



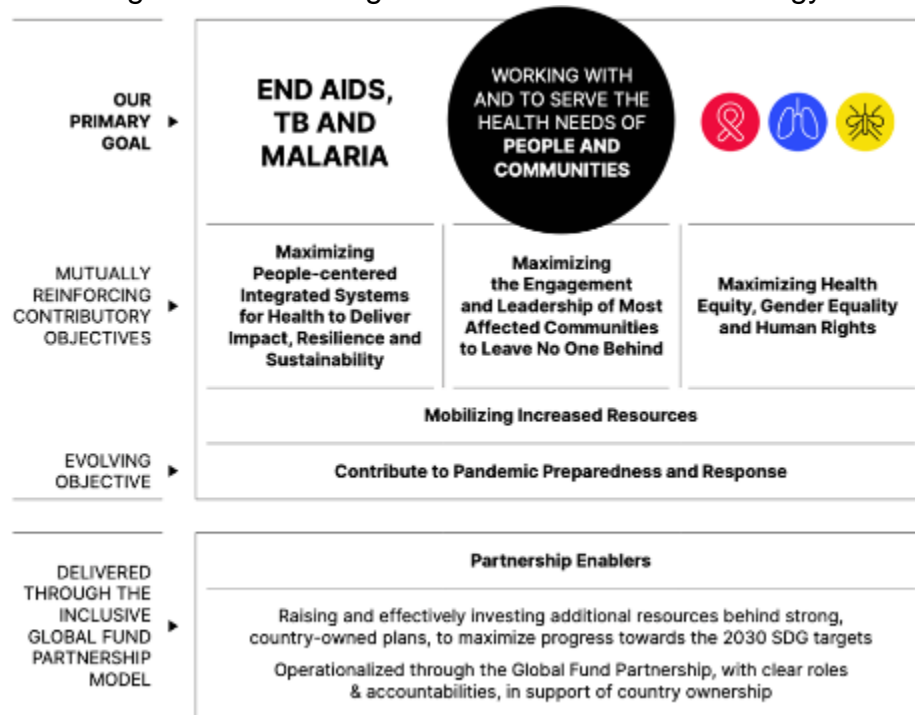
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## The importance of human rights in the Global Fund's Grant Cycle 7 funding requests

### Context

Ending AIDS as a public health threat by 2030 is intimately linked to the removal of human rights barriers in access to HIV and other health services. This is the conclusion reached by the Global Fund. Based on this, it has taken a very clear direction. As you can see from the Figure below, human rights are both a "mutually reinforcing contributing objective" and an integral part of the main objective of the Global Fund's strategy.

Figure 1. Human rights in the Global Fund Strategy



Source: [The Global Fund Strategy](#) p. 6.

While this is not a new concern for the Global Fund, it has recently gained prominence as a result of evidence from various programs and research. We will come back to this in more detail later in this article.

It is worth noting that, according to the Global Fund, there are three broad categories of human rights barriers to accessing HIV services: stigma and discrimination; gender inequality and gender-based violence; and repressive practices, policies and laws.

### Stigma and discrimination

“[HIV-related discrimination](#) is the unfair and unjust treatment of a person or group of people on the basis of their perceived or actual HIV status. It manifests itself through avoidance/exclusion behaviors (explicit or insidious), rumors, verbal abuse or social rejection”. More seriously, this stigmatizing discrimination sometimes shows itself through physical abuse, denial of health or social services, loss of employment or even arrests of people living with HIV or accused of being HIV positive.

The Declaration of Commitment adopted in June 2001 at the United Nations General Assembly Special Session on HIV/AIDS states that combating stigma and discrimination is a prerequisite for effective HIV prevention and care and reaffirms that discrimination on the basis of a person’s HIV status is a violation of human rights. In the same vein, the [2016 United Nations Political Declaration on AIDS](#) also noted with gravity and concern that the HIV epidemic is a challenge to human rights. The text then expressed “deep concern that stigma and discrimination continue to be reported and that restrictive legal and policy frameworks continue to discourage and prevent people from accessing HIV services” (p. 11).

### Inequality between sexes and gender-based violence

We are not all in the same boat when it comes to HIV. The economic, political and social subordination of women, so deeply rooted in certain cultural norms, ancestral or religious beliefs and patriarchal practices, as well as in many retrograde laws, increases women’s vulnerability to the disease.

I wrote about this last September (GFO 419) in my article [Women and HIV in sub-Saharan Africa](#). As I

noted, “in many communities, women are afraid to disclose their HIV status or seek treatment because they fear rejection, blame, loss of property and custody rights, and/or violence. If their HIV status becomes known. Many women and girls are unable to negotiate safe sex with their intimate partners or make decisions about contraceptive use. In many settings, women lack access to sexual health services, including family planning and a full range of contraceptives. In addition, early or forced marriage is a serious human rights violation, leading to HIV infection and significant reproductive health problems. In virtually all settings, women and girls face high rates of GBV and there is a proven link between GBV and HIV. Such violence, or the fear of it, can undermine their ability to negotiate safe sex or to leave an abusive relationship. Not only does violence increase the risk of infection, but it also negatively influences adherence to treatment and access to health services”.

### Repressive practices, policies and laws

Many countries in West and Central Africa have in place laws, policies and practices that affect HIV-related health services. They significantly undermine efforts to prevent and treat the disease. These include:

- Mandatory testing
- Criminalization of non-disclosure of HIV status
- Lack of informed consent and confidentiality
- Laws that require health service providers to report certain groups to law enforcement.

In a stigmatizing, discriminatory and repressive environment, people are reluctant or unwilling to be tested or inform their sexual partners of their HIV status. More specifically, punitive policies and laws that contribute to the discriminatory treatment of certain groups in society, including LGBTQ+ people, people who use drugs, and sex workers, also impede the use of HIV-related health services. Members of these groups fear arrest, harassment or other negative reactions from law enforcement. In addition, people in detention are often denied access to condoms and other forms of HIV and TB prevention and treatment. Most importantly, the poor conditions of prisons in many countries increase the risk of HIV infection or death from AIDS-related illness.

As you may have gathered, stigma, discrimination, gender inequality, gender-based violence and repressive practices, policies and laws both create and constitute a circuit of human rights violations. This cycle negatively impacts on HIV health outcomes. It hinders the HIV response at every stage, limiting access to:

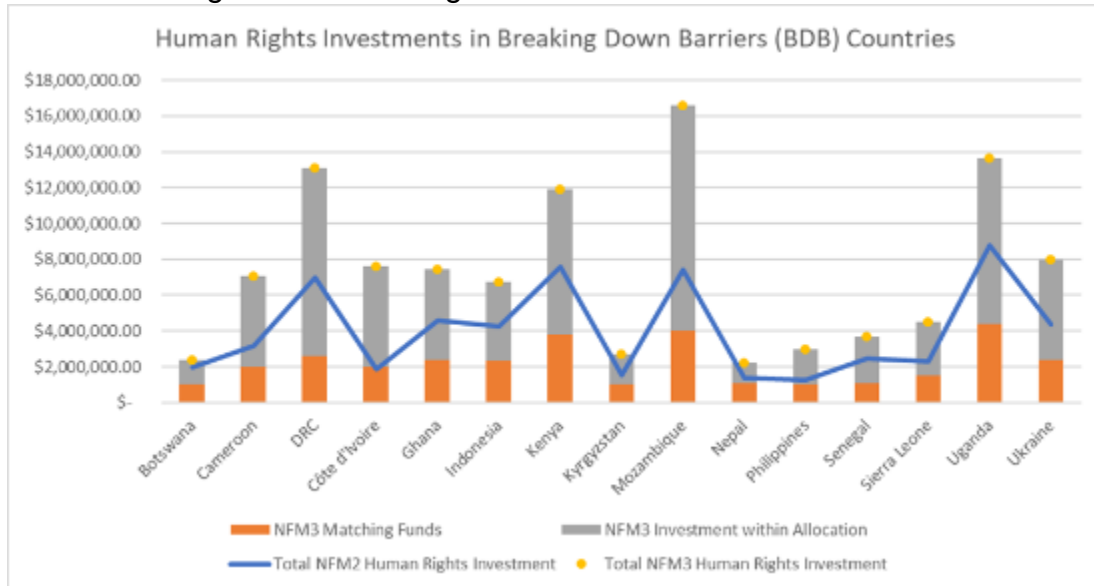
- Services to prevent new infections
- Testing, treatment, retention and adherence services
- Sexual and reproductive health services
- Tuberculosis and other opportunistic disease management services.

It was with a view to removing these barriers that the Global Fund launched the Breaking Down Barriers (BDB) Initiative nearly six years ago. Given the unequal spread of health risks and access to health care, the defence of human rights is a key issue.

### Breaking Down Barriers

Initially conducted in 20 countries, the BDB initiative provides comprehensive programs to reduce human rights-related barriers to health services so that no one is left behind. The stated goal is to increase the impact of Global Fund grants. As a result, Global Fund investments in programs to reduce human rights barriers have increased more than tenfold in the twenty countries covered by the Initiative, from \$10.6 million to \$78.2 million between NFM1 and NFM2, and a further increase to approximately \$130 million in

Figure 2. Human rights investments in BDB countries



Source: The Global Fund

The funds were largely invested in:

- Raising community awareness (radio programs, community dialogues, etc.) of the detrimental effects of stigma and discrimination against key populations (KPs).
- Training and mobilization of health professionals on ethical and legal issues in care services for people living with HIV (PLHIV) and TB (confidentiality of medical records and serological status for HIV or bacteriological status for TB).
- Advocacy for the reform or repeal of laws and policies that impede access to health services, especially for key populations.
- Facilitating access to community legal and paralegal services.
- Sensitization of law enforcement officers, parliamentarians, health professionals on GBV.
- Mobilizing PLHIV and those with TB, TB survivors and other KPs as peer legal assistants and to monitor human rights abuses.
- Establishment of support groups for people with TB and their families.
- Technical and financial support to selected KP-led organizations.
- Educating KPs on their rights.

The BDB's mid-term evaluation confirmed the original assumption that there was a strong link between the promotion of human rights and the fight against HIV. In fact, robust data collected in all 20 countries showed improvement from baseline to mid-term in all countries. Emerging evidence of the initiative's impact has been documented in every country. It must be emphasized that all of them demonstrate that there can be no satisfactory results in the fight against HIV without the removal of human rights barriers. The two are inextricably linked. The promotion of human rights is a key factor in the fight against HIV and TB. It paves the way for maximizing the Global Fund's investments.

Let's briefly digress at this point to indicate that the evidence produced by this program, the BDG project's results on the ground, actually reinforces a body of international law (binding for many countries in West and Central Africa as State Parties to that law). These laws have long prohibited discrimination on the basis of HIV status, sexual orientation, gender and gender expression, health status (including drug use) or sex work as a violation of human rights. Under international human rights law, states are obliged to take specific measures to eliminate stigma and discrimination against PLHIV and KPs. Some of the provisions are legally (hard law) enforceable against West and Central African states.

And even if some are 'soft' law (as in, existing but not applied), this does not change the moral obligation of states to comply with the recommendations of the United Nations, including those of the World Health Organization (WHO), UNAIDS and the Global Commission on HIV and the Law (see the full reference in the [UNAIDS brochure](#), p. 6). It might be opportune to remember Article 26 of the 1969 Vienna Convention on the Law of Treaties which states: "Every treaty in force is binding upon the parties and must be performed in good faith" (Pacta Sunt servenda). The lives of millions of people are at stake.

### The centrality of human rights in Grant Cycle 7 (GC7) funding applications

At the 2023-2025 Round Application Preparation Workshop held on 5-9 December 2022 in Saly Portudal, Senegal, and at the Sub-Regional Forum on Community Engagement held on 25-27 January 2023 in Cotonou, Benin, presentations by Global Fund stakeholders captured the significance of human rights in GC7 applications.

It is likely that BDB countries will continue to be eligible for human rights matching funds, but with reduced amounts and more stringent financial and programmatic conditions. The Global Fund will need to ensure that the funds are actually used to address barriers. Moreover, the idea is that countries will continue to take ownership of this essential program even if the counterpart funding decreases.

For those countries currently benefiting from Global Fund investments under BDB, a participatory process to assess current programs to reduce human rights barriers will be required as part of the national dialogue. This is an excellent opportunity to deepen the dialogue on human rights barriers, current programs and needs. Funding applications will need to consider the findings of the assessments and make specific and detailed commitments to move towards a comprehensive consideration of all human rights barriers.

For all countries, there is a new requirement to include any existing human rights assessments with the funding application. Guidance on how to [conduct a rapid assessment](#) of these barriers is already available. Countries are encouraged to undertake such an assessment to feed into and support their funding application.

In general, it is important to note that the issue of human rights must be addressed in a cross-cutting manner rather than in a specific way. The aim is that human rights obstacles are addressed comprehensively through interventions in all areas. However, the Global Fund expects country programs to consider human rights as essential elements of the HIV programme and as such they are a core part of the new Program Essentials for GC7.

Figure 3. Introduction to Program Essentials

| What are they?   | How were they selected?  |
|--|--|
| <p>Program Essentials are <b>key evidence-based interventions and approaches</b> to address the ambitious goals set out in <b>the HIV, TB, and Malaria global strategies</b></p> <p>They will support the <b>Global Fund's key strategic objectives</b> to:</p> <ul style="list-style-type: none"> <li>• 'maximize people-centered integrated systems for health to deliver impact, resilience and sustainability'</li> <li>• 'maximize health equity, gender equity, and human rights'</li> </ul> <p>As such, Program Essentials should be <b>addressed in all national disease programs</b> supported by the Global Fund (regardless of who is funding them)</p> | <p>Elements <b>recommended by technical partners</b> (WHO, UNAIDS, Stop TB, RBM) and further described in their respective technical guidelines</p> <p><b>Critical interventions needed to achieve outcomes and impact</b> set out in global strategies (WHO, UNAIDS, Stop TB, RBM and the Global Fund)</p> <p><b>Crucial to ensure equity in access</b> to highly impactful interventions</p> |

Source; The Global Fund

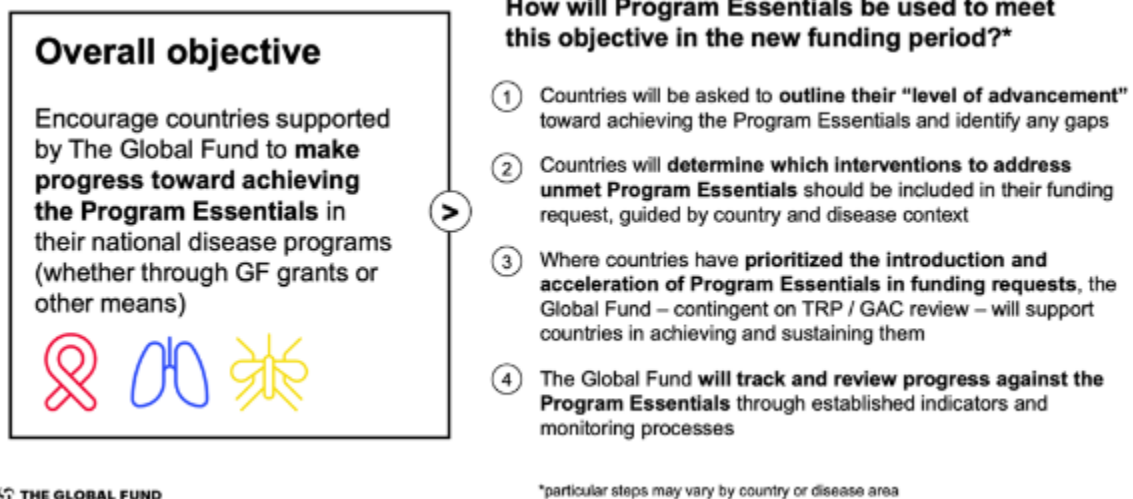
Human rights are considered to be an essential element of the program:

- Integrating programmes to remove human rights barriers into prevention and treatment programmes for key and vulnerable populations (KVPs).
- Stigma and discrimination reduction activities for PLHIV and KPs in health care and other settings
- Legal literacy and access to justice activities for PLHIV and KPs.
- Support for efforts, including those led by communities, to analyse and reform criminal and other laws, policies and practices that impede effective responses to HIV.

The [Modular Framework](#) is also rich in suggested interventions and activities. It can usefully feed into national dialogues, national strategic plans and hence funding applications.

At this point, one might ask how the core elements of the program will be used in the life cycle of GC7. The Global Fund's answer is as follows:

Figure 4. How Program Essentials will be used in the 2023-2025 funding cycle



It should be noted that the battle against HIV cannot be won without removing the barriers that prevent certain categories of the population from benefiting from health services. This being said, all West and Central African countries must remain honest, lucid and measured regarding their reality and what they are capable of achieving in a given timeframe to remove the barriers. The security of some implementers, especially those working with KVPs, remains a real issue that should not be underestimated. Do not promise anything you cannot or will not do. There is no universal solution. Each context has its own

specific obstacles, challenges and opportunities. Ingenuity and creativity are needed to overcome human rights obstacles. The price paid is too high to settle for the status quo.

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