MOVING FROM RHETORIC TO ACTION
WITH KEY POPULATIONS IN AFRICA

ROUND TABLE EVENT
CO-HOSTED BY THE INTERNATIONAL HIV/AIDS ALLIANCE AND THE AIDS AND RIGHTS ALLIANCE FOR SOUTHERN AFRICA

29 – 30 AUGUST 2013

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LIST OF ACRONYMS

AMSHeR – African Men for Sexual Health and Rights
ARASA – AIDS and Rights Alliance for Southern Africa
ARP – Africa Regional Programme
AU – African Union
CBO – Community Based Organisation
CSO - Civil Society Organisation
FBO – Faith Based Organisation
IF – Investment Framework
IHAA – International HIV/AIDS Alliance
KP – Key Populations
LGBTI – Lesbian, Gay, Bisexual, Transgender and Inter-sex
MARPS – Most At Risk Populations
MSM – Men Having Sex with Men
NAC – National AIDS Council
NSP – National Strategic Plan
SAT – Southern Africa AIDS Trust
SW – Sex Workers
SWEAT – Sex Workers Education and Advocacy Taskforce
TG – Trans Gender
TWG – Technical Working Group
UNAIDS – Joint United Nations Programme on HIV/AIDS
UNDP – United Nations Development Programme

1. INTRODUCTION AND BACKGROUND INFORMATION

The International HIV/ AIDS Alliance (IHAA) and the AIDS and Rights Alliance for Southern Africa (ARASA) co-hosted a Round Table Event on **Moving from Rhetoric to Action with Key Populations in Africa** from 29 to 30 August 2013 in Johannesburg, South Africa. Development of the programme for this event was supported by the IHAA Africa Regional Programme Advisory Group members with a focus on Pillar 3 of the African Union Roadmap on Shared Responsibility and Global Solidarity for the AIDS, TB and Malaria Response in Africa (the AU Roadmap), which pledges *enhanced leadership, governance and oversight to implement African solutions for AIDS, TB and malaria in a sustainable manner with an emphasis on results, transparency and equity.*

The primary objective of the Round Table Event was to provide a platform for dialogue between Governments, key populations, Alliance Linking Organisations, ARASA partners and other regional stakeholders on strengthening the response to HIV for key populations in Africa. The meeting sought to:

- share experiences and build knowledge on working with men who have sex with men (MSM), sex workers and transgender people in Africa;
- share good practices on removing barriers and increasing access to quality HIV services for MSM, transgender people and sex workers, and to raise awareness among regional decision-makers of what is happening on the ground;
- identify key steps and opportunities for implementing the African Union Roadmap on shared responsibility and global solidarity for AIDS, TB and Malaria response in Africa, with a particular focus on Pillar 3: Enhance leadership, governance and oversight to implement African solutions for AIDS, TB and malaria in a sustainable manner with emphasis on results, transparency and equity; and
- support countries to identify current opportunities, challenges and gaps in working with key populations and their dependants, partners and children in Africa, within the framework of the AU Roadmap.

2. KEY OUTCOMES FROM DELIBERATIONS

2.1 ANALYSIS OF AFRICAN UNION ROADMAP IN RELATION TO MSM/SEX WORKERS/LGBTI

The deliberations commenced with an overview of the AU Roadmap presented by Michaela Clayton, the Director of the AIDS and Rights Alliance for Southern Africa, who emphasised the importance of using the AU Roadmap as a regional advocacy tool to advance better access to health services for transgender people, MSM and sex workers. She highlighted the opportunities presented by the Roadmap, including the fact that it provides a set of practical African owned solutions to enhance a sustainable response to HIV, TB and Malaria, and that it defines goals, expected results, roles and responsibilities, as well as holding various stakeholders accountable for the realization of these solutions between 2012 and 2015. In addition , the Roadmap recognizes that the impact of programme investments will be increased by overcoming barriers to the adoption of evidence-based HIV policies and programmes by addressing the social and structural factors that inhibit uptake of HIV testing and treatment. She noted that, for the first time on this continent, there is recognition that there are indeed barriers in place that prevent the uptake of prevention and treatment services and that there is a need to invest in programmes to support people to know and claim their rights.

There are, however, certain risks associated with the implementation of the Roadmap. These include the fact that key populations are not defined in the document. This, coupled with the emphasis in the Roadmap on country ownership, has the potential to allow countries to ignore the needs of key populations in the national HIV response.

Mame Ngor Diouf, the Deputy Director for Human Rights from the Ministry of Justice in Senegal reaffirmed the commitment of the Senegalese government to an effective rights based response to HIV and stated that the AU Roadmap presents a real opportunity for Africa as it provides a framework for governments to improve their policies and programmes to ensure that they are evidence based and to mobilise resources for this purpose. It also requires governments to be accountable. He noted that the Roadmap is however not well known in Africa and that there is thus a need for both governments and civil society to popularise the Roadmap.

Joel Nana, Executive Director of AMSHeR, stated that whilst the AU Roadmap is a strong on the need for a human rights and evidence based response to HIV it is important to be aware of the fact that the reality in many countries in Africa is very different. Thirty nine out of fifty four countries on the continent criminalise consensual same sex activities and homophobia is rife and is being fuelled by the media, opinion leaders and religious leaders and politicians who use the issue for electoral gain. There are still unacceptably high levels of stigma and discrimination against MSM at the hands of health care workers, which is fuelled by a lack of understanding of sex and sexuality. Although several countries have made specific reference to the need for programming for MSM in the response to HIV in their national strategic plans, implementation of such programmes is limited and is predominantly community led. Even though countries receive Global Fund money to programme for key populations very little of this money finds its way to programming for MSM.

Nana noted that not only is the AU Roadmap silent on MSM but it is also silent on how the right to equality for all is to be realised. He also questioned the efficacy of peer review mechanisms as a vehicle for governments being held accountable for their failure to ensure access to prevention and treatment services for MSM.

Daughtie Ogutu from the African Sex Workers Alliance addressed the AU Roadmap from the perspective of sex workers and expressed her concern about the fact that the document does not define key populations and thus affords governments the latitude to exclude key populations, including sex workers, from HIV programming. She noted that one of the challenges facing the sex work community is the fact that there is limited capacity within the sex work community to understand the laws and policies at regional and national levels that impact on sex workers and that this capacity issues needs to be addressed if sex workers are to effectively progress with advocacy on access to prevention and treatment services.

Nthabiseng Mokoena from Transgender and Intersex Africa commented that although the AU Roadmap acknowledges the importance of human rights and the effective participation of affected communities and key populations in the HIV response, this has little meaning for the transgender population which faces stigma and discrimination and is not defined as a key population in the Roadmap. Agreeing with previous panellists Nthabiseng expressed her concern that the failure of the Roadmap to define key populations allows governments to ignore certain key populations in their national HIV responses. Even in countries such as South Africa where the National Strategic Plan includes transgender as a key population, this does not translate into access to prevention and treatment services on the ground as a result of the stigma and discrimination faced by transgender people at the hands of primary health care providers.

2.2 OVERVIEW OF PILLAR 3 OF AFRICAN UNION ROADMAP: CHALLENGES AND PRACTICAL IMPLICATIONS FOR KEY POPULATIONS IN AFRICA

The discussions that ensued centred around three key areas; namely (1) the importance of a human rights based response for the implementation of the AU Roadmap; (2) structural and social barriers to programme implementation; and (3) national versus regional implementation.

- **The importance of a human rights based response for the implementation of the AU Roadmap**

Many meeting participants shared the concern that whilst the Roadmap acknowledges the need for the prioritisation and focus of HIV prevention investments for key populations and the strengthening of leadership at all levels in the response to HIV, the current situation on the ground in many African countries where laws are in place that criminalise same-sex sex and various aspects of sex work and where stigma and discrimination against members of key populations is rife, makes this impossible. By way of example reference was made to the recent prosecution of a Zambian activist for speaking publicly on the need for MSM and transgender programming in the context of HIV. Participants expressed the common view that a good HIV response is really dependent on human rights being at the centre of the response and that the success of prevention programmes for key populations is conditional on the full realization of human rights and fundamental freedoms of all who need them to access prevention and treatment services. Further examples were cited of countries such as Malawi with laws in place that criminalise consensual same sex sex between adults which negate the effective implementation of the national HIV strategy in respect of MSM. Participants recognised that one of the challenges to be faced with the implementation of the Roadmap is the fact that whilst the Roadmap itself confirms the need for human rights to be at the centre of an effective HIV response, national laws and policies are not rights based.

- **Social and Structural Barriers Preventing Programme Implementation for Key Populations**

Participants agreed that a lack of respect for human rights at the national level presents both social and structural barriers to the implementation of the Roadmap. At the societal level there are unacceptably high levels of stigma and discrimination faced by members of key populations at the hands of community members, community, religious and political leaders and even health care service providers. Laws that criminalise the behaviour of members of key populations reflect social perceptions about key populations, which are often based on misplaced ideas about public morality and religious values, and in turn fuel these perceptions. The combination of societal based and state sponsored stigma and discrimination against key populations and laws that criminalise the behaviour of key populations make it extremely difficult for members of key populations to effectively participate in the design and implementation of national HIV responses or at a more fundamental level to even access prevention and treatment services. This point was driven home by Dr Saha from UNDP, who in his presentation on "Know your epidemic" shared a quote from a sex worker in Namibia who said: "23 of my friends died of AIDS. All sex workers. None of them got ARVs. It was the fear of discrimination and abuse from the doctors that prevented them from getting medication."

Participants expressed particular concern about the disturbing escalation of homophobia in many countries in Africa. Powerful religious and cultural stances lead to a zero tolerance of homosexuality and the visible escalation of homophobia is testimony to this. The church has played a pivotal role in adding to the discrimination and stigmas towards members of key populations. Traditional leaders, religious leaders, key political figures and municipalities all contribute to these disturbing

homophobic viewpoints. The lack of programmes for communities and families to break myths and misconceptions about these sexual minorities is also mentioned as a contributing factor to stigma and discrimination towards KP.

- **Lack of Data for Evidence-Based Programme Implementation**

It was generally agreed by the Round Table participants that although there is valuable evidence and decent data on key populations available, there is very little implemented structure in place to collect this KP data. There are also structural realities and institutions in place designed to prevent the capturing of this information, such as religious beliefs and laws: data capturing challenges are a result of discrimination and stigmatization of key populations. UNDP delegate, Dr Saha, raised the concern that issues regarding criminalization of homosexuality, sex work and injecting drug-use have to be addressed in order to move forward.

A study conducted in 3 Southern African countries (Malawi, Botswana and Namibia) of 537 MSM showed that HIV prevalence among those between the ages of 18 and 23 was 8.3% (20/241); 20.0% (42/210) among those 24–29; and 35.7% (30/84) among those older than 30 resulting in an overall prevalence of 17.4%. Unprotected anal intercourse was common and the use of petroleum-based lubricants was also common when using condoms.

Human rights abuses, including blackmail and denial of housing and health care was prevalent with 42.1% (222/527) reporting at least one abuse. Being afraid to seek health services because of sexual orientation was reported by 17.6% (35/199) in Malawi, 18.3% (40/218) in Namibia, and 20.5% (24/117) in Botswana.

It was also noted that our understanding of the burden of HIV in populations who are most at risk is limited, largely because these populations are poorly represented in national HIV surveillance systems. Female sex workers have been reported to be at high risk of HIV infection in nearly every setting where they have been studied, yet in 2013 there is still limited understanding of the relative burden of HIV in these women. It was shown that at the end of 2011, 93 of 196 countries had not reported on HIV prevalence in MSM in the previous five years. In several regions, notably the MENA, and sub-Saharan Africa, data for HIV infections in MSM are only emerging. Data gaps and challenges to HIV research, surveillance, and epidemiological characterisation in MSM are largely the result of the hidden and stigmatised nature of MSM populations in much of the world. Ongoing criminalisation of homosexuality and marginalisation has limited our understanding, and may also have crucial roles in the vulnerability of MSM to HIV. It was generally agreed upon that for effective progress to be made, structures need to be further implemented to collect and utilise data available.

The UNDP representative went on to remind delegates that the Roadmap refers to access to affordable quality-assured medicine, and explained that 80% of the treatment within Africa towards HIV is imported. How can vulnerable populations be reached and data obtained when stigma and discrimination exists? Panellists representing these vulnerable populations indicated that the only data available is from the South African KP: elsewhere, institutional hurdles are in place. They added that the Roadmap still does not in any way address how vulnerable populations including MSM, TG and sex workers will be included within it. In discussion, Zambia and Botswana were both highlighted as countries where extricating data is near to impossible, as sex work, homosexuality and transgenderism are all criminalised.

To summarise:

- Interventions addressing key populations' needs continue to remain markedly under resourced globally.

- Emerging data suggests an urgent need to scale up access to quality HIV prevention programmes for key populations, in all regions including in Sub-Saharan Africa with mature generalised HIV epidemics.
- To achieve success, we will need to consider the legal and policy environments in which key populations operate, and
- Consider actions to address the important role of stigma, discrimination, and violence targeting these populations urgently.

- **Stigma And Discrimination in Service Delivery**

Despite significant gains in reduction of HIV infection globally, Sub-Saharan countries continue to have disproportionately high numbers of people who are at risk of or infected with HIV. Evidence from Africa further tells us that even in generalised epidemic contexts, key populations – SWs, MSM and people who inject drugs – suffer from disproportionately high prevalence of HIV infection.

Key populations are marginalised and therefore hard to reach with HIV and other social services as a result of certain structural conditions that include:

- Social perception – as 'aberrant' people, with 'low morals', doing 'illegal things', or as the 'outsider/other', etc.
- The law – e.g. criminalisation of sex work, same sex activity, drug use, etc.
- Stigma and discrimination, violence and rights violations that they face when they attempt to seek services that is their entitlement.
- Poverty and often lack of education and skills.

Generalized homophobia, which is usually generated often by media representatives, religious leaders and other influential persons, exists across Africa. This state of paranoia induces ineffective programming and prohibits access to services for key populations. The other challenge mentioned is attitudes of care health workers to key populations, and lack of effective service delivery for KP.

Discriminatory attitudes amongst health care workers were addressed. Delegates agreed that most health care systems do not account for the needs of KP, and that homophobia is rife, fuelled by a lack of understanding of sex and sexuality even amongst health care professionals. It was noted that vulnerable populations fear discriminatory practice and potential abuse from doctors. This social barrier effaces effective progress: KP avoid treatment and prevention services.

It was noted that where advocacy is not recognized as a legitimate process to ensure that peoples' rights are protected, vulnerable populations will be unable to access services and face continued discrimination.

7 key programmes to reduce stigma & discrimination and increase access to justice were noted:

1) Stigma & Discrimination Reduction
2) Legal services
3) Reforming Law, regulations and policies
4) Legal literacy
5) Sensitization of policymakers and law enforcement agents
6) Training for health care providers
7) Reducing harmful gender norms and violence against women

Participants felt that it is pointless to have the inclusion of key populations such as TG and MSM within national policies and frameworks without including these very same populations in the discourse towards programming and direction. Thus, even though some National Strategic Plans

(NSP) on the continent categorise TG as a key population, there is nothing that is happening in primary health care to ensure that vulnerability of the KP is limited and they have full access to medical care.

- **Limited Capacity for Programme Implementation**

Round Table participants commented that there is very limited capacity to address the real needs of KP on the African continent, more especially for MSM, SW and LGBTI. This is due to interventions which are usually led by organizations or by people who are uneducated and prejudiced.

Where community groups have decision making roles without the necessary knowledge and skills, there is a vast challenge, as decision making on behalf of the KP represented groups is uniformed. Registering KP organisations is a lengthy process, and meets with challenges where there is a shortage of skills.

Delegates commented on instances where KP organisations, despite being registered as NGOs have made very little progress with programme implementation, and as a result have been deregistered only to have to commence the process over again. Uganda was cited as one such example where KP institutions had been deregistered. There was a shared concern about how to mobilise resources from donors, owing to lack of registration.

It was agreed upon that ownership of regional tools and instruments such as the African Union Roadmap and the UNAIDS Investment Framework are challenges. Currently poor skills sets and lack of knowledge play a huge part in the limited capacity for programme implementation.

In the presentation, the following points were noted in terms of implementing programmes and moving forward:

- Political commitment and advocacy
- Laws, legal policies and practices
- Community mobilization
- Stigma reduction
- Mass media
- Local responses to change risk environment

Delegates raised the concern that the coordination of key population is weak in some countries, and that the presence of technical working groups is not distinctly catered for KP. Another challenge repeatedly expressed, especially within the SW community was the inability of KP to understand the policies that are made at the regional or sub-regional levels, and which very much directly affect the work done by SW organisations within the grassroots communities.

Burundi was highlighted as a country in which there are barriers at institutional and legal levels, as well as religious and cultural ones. To add to this, the Tunisian government is quoted as refusing or rejecting realistic data of MSM results. Senegal on the other hand is recognised as having made great strides in implementing programmes and participating in strategic plans. The civil society, stakeholders and government have collaborated to achieve effective non-discrimination policies.

- **National Vs Regional Implementation**

Delegates at the Round Table Event agreed that policy planning and intervention at the regional level is seen to set the standards for the member states in the regions. The point was made that partnerships within regional networks generates opportunity for increased networking and engagements with other organisations within the region.

It was emphasised that regional bodies need to be given due accountability and consideration. They acknowledge that several countries have taken initiatives, with varying degrees of advancement and progress. Where different stakeholders promote advocacy, governments will then engage to enhance their legal framework, their policies, their programmes and in turn mobilise resources.

The following suggestions were presented:

- Strengthen alliances and advocate in support of key populations and a shift in social perceptions
- Strengthen the organisational capacity of key populations to undertake advocacy
- National policy engagement to achieve policy goals
- Link grassroots, national and regional/global level advocacy and campaigns to strengthen the base of support
- Horizontal learning and strategy exchange

Participants stated that engagement with the UN family, and sourcing information from this international agency lends credibility to HIV interventions for key populations. Equally, they confirmed that working with government agencies results in progressive implementation of programmes for KP. Hence they articulate the wish to engage all relevant government ministries in the conversation about HIV prevention for key populations. To this end, it was noted that some African governments have increased interventions towards MSM in terms of public health as well as on human rights, in order to respond to a whole range of concerns of these populations. The SADC representative then explained that one of the key principles of the Maseru Declaration is mainstreaming HIV and AIDS, and added that this has now been expanded to include gender mainstreaming: it is referred to as "Mainstreaming HIV with Gender and Human Rights".

Delegates noted that having a Roadmap serves no purpose when enablers and systematic measures leading to the implementation of the provision within it are lacking. At the international level, the Roadmap is seen as offering an opportunity to enhance advocacy, further mobilise resources in terms of prevention, care and support because government have the obligation to co-operate for the fulfilment of human rights. Whilst the Roadmap is part of the African appropriation of certain political declarations, and therefore promotes sovereignty of member countries, it also promotes a sense of freedom for governments – where there is no accountability. Delegates viewed the Roadmap as a framework from which we then need to more discourse, more especially with the AU itself.

The issue of representation of KP at national level was discussed extensively. It was agreed by participants that KP, in the context of the HIV epidemic, is a new concept in terms of programming. Delegates referred to the research in Senegal and Kenya in 2004, after which MSM were recognised as a key population and included in programming at country level.

It was noted that while a number of countries now include key populations in their national strategic plan, there is very little implementation at community level: inclusion is still largely embedded only within the national policies. Thus at national level, KP are not deemed to have the right knowledge base and skills to engage in HIV prevention issues. The point was raised that as discussions at national level do not translate into results, the role of KP representatives is questioned.

The question of a performance framework to hold representatives accountable was raised by participants. Delegates questioned the architecture of the African Union in relation to holding those governments accountable for responding to the needs of KP. Ultimately, participants want to know if the peer review mechanisms provided by the African Union include accountability from member

states. Furthermore, delegates noted that there is lack of ownership of the strategic plan and a serious lack of coherence between the sub-regional and national provisions for implementation of commitments made at the regional level. Thus the suggestion was made to identify and optimize strategic opportunities to mobilize leadership at all levels, and that such leadership does not necessarily need to come from the government, but rather from all spheres of society.

The paradox of engaging leadership in the context of KPs' inability to legally register their organisations as independent legal entities was also communicated.

2.3 UNDERSTANDING INVESTMENT FRAMEWORKS TO ADDRESS FUNDING SHORTFALLS

Mr David Ruiz from the IHAA presented the session on Investment Frameworks (IF). The point was stressed that Investment Frameworks can be used to increase funding for programming. Of utmost importance was the point that KP organisations on country level need regional level support in order to be granted Global Fund investment.

Whilst human rights, now more than ever are at the centre of the response to the HIV and AIDS epidemic, it was noted that funding is dwindling. Human rights have been elevated but resource allocations have been dramatically reduced. This reduced resource allocation (both financial and human resources) at country level makes engaging with key populations difficult at national level. Key global leaders have agreed that it is possible to mitigate the HIV epidemic if we invest now, and do that strategically. In the last decade, funding from the international donor community increased rapidly from $1.7 Million in 2003 to $8.7 million in 2012. However, international donors have today decreased or frozen their funding. The impact of this is that domestic or national governments now need to take more responsibility for funding their own programme implementations.

Points highlighted were:

- We can end AIDS epidemic if we invest now, and strategically
- Communities and Human Rights at the centre
- Effective approach to KPs
- Strategic thinking to guide national plans and budget, and donors
- Political commitment to end AIDS
- HIV must remain in the Post 2015 agenda

In order to address funding shortfalls, it was noted that advocacy, communication and social mobilization need to be addressed and that monitoring of community and government interventions needs to be implemented to ensure more responsibility is taken on a country level.

A Mozambique study identified sex workers (including clients & partners) as contributing to 19% of new infections, sero-discordant couples (29%) and MSM (5%) and yet only 3% of funds are allocated for vulnerable groups, despite them being responsible for 27% of new HIV infections.

In the presentation, an investment case journey was depicted: To begin, the core team must align with key decision makers and stakeholders, such as ministers, political party leaders etc, ahead of process start; Fully understand the workshop and know your epidemic; Design the workshop to allow the team to agree on the optimal programme for the country; Deliver the workshop to identify efficiency gains across the board; Sustain the workshop held in the presence of the Ministry of Finance representatives - the team must aim to identify funding gaps and come up with traditional and innovative funding options; and finally, facilitate the Launch of the investment case by the president during his yearly update to the Country.

Break-away group discussions then took place. It emerged from these dialogues that increased funding for KP has created opportunities for partnerships with international funders, and that existing sub-regional networks are used for programming. Participants mention that IFs have been useful for establishing discourse within the country and with the different constituencies at the country level. The key opportunities that were highlighted relate to the fact that civil society is well represented within the investment framework, and that the representation of civil society within the investment framework has already provided for engagement at country level, while some countries have already seen some success in the engagement at regional platforms. They emphasise that those are the partnerships they need to be fostered.

Delegates agreed that resource allocations for key population interventions are minimal and sustainable funding for key populations problematic. The Francophone group, which comprised Burundi, Tunisia, and Senegal, and at the regional level ALCO and AfriCASO, noted that various guidelines and legal instruments have exercised an influence in the development of the third generation strategic plan. Burundi in particular was quoted as having barriers at institutional and legal levels, as well as at cultural and religious levels. Tunisia's framework was also aligned to the challenges of Burundi's. The government were quoted as having refused and rejected data results of MSMs. Senegal's positive achievements and clear discourse were noted.

The gap between the theoretical strategic framework and real government actions or engagement was discussed. Regardless of the apparent prevention and care or support activities on the ground, there is a need to enhance advocacy at the civil society level. In conclusion, the Francophone delegates listed some embassies that financially support at both national and regional level in strategic planning and local initiatives such as advocacy work and thematic discussion groups between governments and civil society. Examples of these embassies include the Netherlands, Sweden, Spain, Canada and USA.

The issue of the definition of key populations in the context of the investment framework and how countries apply investment was addressed. An example was cited of an organisation in Kenya, who became sub-recipients of Global Funding. Although they claimed to provide services for sex workers it became apparent that they did not work with KPs. Participants agreed that opaque definitions and the lack of clarity as to who are key populations, provide countries with a twisted opportunity to get funding from the Global Fund.

There is a sense that civil society, in particular community based KP organisations, does not understand the investment framework. Knowledge is power, and it was noted that it is necessary to make investment understandable and therefore accessible by committees. The challenge for participants lies within the complexity of the investment framework, and the difficulty in adapting it at community levels.

Group participants argued that the IF is largely theoretical instead of participatory. Delegates added to this that very little is done to popularize the investment framework, and that not many countries are using it. To this end, delegates are of the opinion that a lot of capacity building needs to be done in communities in order to translate the IF into practical tools with which they can engage. Roles and responsibilities of Global Fund structures should be clearly disseminated

In order to strengthen community systems, the following tools should be implemented:

- Community-led design
- Implementation
- Monitoring and evaluation of human rights-based programmes
- Knowledge sharing

- Advocacy
- Research

Participants took a particular interest in the fact that Global Fund increased its funding to Faith Based Organizations (FBO), citing examples of Zambia and Ethiopia, where Faith Based Organizations were recipients of Global Fund monies. Conflicting interests in terms of policy of the religious institutions, and the distribution of condoms which was in conflict with the religious policies of the FBOs was highlighted. Zambian participants also gave accounts of their work experiences with FBOs, whereby KP organisations had been instructed indicate their willingness to transform or reform sex workers, in order to qualify for FBO funding.

Recommendations were made from the Global Commission on HIV and the Law (GCHL)

Sex Workers:

- Safe working conditions and promote access to services:
- Repeal laws that prohibit consenting adults to buy or sell sex/commercial sex
- Stop police harassment
- Prohibit mandatory HIV and STI testing
- Anti-human-trafficking to prohibit sexual exploitation and abuse (migrants)
- Enforce laws against all forms of child sexual abuse and sexual exploitation

MSM

- Repeal laws that criminalise consensual sex between adults of the same sex
- Remove legal, regulatory and administrative barriers to the formation of community organisations
- Amend Anti-Discrimination laws
- Promote effective measures to prevent violence against MSM

It was concluded that the AIDS epidemic can end if we invest now, and strategically. If communities and Human Rights are at the centre of the IF, and there is strategic thinking to guide national plans and budget, then Investment Frameworks will have a positive effect on key populations.

2.4 ENGAGING WITH LEGAL FRAMEWORKS FOR PROGRAMME IMPLEMENTATION

This session of the Round Table Event was a presentation by Ms Anekke Meerkotter of the Southern African Litigation Centre on criminal laws and key populations at the SADC. It was decided that she should speak at the symposium, in order to address the many questions posed on the legality of sex work, and men who have sex with men. The aim of the presentation was to offer an in-depth overview of legal statutes and regional treaties governing sex work, MSM and LGBTI in Africa.

Evidence was presented of penal codes affecting KP in different African countries. It was important to note that recently there has been much law reform in many countries in relation to sexual offences. Most important to know is in former Portuguese colonies such as Mozambique and Angola the penal codes are in the process of being reviewed as is happening in Portugal. Ms Meerkotter insisted that if we want to change legal structures then there is a need to engage with those processes. Sometimes the penal code is amended by certain parts of legislation. In Swaziland for example, there is a sexual harassment and domestic violence act that is being passed by parliament and it will be part of the law in the near future.

Statistics were presented:

- HIV prevalence among female sex workers 60% - versus 25% among women (15-49 yrs)

- Female sex workers 4 times more likely to be HIV infected compared to women (15 – 49 yrs)
- Estimated 20% of all new HIV infections occur among sex workers

With reference to SW it is critical to distinguish between consensual and non consensual acts. The aim is to remove consensual acts from the penal code, and for non-consensual acts to continue to be criminalised. In other countries sodomy is not a prosecutable offence, but committing non-consensual acts with men, women or children is.

Information was presented regarding legal provisions relating to persons living off the earnings of sex work. Sex work is stigmatised and that leads to abuse. In turn, police abuse sex workers and sex workers are then arrested: their rights are removed. She mentioned that police in various regions do not earn enough money, and subsequently supplement their income with money from sex workers. They bribe the SW to pay them in order to avoid arrest. As there is no incentive for police to support human rights, it is suggested that rights-based organisations need to advocate for police officers to earn decent wages and be allowed decent working conditions. She further elaborated that legal frameworks have broadened and improved, albeit not necessarily with regards to training of police officers.

If a sex worker is paying for daily needs, such as school fees and hospital bills, this is not a punishable offence. However, the example of a sex worker publishing her work in a newspaper and subsequently causing that newspaper to gain profit from such advertising can be an offence. Similarly, a brothel owner who takes a cut of the earnings of a sex worker is regarded as committing a crime. Ms Meerkotter reiterated that sex workers should take cognisance of that fact that there is nothing wrong with the money they receive, and they should be proud of being able to educate their child with that money earned. The act of selling sex is a crime in South Africa and the act of buying sex is a crime: however, it is not a crime in other parts of the world.

Many laws were introduced to deal with exploitation at a time when there was a lot of hype about trafficking. The point was raised that despite some of these laws being implemented to protect the sex workers they are actually being used against SW, resulting in abuse of human rights. It was motioned that we need to change the discourse even if we can't change the laws immediately.

Highlighted was the fact that anal sex, which is sodomy, is categorised in two different ways dependant upon whether the country practices common law or English laws. It is either termed "unlawful carnal knowledge" or "sodomy". Mauritius, Namibia, Swaziland and Zimbabwe recognise the offence as sodomy, while former English colonies refer to the sexual act as unlawful carnal knowledge. Zimbabwe has broadened the offence to not just include anal sex but any type of unnatural sexual conduct. It was also noted that if same sex sexual conduct is criminalised in a country, same sex marriages will never be permitted. South Africa made headway by decriminalising sodomy. Only after approximately 8 constitutional court cases did the courts recognise the rights of same sex marriages. It was emphasised that it is a slow process.

The act of exchanging money for sex is illegal only in South Africa. This point was emphasised by the reference made to a SW in Malawi. If a SW takes money and has sex, neither the SW nor the client is committing a crime. Ms Meerkotter highlighted the fact that despite sex work being criminalised in South Africa, there are various national and labour related frameworks which make allowances for SWs to have rights in brothels and other sex institutions.

Points about the Sex Worker Programming in South Africa were raised:

- The NSP previously did not achieve any of its goals for key populations
- Sex work sector was established in 2010, but was not strong
- The NSP (2013 – 2016) human rights content was weakened before it was approved

- Sex Workers are identified as a key population
- There were activities related to sex workers

Positive reforms of 2012 – 2013 were highlighted:

- SW sector started its Sector Plan in 2012
- SANAC contacted us, established a technical working group on sex work
- The National Sex Work Symposium took place in August 2012
- The national sex work programme was developed
- It was evidence based, we had evaluated our national programme.
- We undertook a national sex work size estimation study (March 2013)

In response to the presentation by Ms Meerkotter, delegates in the plenary noted that participation by KP is always hindered by the lack of empowering legal and quality frameworks in HIV response. They added that the legal framework contradicts programming efforts by KP and implementing partners. Delegates indicated that the existing punitive laws and criminalisation which lead to violence and stigma need to be urgently addressed, when referring to HIV vulnerability of KP.

In conjunction, it was confirmed that the comprehensive understanding of the legal context within which SWs engage is very limited and low. There is a crucial need for education on prevailing laws.

Delegates conferred that there are gaps in terms of legal aid given to key populations, despite there being a strong representation of good human rights lawyers within the African region. Furthermore, the UNDP representative stated that the safety and security of individuals and organisations, as well as aligning KP issues with the broader human rights agenda (and even with the broader conversations around HIV), need to happen in a conducive legal environment.

The point was raised that in some places there are good laws which are weakly enforced. South African is an example of good laws which are poorly enforced. Cameroon was cited as a country which has good enforcement of bad laws.

3. EXPERIENCES FROM THE REGION: LESSONS LEARNED, SUCCESS STORIES AND BEST PRACTICES

3.1 Lessons Learned and Opportunities for Scale Up

Delegates were then posed with questions: "The windows are the windows of opportunity: are there windows that are opening? What are the threats and opportunities around the key populations?" What partnerships ('frames") exist and what partnerships should exist that don't currently. What capacity is required to move forward? The crux of the symposium was addressed: Moving from rhetoric to action.

Delegates discussed the urgent need to scale up access to quality HIV prevention programmes for key populations in all African sub-regions. A window of opportunity is the fact that key populations are now included in the national strategic HIV and AIDS strategic plan within the regions and countries. The Namibian case was cited as example illustrating representation on technical working groups in terms of KP programming. Participants discussed the fact that it is important to have statistics to ensure that the technical working groups (TWG) are accountable, such that KP organisations can measure and monitor performance. This process can then be used to define roles and responsibilities, and ensure that the TWG have a work plan related to Sex Workers, MSM and LGBTI. It was thus highlighted that the calibre of leadership of TWG is a key consideration to ensure equitable representation at national level.

Participants noted that there is an opportunity to use the third pillar of the African Roadmap to identify critical gaps for implementation. It was stressed that there is much opportunity to use existing regional statutes and treaties to create awareness among policy makers and law enforcers in regard to KP.

At country level, the opportunity from the AU Roadmap lies in defining KP and recognising that key populations are MSM, sex workers, drug users, transgender. It was noted that there is an East Africa HIV Law which needs to be adopted at country level in order to engage with and hold the governments accountable. Furthermore, delegates recognised the improved attention to KP within the HIV epidemic as an opportunity to penetrate the current political landscape in an attempt to increase the visibility of the KP within the broader society. The implementation of the stigma index was mentioned, citing countries such as Zambia, Kenya and Ethiopia

Another lesson learnt was that identifying champions who are passionate about working with KP is necessary to enhance programming and HIV interventions. Delegates reiterated that there are champions for key populations who should be acknowledged and recognised at all levels, in order for them to further the cause for KP. In addition, the coordination and harmonisation of leadership, and building a strong partnership with civil society, government, United Nations and Human Rights Commissions are important for creating policy dialogue.

The direct correlation between increased funding and progress was highlighted. Partnerships have the opportunity to flourish, where donors and partners are willing to engage with key populations and the broader civil society. Partnerships between existing sub regional networks for programming and African regional programmes need to be fostered and a lot of work around these should be done. It was noted that when information comes from the UN, governments finds it more credible, facilitating civil society to work with key populations.

One of the presentations noted the following:

- Strategic partnerships: partnerships that have value, have a voice and will keep you in the loop. Once your group/organisation has some political clout, partners start coming to meetings that they would not have come to before (Malawi)

Delegates were challenged to look at what capacity countries and regions have and to discuss what is needed to move forward with their programmes:

- LGBTI organisations working through regional partners (e.g. SafAIDS), if partners/government do not want to collaborate
- Using evidence to engage government in dialogue
- Innovation through client-centred approaches:
  - Working with peer educators who are MSM to reach other MSM in different settings (e.g. bars);
  - Supporting specific MSM+ support groups to help individuals with disclosure;
  - Economic empowerment initiatives (Tanzania)

Defining and demanding space in partnerships, and not accepting tokenism was viewed as a key lesson by delegates, who expressed the need for KP representatives and advocates to be well-informed.

The use of strategic alliances and human rights in the quest for justice was also noted. To this, participants mentioned that working with allies and within networks are necessary for human rights of KP because it increases the collective voice in advocacy work. They indicated that using existing FBO platforms to sensitize the clergy and entire community is a key consideration and it was

recognised that it is working in some countries. Malawi and Burundi civil society organizations (CSOs) are convening with the faith based communities to clarify what is understood as key populations.

Further points were made:

- To create dialogue, e.g. if you are working on LGBTI issues, you invite key people/partners to create policy dialogue (Kenya)
- When you start a project, invite health committees and local community leaders to ask for their feedback and direction – often they will then be the champions and agents for change.
- In work with transgender people, shift in how to approach advocacy: instead of focusing on institutions, targeting individuals…and then moving to get full organisational buy-in (Zambia)
- In policy dialogue, reminding people who is missing (e.g. transgender people) and what are the gaps in dialogue. (Botswana)

Religious perceptions affect our social perceptions and this can later translate into politics and laws, as well as misguided discrimination. Participants acknowledged that engagement with religious and state leaders is a very tricky terrain to navigate, but that it is becoming increasingly important to engage with religious leaders and faith based organizations in the African context. It was emphasised that most African laws are morality-based and many governments express the need to change the laws, but are pushed back by the church. The example was given where approximately 90% of Zambians are Christians which is Zambia's electorate. In the case of Senegal, the religious leaders are fully engaged in the whole process and they are organised in terms of associations working in the HIV sector.

Highlighted was the use of social media in communication as an opportunity to reach policy makers and other key stakeholders easier and faster. As much as conventional media is seen as an essential partner, it was stressed that one should not underestimate the power of social media too. Ms Shackleton from SWEAT cited the example of an event hosted for KP in Cape Town, South Africa, where twitter was used to express discontent over lack of television coverage at the event, whereafter SWEAT was contacted by that very same media house for an exclusive interview. Media has created a platform to build awareness of key populations.

Sharing existing best practices and reaching out to other civil society networks within the region was seen as creating opportunities to engage young sex workers and young MSM. The point was raised that engaging in dialogue with new and unregistered organisations of sex workers, and utilising the existing laws for advocacy would also lead to positive action. For example, the Red Umbrella of South Africa Fund does not require organisations to be registered. One of the most interesting outcomes of this debate was the reality that sex work is actually not illegal in many countries, and that there is a lot of confusion about the legal status of sex work. Participants emphasised that there is a great deal to do in terms of mitigation of homophobic sentiment and marginalisation.

It was recognised that a great deal of our understanding around the law is vague and there is an opportunity to use reports and data to actually try and identify the areas of weakness in our understanding and push forward for advocacy. Knowing the provisions of the law is helpful in identifying the areas of weakness in understanding of critical issues for advocacy work. Thus it was agreed that persistence and resilience must continue in advocacy work, especially for civil society organizations. It was noted that, for example in East Africa and Southern Africa there is a lot of awareness creation amongst law enforcement and implementation of the law. Participants mentioned that technological innovations can lead to client-centred approaches while working with peer educators during outreach activities in different settings. Thus the need for supporting specific KP groups to help individuals with disclosure was expressed.

Also, economic empowerment initiative is mentioned, since vulnerability of KP is very much linked to the lack of economic empowerment. Different investment frameworks were viewed by delegates as a space for transforming crises into opportunities, and to engage stakeholders for more shared responsibility. Furthermore, delegates noted that the impact and role of donors on ensuring implementation has been significant in many countries. For example, the US government has been championing the cause for KPs and working with African government in diplomatic ways to ensure positive responses to the cause and interventions around key populations. In another instance, the National AIDS Council of Zambia used the investment framework as a platform to develop a strategy to establish key population, and to combine the investment framework with the national strategic framework development. The same opportunities are seen as part of the global and new funding model, especially when it comes to the guidance on the available funding provided to African countries. Empowering groups and organisations of key populations through microfinance initiatives was noted as a possibility.

The following two points were noted as challenges to overcome:

- Sometimes community groups sit on platforms but their fiscal agent is different so cannot make own decisions. Sometimes have to re-register after a few years and this is deliberately delayed (Zambia)
- Sometimes partnership does not work because it is used to fish the money (e.g. using KP data to get more resources) but limited engagement after the partnership gets the money (Tanzania)

Instances were highlighted where small institutions have represented KP organisations at grassroots level, only to abandon the KP organisations once funding has been received. Participants suggested that KP organisations should demand proper terms of references for partnerships in the initial stages. This is said to have worked in certain instances.

Delegates discussed the collection of data, and noted that civil society has made positive in-roads in collecting data to present to government for programming around key populations. While this is seen as a positive development on the African continent, participants also indicated that governments are not always agreeable to the dissemination of that data. Added to this, delegates indicated that partnerships do not work well in certain instances where these platforms are used for selfish reasons. Tanzania was cited as a country implementing partners to gather KP data for their own means, without necessarily including KP in the benefits.

Delegates were challenged to look at what capacity countries and regions have and to discuss what is needed to move forward with their programmes: it was summarised that this event was about action in advancement in sex worker agenda and HIV related agenda. Emphasised was the need for more data and use of the collated information as an empowering tool for advocacy.

3.2 Success Stories and Best Practices

In years gone by at similar meetings, leaders of the African HIV response would have commented that KP has nothing to do with HIV. This is no longer the case. It was unanimously agreed that this is already a big victory.

Amongst success stories discussed by delegates, it was noted that South Africa is the only country on the continent that by legislation put up protection on the basis of sexual orientation and gender identity. Another success for the African region is the fact that within the East African region there is more harmonisation of the laws, with the added ability to communicate with civil society and government. Participants saw this as a major benefit, as it is the sub-region hosting the African Union in Addis Ababa. Another success mentioned by delegates was working within the national

framework and policies in various countries, as well as coordination through regional groups such as SADC. An example cited was the establishment of an MSM clinic in Uganda, and the existence of 32 clinics within SADC that are working with different key populations. A major success for the regional delegates is the fact that KP organisations within civil society become principal recipients for funding from Global Fund, in countries like Ethiopia for example.

The Kenya Case: This is one of the few countries where the national strategic plan actually addresses key populations and goes further to describe who the key populations are. They are working at a national level with key populations, including MSM, SW although not so much with transgender people. Engaging with religious leaders is a good practice which has been identified in Kenya, where a church has been educating other churches about key populations. Dismantling marginalisation and stigmas has been at the core focus of this church. They teach that judgement should be left to God.

Another good practice from Kenya is their involvement with the law enforcement agencies, and engaging with the police: some KP organisations started training police officers on human rights and health issues related to KP. This was done in an attempt to foster a working relationship with the police. The challenge lies in the fact that police are rotated from the one duty station to the next at a frequency of every 6 or 9 months. This creates a situation where there are always new police officers arriving to their position, already imbued with their own level of stigmas and discriminatory practices: they have not yet been educated on human rights of key populations, and want to glorify themselves by arresting KP individuals. It was noted however that there are efforts in progress to make the training programme for police officers a nationwide agenda.

The Senegalese Experience: Senegal has created strong partnerships between civil society and government in order to respond to HIV risk of MSM. In terms of certain legal provisions there is no prohibition to register a NGO/association in Senegal. Thus they went from less than 10 HIV related organisations in the year 2000 to more than 49 in 3 years, and these organisations are participating in the HIV response.

The result is now a proactive and positive response with a framework in which the civil society and government both participate: Forward-thinking strategy and a partnership of activities are resulting in the mitigation of discrimination and stigmas towards vulnerable populations, and driving forward advocacy. To add, in terms of care and support, more than 16,000 people living with HIV are regularly benefiting from a range of services.

The Namibian Case: Within the structures of the national HIV/AIDS strategic plan, there are technical working groups, where key populations are represented. Thus key populations are allowed the space to participate in discussions at national level. These steering committee meetings at national level are conducted once a month, whereas TWG meet more frequently to discuss programme implementation and developments at national and regional level.

Also, each of the TWG has a Terms of Reference to make it easier for transparency and accountability. Other than that, KP organisations such as Positive Vibes have actively worked with the national strategic framework to engage with the investment framework, and to form partnerships and alliances to source and mobilize funding.

4. RECOMMENDATIONS FROM THE ROUND TABLE EVENT

During the course of the Round Table deliberations, delegates made recommendations in relation to the AU Roadmap, the Investment Frameworks, as well as Legal Environments. These recommendations related mostly to overcoming challenges, and improving on provisions made

within the policy documents. It was strongly recommended that, apart from meaningful participation the key populations must take a lead role in addressing human rights and health related issues.

Other recommendations from the Round Table Event included:

Ownership of AU Roadmap and Investment Frameworks
It was stressed by participants throughout the symposium that ownership of the AU Roadmap is weak, and that more can be done to make it known to KP. Likewise with the new UNAIDS Investment Framework and the new funding model of the Global Fund, these should be popularised for ownership purposes. Participants also mentioned that it is important to have access to translations of the main documents for Francophone people, in order that it can be used as a support at national level.

Fostering Partnership with Key Stakeholders and the Media
Delegates expressed the need to broaden partnerships with human rights organisations, media, faith based organisations (FBO) and law enforcement agencies. Thus they mentioned that there is a need to partner with people and institutions that can influence policy change; engage with media by creating national media task forces; and target individual religious leaders.

Participants conferred that there is a need to identify the individuals or groups who put up barriers towards the advocacy of KP and progress of human rights issues. It was agreed that the media can build or destroy, and that it is crucial that correct information is made accessible. It was noted that without correct information, existing advocacy work stand the chance of being ruined. It was strongly recommended that a task force be created whose sole purpose is to continuously inform the media of policy progress, epidemic data and other related information, so that they report accurately on KP issues.

The presentation "EMPAD Brings together good Practices implemented by The Alliance LOs, COs and Partners" stated its objective, being to expand policy space available for KPs. Its aim is to assist LOs, COs and Technical Support Hubs to fully use the Alliance Policy-Advocacy know-how, experience and resources when:

- Designing new advocacy and campaign programmes
- Developing advocacy-related funding proposals
- Communicating advocacy work around key populations

The goal of this is to promote key representation of vulnerable populations.

Addressing homophobia, stigma and discrimination
Delegates recognised the challenge regarding the improvement of environment which is increasingly becoming homophobic in the African countries. Hence they recommended that the root causes of the escalating homophobia in countries needs to be analysed and workable solutions proposed in order to improve this environment. To this it was added that the restrictive legal environments in certain countries should be improved by educating and empowering leaders with knowledge. Furthermore it was recommended that grassroots level activism be enhanced as a strategy to reduce these chronically high levels of stigma and discrimination.

Collection of KP data
It was recommended that a mapping of key populations be done so that the location and percentages are known. Delegates were of the opinion that this will enable effective implementation of the programming. In relation to collection of relevant data, it was recommended that there is an in-depth analysis of what resources are currently available and where the challenges are in particular with regards to human resources and the capacity to gather this necessary information.

Capacity Building

Delegates discussed the importance of training leaders, such as parliamentarians and traditional leaders. They also recommended mentoring for the young key population who are only joining the KP movements now. Thus they recognised the need to capacitate KP organisations to participate in HIV response. It was further noted that it has become imperative to establish a functional consultative framework to allow KP organisations to act within their own capacity or utilise public space without being at risk. It was agreed that this would all contribute in advocacy work in terms of advancing human rights and gender equality.

Appendix A: Round Table Participants List

Appendix B: Round Table Objectives and Agenda

Appendix C: Presentations

Appendix D: Remarks from Keynote Address by Judge Cameron