

Edwin Bernard, Executive Director, HIV Justice Network

My name is Edwin Bernard. I've been living with HIV for more than 35 years, and I'm the founder and Executive Director of the HIV Justice Network. We are the leading community-based organisation working globally with a range of partners to end discriminatory, punitive laws and policies that single out people living with HIV based on our positive status.

We've already heard that the criminalisation of key populations – including gay men and other men who have sex with men, people who inject drugs, sex workers, transgender people, and prisoners – is a barrier to HIV prevention, treatment, and care.

Similarly, the criminalisation of people living with HIV for alleged HIV non-disclosure, potential or perceived exposure, or non-intentional transmission is widely discredited as a public health response, since such laws and prosecutions are ineffective and counterproductive. And yet 110 countries around the world currently have, or use, overly broad and unscientific HIV-specific laws or apply general criminal laws that make people living with HIV criminally liable for HIV prevention.

A survey of people living with HIV in the United States asked whether they thought it was reasonable to avoid testing for HIV because of HIV criminalisation. Half agreed that it was reasonable. A study from Canada found that gay men at high risk of acquiring HIV believe healthcare workers work closely with the police. These and similar laws are effectively rendering all the HIV prevention tools we have at our disposal useless.

Over the past few years, thanks to the efforts of many – including UNAIDS and UNDP, civil society organisations, scientists, human rights defenders, and networks of people living with HIV – we have seen HIV-specific criminal laws repealed or modernized in more than 30 jurisdictions across 20 countries, including in the United States, and across Western and Eastern Europe. Concerted advocacy and strategic litigation in Latin America and in parts of sub-Saharan Africa have led to several problematic laws not being enacted or being found unconstitutional on various human rights grounds, including the right to privacy and equality for all under the law.

Data collated and analysed by the HIV Policy Lab – including from our own Global HIV Criminalisation Database – strongly suggest that where countries recognise the harmful effects of criminalisation, and have acted to modernise or repeal punitive laws and policies,

greater progress has been made towards achieving the 90-90-90 targets than countries that have not.

The publication of an Expert Consensus Statement on the Science of HIV in the Context of Criminal Law in 2018 has strengthened our arguments that HIV criminalisation is not grounded in up-to-date science.

Ultimately, however, we must combine scientific advances with an unwavering recognition of universal human rights in order to achieve HIV justice for all.