It describes current evidence on HIV transmission, treatment effectiveness and forensics so that [HIV-related science may be better understood in criminal law contexts](#).

## Scoping process

In early 2020, the HIV Justice Network commenced a process to collect information about how the Expert Consensus Statement has been used since publication, including whether it has satisfied the aims of the original project. Without a specific funding allocation, HJN initiated a rapid scan, aiming to collect basic information that could inform decisions about possible follow-up activities to promote use of the Expert Consensus Statement, including what those activities might be. The process included a desk review, a request for input circulated on the HJWW list-serve, and follow-up emails with key informants.

**Findings** In summary, the rapid scan found that the Expert Consensus Statement is meeting both its primary aim (to support defence arguments in HIV criminalisation cases) and its secondary aim (supporting lobbying for law and policy reform) in many jurisdictions. The scan also found that the process of developing and promoting the content of the Expert Consensus Statement has delivered additional benefits which further support advocacy efforts to end HIV criminalisation. The findings are outlined in more detail below.

Barré-Sinoussi F et al. *Journal of the International AIDS Society* 2018, **21**:e25161  
<https://onlinelibrary.wiley.com/doi/10.1002/jia2.25161> | <https://doi.org/10.1002/jia2.25161>



### CONSENSUS STATEMENT

#### Expert consensus statement on the science of HIV in the context of criminal law

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#### Abstract

**Introduction:** Globally, prosecutions for non-disclosure, exposure or transmission of HIV frequently relate to sexual activity, biting or spitting. This includes instances in which no harm was intended, HIV transmission did not occur, and HIV transmission was extremely unlikely or not possible. This suggests prosecutions are not always guided by the best available scientific and medical evidence.

**Discussion:** Twenty scientists from regions across the world developed this Expert Consensus Statement to address the use of HIV science by the criminal justice system. A detailed analysis of the best available scientific and medical research data on HIV transmission, treatment effectiveness and forensic phylogenetic evidence was performed and described so it may be better understood in criminal law contexts. Description of the possibility of HIV transmission was limited to acts most often at issue in criminal cases. The possibility of HIV transmission during a single, specific act was positioned along a continuum of risk, noting that the possibility of HIV transmission varies according to a range of intersecting factors including viral load, condom use, and other risk reduction practices. Current evidence suggests the possibility of HIV transmission during a single episode of sex, biting or spitting ranges from no possibility to low possibility. Further research considered the positive health impact of modern antiretroviral therapies that have improved the life expectancy of most people living with HIV to a point similar to their HIV-negative counterparts, transforming HIV infection into a chronic, manageable health condition. Lastly, consideration of the use of scientific evidence in court found that phylogenetic analysis alone cannot prove beyond reasonable doubt that one person infected another although it can be used to exonerate a defendant.

**Conclusions:** The application of up-to-date scientific evidence in criminal cases has the potential to limit unjust prosecutions and convictions. The authors recommend that caution be exercised when considering prosecution, and encourage governments and those working in legal and judicial systems to pay close attention to the significant advances in HIV science that have occurred over the last three decades to ensure current scientific knowledge informs application of the law in cases related to HIV.

**Keywords:** human rights; law and policy; risk factors; policy; criminalization; criminal law; prosecution

Additional Supporting Information may be found online in the Supporting Information tab for this article.

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#### 1 | INTRODUCTION

At least 68 countries have laws that specifically criminalize HIV non-disclosure, exposure, or transmission. Thirty-three countries are known to have applied other criminal law provisions in similar cases. (Unpublished data, HIV Justice Network, 2018). Most prosecutions have related to perceived risk of HIV acquisition associated with sexual activity but prosecutions have also occurred for acts such as biting and spitting. (Unpublished data,

HIV Justice Network, 2018). These laws and prosecutions have not always been guided by the best available scientific and medical evidence. [1] have not evolved to reflect advancements in knowledge of HIV and its treatment, and can be influenced by persistent societal stigma and fear associated with HIV [2]. HIV continues to be singled out, with prosecutions occurring in cases where no harm was intended; where HIV transmission did not occur, was not possible or was extremely unlikely; and where transmission was neither alleged nor proven [1,3].

<sup>2</sup> The Secretariat comprised the HJWW Steering Committee, the International AIDS Society (IAS), the International Association of Providers of AIDS Care (IAPAC) and the Joint United Nations Programme on HIV/AIDS (UNAIDS).

## Assisting HIV Criminalisation Defence Arguments and Strategic Litigation

The Expert Consensus Statement is proving a useful tool in legal cases in many jurisdictions, changing courts' understanding of transmission risks associated with HIV. It has been used to support defence arguments in many cases (the project's primary aim) but also, via strategic litigation, testing the constitutionality of highly problematic laws. Notable precedent-setting, or potentially precedent-setting, cases include:

- The [Constitutional Court of Colombia](#)'s decision to remove the section of the criminal code criminalising HIV and hepatitis B exposure and transmission. The court held that the law did not pass the proportionality test because it is not a necessary or effective measure for its intended purpose, also violating principles of equality. The case was supported by amicus briefs from Justice Edwin Cameron (supported by the HIV JUSTICE WORLDWIDE Steering Committee) and UNAIDS.
- An ongoing constitutional challenge in the Kenyan High Court challenging section 26 of Kenya's *Sexual Offences Act* which relates to HIV exposure or transmission, including in cases unrelated to sexual offences. Problematic features of the law include that it is vague and overly broad, can be applied even if a person did not know their actions may transmit HIV if they 'ought to reasonably know', does not include a defence of consent, and it carries a sentence of 15 years to life.
- A current case before the Court of Appeal for Ontario, *R v N.G.*, which argues that correct condom use is, and should be, sufficient to prevent criminal prosecution. Arguments include that condom use *per se* negates a 'realistic possibility of transmission', it is unfair to convict a person based on presumed possibility of HIV transmission rather than demonstrated risk, and that criminalising people who use condoms is bad public policy. The Canadian HIV/AIDS Legal Network, COCQ-SIDA and HALCO have been granted intervener status.
- An ongoing constitutional challenge to the death penalty for people living with HIV convicted of sexual assault in Lesotho. The challenge is being supported by the Southern Africa Litigation Centre, with an affidavit provided by Expert Consensus Statement co-author, Linda-Gail Bekker.
- The current constitutional challenge to problematic sections of Uganda's *HIV and AIDS Prevention and Control Act*, brought by a large coalition of civil society organisations challenging articles on 'attempted' and 'intentional' transmission of HIV. The laws are known to have been used in a broad range of circumstances, with cases generally not using scientific evidence to prove allegations. Expert Consensus Statement co-author, Paula Munderi, has worked with lawyers and activists to prepare important evidence.



Munderi (right), flanked by Watiti during a meeting with lawyers on HIV criminalisation at Protea Hotel Entebbe on Wednesday

## HIV laws out of touch with science – medics

From *NEW VISION*, Friday, March 29, 2019

## Shaping Advocacy for Law and Policy Reform

The Expert Consensus Statement has been successfully applied in advocacy efforts (the project's secondary aim) in many jurisdictions. Highlights include:

### Improved legal practice in Canada

The Canadian HIV/AIDS Legal Network has proactively used the Expert Consensus Statement in advocacy for improved legal practice, case law and law reform in Canada, and they are seeing results. Working with the [Canadian Coalition to Reform HIV Criminalization](#), a copy of the Statement was sent to every Attorney General in Canada requesting the development of directives for prosecutors in cases involving HIV. Those advocacy efforts were directly responsible for a directive from the federal Attorney General limiting HIV non-disclosure prosecutions. The Statement was also presented to all members of the House of Commons Standing Committee on Justice to inform their [study of HIV criminalisation](#). The clarity of scientific evidence in the Statement combined with cohesive, expert testimony from academics and community advocates persuaded the Standing Committee to make a [number of recommendations](#) to limit HIV criminalisation, including a recommendation “to end criminal prosecutions of HIV non-disclosure, except in cases where there is actual transmission” and “to review previous convictions”. The Statement also has been characterised by the [Canadian Medical Association Journal](#) as the leading authoritative scientific consensus on the issue (November 2018), and will feature heavily in a chapter on “HIV criminalization” in a forthcoming book on LGBTQ legal issues intended for practitioners serving LGBTQ clients in Canada.

### Meetings with government and judiciary in Morocco

In Morocco, advocates from the Association for the Fight Against AIDS (ALCS) conducted a series of meetings with senior officials from the Office of the Public Prosecutor, the General Directorate of National Security (police), and the Higher Institute of Magistrature; introducing the Expert Consensus Statement and promoting its core messages, the gravitas of the authors, and the importance of accurate science in HIV-related trials. Those meetings also recognised the Statement's local applicability, noting that Prof. Hakima Himmich (Founding President of the ALCS and president of Coalition Plus), and Prof. Mehdi Karkouri (President of the ALCS), are formally recognised as [endorsers of the Statement](#). Moroccan advocacy points to the effectiveness of the

project partners' strategic decision to invite scientific experts from around the globe to endorse the statement prior to its publication, so that it could be locally owned and considered locally relevant.



ALCS staff with judges and prosecutors attending training on HIV, human rights and gender, December 2018. Photo credit: ALCS.

## Official endorsement of the science in the Czech Republic

In the Czech Republic, community advocates have been working to redress a [surge in prosecutions since 2015](#). Soon after the release of the Expert Consensus Statement, the Czech AIDS Help Society worked with a prominent local HIV clinician to translate the Statement into Czech, promoting the Expert Consensus Statement among HIV specialists at several events. In May 2019, the Expert Consensus Statement was endorsed by all Czech HIV Centres, and in June, by the Czech Society of Infectious Diseases. A copy of the Expert Consensus Statement was sent to all district public prosecutors, criminal investigation police departments, district courts, court-appointed expert witnesses and regional public health offices. 2019 was the first year in many that no open court hearing relating to HIV exposure or transmission was registered.

In December 2019, the Czech Society of Infectious Diseases [published the Expert Consensus Statement](#) on its website with an explicit recommendation that it be used in any legal process. The Government Committee for Sexual Minorities has recently adopted a resolution that the Government should ask the Minister of Justice to prepare guidelines on how to investigate and prosecute crimes related to HIV exposure and transmission based on the Expert Consensus Statement's findings, with another round of discussions scheduled.

## Law reform in Belarus

In Belarus, the Expert Consensus Statement has proven a useful tool in [advocacy to both the Health and Justice Ministries of the Belarusian Government](#), which has resulted in important amendments to the country's HIV criminalisation law. Prior to 2018, many HIV-related prosecutions were initiated against the HIV-positive partner in a serodiscordant couple, even where the HIV-negative partner was aware of their partner's HIV status and consented to the acts in question. Often initiated after contact with health care workers, charges were brought even when the partner did not wish to prosecute and/or protective measures were used.

In December 2018, following strong advocacy from local and regional organisations led by Belarusian PLHIV network, People Plus, article 157 of the Criminal Code was amended, removing criminal liability if a person has previously disclosed their HIV-positive status to a partner, and their partner agreed to any acts that could have resulted in transmission. The amendment also triggered a retrospective review of sentences in such cases.



Representatives of People PLUS outside Gomel Court. Photo credit: People PLUS

## Galvanising stakeholders for law reform in Zimbabwe

In late 2018, the Expert Consensus Statement was introduced at [Zimbabwe's 4th Symposium on HIV and the Law](#), hosted by a coalition of organisations comprising Zimbabwean National AIDS Council and Zimbabwe Lawyers for Human Rights with support from Southern Africa Litigation Centre (SALC), the AIDS and Rights Alliance for Southern Africa (ARASA), the HIV JUSTICE WORLDWIDE Steering Committee and UN Women. The Symposium was attended by representatives of the Zimbabwe Executive, Legislature and Judiciary, as well as community-



based organisations, lawyers, and survivors of HIV criminalisation. Since then, advocates have used the Expert Consensus Statement in their efforts to push for a commitment for reform and repeal of Zimbabwe's HIV criminalisation law. In [July 2019](#), Zimbabwe's government moved to repeal [section 79 of the Zimbabwe Criminal Law \(Codification and Reform\) Act](#) through the newly gazetted *Marriages Bill*. The [second reading of the Bill](#) occurred in February 2020. Further parliamentary processes are expected to take place later in 2020 before the Bill can become law.

Promotional image for 'The Implications of the Expert Consensus Statement on Zimbabwe's HIV Criminalisation Law', University of Oxford Human Rights Hub Journal

## Changing Judicial Practice across Africa

Following the release of the 2012 report by the [Global Commission on HIV and the Law](#), the African Regional Judges Forum was established to discuss challenges, progress and developments in the human-rights based response to HIV and TB. In 2019, the Forum met for the sixth time, involving 54 participants from 22 countries, including 30 judges/magistrates as well as lawyers, representatives from judicial training institutes and others.

Supported by UNDP, [the two-day forum](#) provided a venue for senior members of the judiciary to discuss the Expert Consensus Statement, as well as recent legal precedents, and resulting in needs assessments being conducted to inform development of a curriculum to integrate HIV and TB issues into judicial training institutes.

During the Forum, (former) Justice Edwin Cameron of the Constitutional Court of South Africa stressed the importance of the role of the judiciary in ensuring that up-to-date science plays a key role in HIV-related trials, saying, "It is imperative that judges, lawyers and policy-makers ensure that the rule of law — and good sense, backed by medical and

scientific evidence — prevails. It is our duty, as judges, to ensure that injustice and irrationality, fear and ignorance do not triumph”.



Judges who participated in the Forum have since made several important court decisions, including Malawi Justice Zione Ntaba, who applied her understanding of current HIV science in a key [HIV criminalisation case relating to breastfeeding](#).

Participating judges from 22 countries at the Sixth African Regional Judges Forum, 2019.  
Photo credit: UNDP

### **Building understanding among customary and religious leaders in Burkina Faso**

In Burkina Faso, a coalition against HIV criminalisation has been formed and is working on amendments to draft legislation proposed by the National Council for the Fight against HIV/AIDS and STIs (*Conseil National de Lutte Contre le VIH/Sida et Les ISTs*). The coalition is participating in a committee that includes human rights, women's rights and youth organisations as well as representatives of the HIV community, along with UNDP and UNAIDS. This challenging process has included opposition from community and civil society organisations with limited understanding of HIV. The Expert Consensus Statement has proven a persuasive and valuable tool to keep discussions on track, including when participants have become caught up in emotional arguments.

The coalition has also conducted a meeting with customary and religious leaders, who asked whether there was evidence that criminal legislation acts as a deterrent to behaviours that place people at risk of HIV transmission. Upon learning that there is no such evidence, leaders agreed that it is contradictory for a law to criminalise those it is meant to protect (an argument that also had traction in advocacy efforts in the Democratic Republic of Congo), and that if criminalisation does not help prevent transmission, there is no reason for the law to criminalise HIV.

Advocates are continuing to organise, with next steps including a national meeting with all relevant stakeholders to discuss draft legislation so the government can present this to Parliament.

### **Informing scientific and medical thinking**

The Expert Consensus Statement has been mainstreamed in scientific writing, with citations in 21 peer reviewed articles, demonstrating its relevance and influence. Those articles have appeared

in journals including *The Lancet*, *Journal of the International AIDS Society*, *Canadian Medical Association Journal*, *The BMJ*, *Global Public Health*, and *AIDS and Behaviour* (see list of articles at Appendix 1). It is the #1 ranked JIAS article to date (#1 of 1,610) and is in the top 5% of all research outputs scored by Altmetric, ranking in the 99<sup>th</sup> percentile for High Attention Score.

The Expert Consensus Statement has been widely publicized in scientific and medical press, including in France, Italy, Kenya, South Africa, Spain, Switzerland, UK and the USA (see list of examples at Appendix 2). It has also been adopted by a range of scientific and medical organisations and/or educational organisations, with many hosting the statement on their home sites, including [EAGT Training Academy \(Czech\)](#), [Europe PMC](#), [John Hopkins University](#), [US National Library of Medicine National Institute of Health \(NCBI\)](#). It is also hosted on [Research Gate](#) and [Semantic Scholar](#).

### Developing Stronger Relationships that Cross Silos and Advance Capacity

The processes used to develop the Expert Consensus Statement has delivered an ongoing model of collaboration and network building across science, medicine, law, and community.

Strong relationships were formed between many of the original project partners: IAS, IAPAC, UNAIDS, and the HIV JUSTICE WORLDWIDE Steering Committee. The project then evolved through one-on-one interactions and a series of meetings with 20 of the world’s leading HIV scientists – engagements that have had lasting results.



Above: The AIDS 2018 Expert Consensus Statement Press Conference. Photo credit: UNAIDS.

Below: Members of HIV JUSTICE WORLDWIDE celebrate the launch of the Expert Consensus Statement at AIDS2018. Photo credit: HJWW.



Translation of the Expert Consensus Statement was managed by HIV Justice Network, with support from the Canadian HIV/AIDS Legal Network, the Global Network of People Living with HIV and UNAIDS. The launch of the Expert Consensus Statement, and associated press conference, at AIDS2018 involved all partners, with HIV JUSTICE WORLDWIDE’s community press strategy benefitting from the substantial communications

resources of the IAS. Discussions relating to the press conference started months in advance, allowing time to build relationships and trust, resulting in cross-organisation co-ordination and collaboration. Interest in the Expert Consensus Statement has continued to attract engagement between members of the HIV JUSTICE WORLDWIDE coalition and the HIV Justice Network.

The development process has resulted in stronger relationships between leading HIV scientists, lawyers and community advocates. This has enabled efficient, informal communications between partners to rapidly move projects forward. In short, advocates know who to call, and have established direct lines of communications. It has also resulted in a number of important strategies and interventions involving cooperation between community organisations and the scientific co-authors, including:

- Preparation of a scientific affidavit supporting a defendant in the Lesotho death penalty case, 2020 (Linda-Gail Bekker)
- Co-authoring an op-ed for the *New York Times*: 'Living With H.I.V. Isn't a Crime. Why Is the United States Treating It Like One?' 26 Aug 2019 (Chris Beyrer)
- Assistance in the Ugandan constitutional challenge, 2019 (Paula Munderi)
- Co-authoring an abstract and presenting at AFRAVIH 2018, (Alexandra Calmy) and co-authoring an abstract for AFRAVIH 2020 (Françoise Barre-Sinoussi).

### Disseminating accurate, positive messages about HIV & HIV criminalisation

The development and timely launch of the Expert Consensus Statement put the issue of HIV criminalisation front and centre at the 22nd International AIDS Conference - AIDS2018. The involvement of IAS (as conference organisers and Statement partners) elevated the issue of HIV criminalisation, resulting in its inclusion in the opening plenary session, where HIV criminalisation survivor, Robert Suttle (Sero Project), and Allan Maleche (KELIN) spoke alongside Charlize Theron, Elton John and 'Prince Harry', the Duke of Sussex. In particular, Robert's presentation visibly impacted many of those in the audience: changing the minds of scientists, clinicians, health officials, funders and community members: HIV criminalisation is unjust, and it is relevant to them and their work.

The AIDS2018 [press conference](#) generated global media coverage by at least 57 news outlets with additional positive social media. Mainstream media interest is ongoing, with more than 80 reports identified (see list at Appendix 3), noting media scanning has been limited by a focus on English language media.



The Expert Consensus Statement generated supportive and constructive community media coverage in many countries, including Australia, Belgium, Canada, France, Italy, Mexico, Nigeria, Russia, Spain, Switzerland, the UK and the US, as well countries in the Eastern Europe and Central Asia region (list at Appendix 4). It also generated 640 tweets from 404 users in 34 countries (list at Appendix 5), with an upper bound of 1.4 million followers.

Ultimately, interest in the Expert Consensus Statement has elevated the global conversation about HIV criminalisation, with co-ordinated messaging translating into a powerful positive narrative the world over. That narrative is vital if we are to succeed in our efforts to end HIV criminalisation.

The New York Times

## Living With H.I.V. Isn't a Crime. Why Is the United States Treating It Like One?

States' nondisclosure statutes, used to persecute marginalized populations, discourage testing and treatment.

By Chris Beyrer and Robert Suttle

Dr. Beyrer is an infectious disease epidemiologist. Mr. Suttle was convicted under Louisiana's H.I.V. criminalization statute.

Aug. 26, 2019



Michael Johnson was originally sentenced to 30 years in prison for being convicted of failing to tell his sexual partners he had H.I.V. He was released in July after serving five years. Leah Klafczynski for The New York Times

## Appendix 1. Peer reviewed articles citing the Expert Consensus Statement

Peer reviewed articles citing the Expert Consensus Statement
<b>2020</b>
<a href="#">Louisiana’s Intentional Exposure to HIV Policy: The Social Construction of Target Populations</a> , Jamie L Barney, <i>Social Work in Public Health</i>
<a href="#">The HIV epidemic in Latin America: A time to reflect on the history of success and the challenges ahead</a> , Brenda Crabtree-Ramírez, Pablo F Belaunzarán-Zamudio, Claudia P Cortes, Miguel Morales, Omar Sued, Juan Sierra-Madero, Pedro Cahn, Anton Pozniak, Beatriz Grinsztejn, <i>Journal of the International AIDS Society</i>
<a href="#">Using Science for Justice: The Implications of the Expert Consensus Statement on Zimbabwe’s HIV Criminalisation Law</a> , Annabel Raw, Michaela Clayton, Tinashe Mundawawara and Lizwe Jamela, <i>University of Oxford Human Rights Journal</i>
<a href="#">Undetectable viral load and HIV transmission dynamics on an individual and population level: where next in the global HIV response?</a> , Benjamin R Bavinton, Alison J Rodger, <i>Current Opinion in Infectious Diseases</i>
<a href="#">A Syndemic Model of Exchange Sex Among HIV-Positive Men Who Have Sex With Men</a> , Suzan M. Walters, Amy Braksmajer, Bethany Coston, Irene Yoon, Christian Grov, Martin J. Downing, Richard Teran, Sabina Hirshfield, <i>Archives of Sexual Behavior</i>
<a href="#">Sword and Shield: Perceptions of law in empowering and protecting HIV-positive men who have sex with men in Manila, Philippines</a> , Alexander C. Adia, Arjee J. Restar, Connie J. Lee, Mark P. Payawal, Ma Irene Quilantang, Jennifer Nazareno, Don Operario, <i>Global Public Health</i>
<a href="#">Awareness and Understanding of HIV Non-disclosure Case Law and the Role of Healthcare Providers in Discussions About the Criminalization of HIV Non-disclosure Among Women Living with HIV in Canada</a> , Sophie Patterson, Valerie Nicholson, M.-J. Milloy, Gina Ogilvie, Robert S. Hogg, Allison Carter, Tian Li, Erin Ding, Paul Sereda, Saara Greene, Alexandra de Pokomandy, Mona Loutfy, Angela Kaida, the CHIWOS Research Team, <i>AIDS and Behavior</i>
<b>2019</b>
<a href="#">Inferring HIV-1 transmission networks and sources of epidemic spread in Africa with deep-sequence phylogenetic analysis</a> , Oliver Ratmann, M. Kate Grabowski, Matthew Hall, Tanya Golubchik, Chris Wymant, Lucie Abeler-Dörner, David Bonsall, Anne Hoppe, Andrew Leigh Brown, Tulio de Oliveira, Astrid Gall, Paul Kellam, Deenan Pillay, Joseph Kagaayi, Godfrey Kigozi, Thomas C. Quinn, Maria J. Wawer, Oliver Laeyendecker, David Serwadda, Ronald H. Gray, Christophe Fraser, PANGEA Consortium and Rakai Health Sciences Program, <i>Nature Communications</i>
<a href="#">Challenges of reaching 90-90-90 in the Southern United States</a> , Jonathan A Colasanti, Wendy S Armstrong, <i>Current Opinion in HIV and AIDS</i>
<a href="#">Counteracting shame, recognizing desire: Managing the emotional reverberations of criminalizing HIV nondisclosure in Canada</a> , Jennifer M. Kilty, Michael Orsini, <i>The Sociological Review</i>
<a href="#">“We write as little as we have to”: charting practices and documenting disclosure in response to HIV criminalization in Canada</a> , Jennifer M. Kilty, Michael Orsini, <i>AIDS Care</i>
<a href="#">Genotypic Characterization of Human Immunodeficiency Virus Type 1 Isolated from Antiretroviral Treatment-Experienced Individuals in Buleleng Regency, Bali, Indonesia</a> , Ni Luh Ayu Megasari, Devi Oktafiani, Elsa Fitri Ana, Shuhei Ueda, Tomohiro Kotaki, Nasronudin, Soetjipto, Masanori Kameoka, <i>AIDS Research and Human Retroviruses</i>
<a href="#">Similar, but different: drivers of the disproportionate HIV and sexually transmitted infection burden of key populations</a> , Kenneth H Mayer, Lao-Tzu Allan-Blitz, <i>Journal of the International AIDS Society</i>
<a href="#">Recommendations for analytical antiretroviral treatment interruptions in HIV research trials—report of a consensus meeting</a> , Boris Julg, Lynda Dee, Jintanat Ananworanich, Dan H Barouch, Katharine Bar, Marina

<p>Caskey, Donn J Colby, Liza Dawson, Krista L Dong, Karine Dubé, Joseph Eron, John Frater, Rajesh T Gandhi, Romas Geleziunas, Philip Goulder, George J Hanna, Richard Jefferys, Rowena Johnston, Daniel Kuritzkes, Jonathan Z Li, Udom Likhitwonnawut, Jan van Lunzen, Javier Martinez-Picado, Veronica Miller, Luis J Montaner, Douglas F Nixon, David Palm, Giuseppe Pantaleo, Holly Peay, Deborah Persaud, Jessica Salzwedel, Karl Salzwedel, Timothy Schacker, Virginia Sheikh, Ole S. Sjøgaard, Serena Spudich, Kathryn Stephenson, Jeremy Sugarman, Jeff Taylor, Pablo Tebas, Caroline T Tiemessen, Randall Tressler, Carol D Weiss, Lu Zheng, Merlin L Robb, Nelson L Michael, John W Mellors, Steven G Deeks, Bruce D Walker, <i>The Lancet HIV</i></p>
<p><a href="#">The rise of molecular HIV surveillance: implications on consent and criminalization</a>, Alexander McClelland, Adrian Guta, Marilou Gagnon, <i>Critical Public Health</i></p>
<p><a href="#">The HIV Infection: Clarification of Its Legal Classification of Transmission and Measures to Protect Societies from Burdening Caused by Social and Medical Care Services for the Coming Decades</a>, Reinhard H. Dennin, Arndt Sinn, <i>World Journal of AIDS</i></p>
<p><b>2018</b></p>
<p><a href="#">Risk of sexual transmission of human immunodeficiency virus with antiretroviral therapy, suppressed viral load and condom use: a systematic review</a>, Jennifer LeMessurier, Gregory Traversy, Olivia Varsaneux, Makenzie Weekes, Marc T Avey, Oscar Niragira, Robert Gervais, Gordon Guyatt, Rachel Rodi, <i>Canadian Medical Association Journal</i></p>
<p><a href="#">Ending overly broad criminalization of nondisclosure of human immunodeficiency virus infection</a>, Richard Elliott, <i>Canadian Medical Association Journal</i></p>
<p><a href="#">Criminalising HIV transmission is counterproductive and should stop, experts say</a>, Richard Hurley, <i>The BMJ</i></p>
<p><a href="#">Addressing HIV criminalization: science confronts ignorance and bias</a>, Kenneth H Mayer, Annette Sohn, Susan Kippax, Marlène Bras, <i>Journal of the International AIDS Society</i></p>
<p><a href="#">Criminal law and the risk of harm: a commentary on the impact of criminal laws on sexual and reproductive health, sexual conduct and key populations</a>, Veronica Birga, Luisa Cabal, Lucinda O’Hanlon, Christina Zampas, <i>Sexual and Reproductive Health Matters</i></p>
<p><a href="#">HIV criminalisation is bad policy based on bad science</a>, <i>The Lancet</i>, Editorial, September 2018.</p>
<p><b>Also</b></p>
<p><a href="#">The challenge of HIV decriminalisation</a>, Matthew Weait, BMJ Sexual &amp; Reproductive Health, Blog, 27 January 2020.</p>
<p><a href="#">The challenge of HIV decriminalisation</a>, Matthew Weait, Journal of Medical Ethics, Blog, 30 January 2020.</p>

## Appendix 2: Coverage of the Expert Consensus Statement in science and medical press

Coverage in science and medical press
Africa Science News, Kenya
Aidsmap, UK
Conseil National du Sida et des hépatites virales, France
Contagion Live, USA
FHI 360 / Crowd 360, USA
Fundación Española del Aparato Digestivo (FEAD), Spain
Health 24, South Africa
Health News Online, USA
HIV Share Space, South Africa
IAS Society, Switzerland
Infosalus Spain
The Lancet, UK
Medical Brief, South Africa
Medical express, UK
Med Page Today, US
Medscape, USA
Poloinformativo HIV AIDS, Italy
Quotidianosanità, Italy
Sexual and Reproductive Health Matters, UK
Transversal, France

### Appendix 3: Mainstream media reporting of the Expert Consensus Statement

Mainstream media reporting of the Expert Consensus Statement
New York Times, 26 Aug 2019, Opinion   Living With H.I.V. Isn't a Crime. Why Is the United States Treating It Like One?
The Body, 07 Sep 2018, HIV Criminalization: Science Alone Is Not the Solution
The Body, 27 Aug 2018, Overview of AIDS 2018
Kaiser Health News, 27 Jul 2018, HIV Criminalization Laws Ineffective, 20 Experts Say in Joint Statement Released at AIDS 2018
Health Canada Press Release, 27 Jul 2018, Canada's Minister of Health wraps up successful meetings at 22nd International AIDS Conference in the Netherlands (republished in 40 news outlets across the US and Canada)
MedPage Today, 26 Jul 2018, HIV Criminalization Called Ineffective and Unjust
Firstpost, 26 Jul 2018, HIV experts call for an end to 'unscientific' laws that include imprisonment
Jamaica Observer, 26 Jul 2018, Scientists seek end to 'unscientific' HIV laws
Scienza e Farmici, 26 Jul 2018, "Non criminalizzate l'Hiv": venti scienziati leader mondiali della lotta alla malattia contro quelle leggi che criminalizzano il contagio
Business Standard, AFP, 25 Jul 2018, Scientists seek end to 'unscientific' HIV laws
Daily Nation (Kenya), 25 Jul 2018, Scientists seek end to 'unscientific' HIV laws
MedicalXpress, 25 Jul 2018, Scientists seek end to 'unscientific' HIV law
Journal du Cameroun, 25 Jul 2018, Scientists seek end to 'unscientific' HIV laws
Channel News Asia CNA, 25 Jul 2018, Scientists seek end to 'unscientific' HIV laws
Digital Journal, 25 Jul 2018, Scientists seek end to 'unscientific' HIV laws
Yahoo! Finance USA, 25 Jul 2018, Scientists seek end to 'unscientific' HIV laws
Yahoo! News, 25 Jul 2018, Scientists seek end to 'unscientific' HIV laws
Benzinga, 25 Jul 2018, Statement - Groundbreaking consensus on HIV criminalization released by world scientific experts at International AIDS Conference
Canada NewsWire TORONTO, July 25, 2018 Human rights organizations ...
El País, 25 Jul 2018, Conferencia del Sida: En la cárcel por tener sexo portando el VIH   Planeta Futuro
Le Parisien, 29 January 2020, «flic de terrain» et grande gueule des réseaux sociaux
OUT in Perth, 26 July 2018, Researchers say scientific evidence does not support criminalisation of HIV
POZ. 25 July 2018, 20 Global Experts Agree: Science Doesn't Back HIV Crime Law
<b>Also</b>
Canada (Globe & Mail, Radio Canada Intl, La Presse)
Cambodia (Khmer Times)
France (Agence France Presse, Transversal Magazine)
Italy (Quotidianosanita)
India (Latestly, Hashtakshep)
Malawi (Zodiak Malawi)
Mexico (La Vanguardia, El diario de Yucatan, Palabras Claras)
Netherlands (Expatica)

Nigeria (News Agency of Nigeria, Nigerian Voice, The Nation, PM News, BusinessDay)
Singapore (Channel NewsAsia)
Spain (EFE, El Pais, Periodistadigital, SIGLO XX1)
South Africa (Business Live, IOL, <a href="http://Polity.org.za">Polity.org.za</a> )
Pakistan (SamaaTV)
Russia (Kommersant, TV Rain)
Zimbabwe (Newsday, Spiked)
US (KFF/Cspan2, Veterans Today)

## Appendix 4: Community reporting of the Expert Consensus Statement

Community reporting of the Expert Consensus Statement
Australia: Star Observer, Out in Perth, NAPWHA
Belgium: Observatoire du Sida et des sexualites
Canada: AIDSLAW, Catie blog, HALCO, Cocqsida, HIV and AIDS Legal Clinic Ontario, Institut national de santé publique Québec,
Eastern Europe and Central Asia region: Eurasian Women’s Network on AIDS
France: AIDES, <a href="http://vih.org">vih.org</a> , Coalition Plus, Assemblée parlementaire de la Francophonie
Italy: Anlaids, HelpAIDS, SIDA
Mexico: Letraese
Nigeria: Rustin Times
Russia: Life4me+
Spain: gTt
Switzerland: Aide Suisse contre le Sida
UK: NAT blog
US: POZ Magazine, Bay Area Reporter, A&U Magazine, Beta Blog, Central Voice PA, Centre for HIV Law and Policy, Positively Aware, Ken Pinkela (Change.org)
International: HIV Justice Network, International AIDS Society, MPact, Robert Car Fund (Case Study: HIV Justice Global Consortium), UNAIDS and UNDP.

