



# CRIME & PUNISHMENT

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## Making the case against the criminalization of HIV transmission and exposure

**Date** Monday, 19 July 2010

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**Time** 11:00 – 12:30

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**Location** Mini Room 2

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**Type** Professional Development Workshop

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Many countries have laws that are used to criminalize HIV transmission in order to promote public health. Yet these laws and policies have a negative impact on accessing and uptake of sexual and reproductive health services and health promoting behaviours. This open space interactive session will address a number of key questions in determining sound HIV policy and practice. These include:

1. What are the arguments for and against criminalizing HIV transmission?
2. How does criminalization of HIV affect people living with HIV?
3. How do issues of race, sexual orientation and gender affect the implementation of policies?
4. What are possible alternatives to criminalizing HIV transmission?

### Facilitators

Raoul Franssen, Kevin Osborne, Lucy Stackpool-Moore and Matthew Weait

### Chair

Liz Tremlett (IPPF)

# POLICING SEX AND SEXUALITY

## The role of law in HIV

<b>Date</b>	Wednesday, 21 July 2010
<b>Time</b>	18:30 – 20:30
<b>Location</b>	Mini Room 9
<b>Type</b>	Non-Commercial Satellite Session

Happy, healthy and safe sex may not immediately come to mind as one of the cornerstones of international law and state obligations to promote human rights; nor as associated with criminal prosecutions and policing sexuality. This debate style session will explore the role of the law - including criminal, antidiscrimination, human rights and public health law - and how it can both facilitate and impede national efforts to address HIV:

### Presentations

- Reforming punitive laws – Anand Grover, UN Special Rapporteur on Health, India
- Criminalizing of HIV transmission and exposure – Robert James, NAT and Birkbeck College, UK
- Challenging the Anti-Homosexuality Bill – David Kato, SMUG, Uganda
- Policing diversity – Nisha Jagdish, FPAI, India
- Workplace policies – Ale Trossero, IPPF+, Argentina
- Law enforcement and the impact for women – Micheala Clayton, ARASA, Namibia
- Sexual Rights – Seri Wendoh, IPPF, Kenya

### Chairs

Lucy Stackpool-Moore (IPPF) and Mandeep Dhaliwal (UNDP)

## Useful resources

- AIDES, the Canadian HIV/AIDS Legal Network, GNP+ and Groupe sida Genève (2010). A legal resource kit in English and French: Responding to the criminalization of HIV transmission or exposure: Resources for lawyers and advocates. Available at [www.aidslaw.ca](http://www.aidslaw.ca)
- ATHENA Network (2009) Ten Reasons why the Criminalisation of HIV Exposure or Transmission Harms Women. [http://www.athenanetwork.org/docs/10\\_Reasons\\_Why\\_Criminalisation\\_Harms\\_Women\\_Smaller\\_file.pdf](http://www.athenanetwork.org/docs/10_Reasons_Why_Criminalisation_Harms_Women_Smaller_file.pdf).
- Berer, M. (2009) Editor. Criminalisation, sexual and reproductive rights, public health – and justice. Reproductive Health Matters, 17 (34).
- Bernard, E.J. (current) Criminal HIV Transmission, <http://criminalhivtransmission.blogspot.com/>
- Bernard E.J. (2010) HIV and the Criminal Law, NAM, available at [www.aidsmap.com](http://www.aidsmap.com)
- Burris, S. and E. Cameron (2008) 'The Case Against the Criminalization of HIV Transmission', JAMA 300 (5), p 578 – 581.
- Cameron, E., S. Burris and M. Clayton (2008). 'HIV is a virus, not a crime: ten reasons against criminal statutes and criminal prosecutions', Journal of the International AIDS Society, 11: 7
- Chalmers, J. (2008) Legal Responses to HIV and AIDS. Oxford: Hart Publishing.
- Human Rights Watch (2008) Criminalization of HIV transmission: Where, what and why?, Human Right and HIV/AIDS Now more than Ever. <http://www.aids2008.org/Pag/ppt/WESY0902.ppt#256>
- GNP+ (current) The Global Criminalisation Scan. Report (2010). <http://www.gnpplus.net/criminalisation/>
- IPPF, GNP+ and ICW (2008) Verdict on a Virus. London: IPPF. <http://www.ippf.org/NR/rdonlyres/D858DFB2-19CD-4483-AEC9-1B1C5EBAF48A/0/VerdictOnAVirus.pdf> accessed 30 March 2010
- IPPF (2009) Sexual Rights: An IPPF Declaration. <http://www.ippf.org/NR/rdonlyres/9E4D697C-1C7D-4EF6-AA2A-6D4D0A13A108/0/SexualRightsIPPFdeclaration.pdf>
- Open Society Institute (2008) Ten Reasons to oppose the criminalisation of HIV exposure or transmission, with the AIDS and Rights Alliance for Southern Africa (ARASA) and UNDP. [http://www.soros.org/initiatives/health/focus/law/articles\\_publications/publications/10reasons\\_20080918](http://www.soros.org/initiatives/health/focus/law/articles_publications/publications/10reasons_20080918)
- Pearshouse, R. (2007) 'Legislation Contagion: the spread of problematic new HIV laws in Western Africa', HIV/AIDS Policy and Law review, Volume 12, Number 2/3, December. Canadian HIV/AIDS Legal Network.
- UNAIDS (2008) Policy Brief: Criminalization of HIV Transmission. [http://data.unaids.org/pub/basedocument/2008/20080731\\_jc1513\\_policy\\_criminalization\\_en.pdf](http://data.unaids.org/pub/basedocument/2008/20080731_jc1513_policy_criminalization_en.pdf)
- United Nations General Assembly (2010) Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.20.pdf>
- Weait, M. (2007) Intimacy and Responsibility: the Criminalization of HIV Transmission, Abingdon: Routledge-Cavendish
- Weait, M. (2001) 'Taking the blame: criminal law, social responsibility and the sexual transmission of HIV', Journal of Social Welfare and Family Law, 23: 4, p 441 – 457.