



Stigma, Discrimination, and PEPFAR Partnership Framework Agreements: An Analysis of Selected Issues in Five Agreements

Overview of Findings and Recommendations

Physicians for Human Rights
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PEPFAR country teams and PEPFAR partner countries are in the process of developing partnership framework agreements that will guide both PEPFAR and partner country HIV/AIDS objectives and programming over the next five years. As such, these are critical documents. More detailed five-year implementation plans will be based on these agreements. Several countries have finalized the framework agreements; to our knowledge, no country has yet finalized an implementation plan.

Physicians for Human Rights (PHR) analyzed how the four agreements finalized as of mid-November 2009 (Malawi, Swaziland, Lesotho, and Angola), and a late draft of a fifth agreement (Kenya), address three issues related to stigma and discrimination: legal and regulatory reform, stigma and discrimination in the health sector, and recognition of the need to address stigma and discrimination against people with disabilities. These are critical issues in HIV prevention. There is strong evidence that HIV prevention efforts against marginalized populations will be less successful in countries that lack protective legal frameworks for these groups.¹ Health sector stigma deters people from seeking HIV and other services and reduces the quality of care that they do receive. And people with disabilities represent 10% of the world's population and are at heightened risk of contracting HIV, yet are subjected to much stigma and discrimination, and rarely recognized as a group requiring targeted interventions.²

PEPFAR recognizes the continued destructive role of stigma, as well as the need to support the rights of marginalized populations. As its second five-year strategy states, PEPFAR seeks “to advance the rights of populations that face stigma, and expand equal access to care.”³ The

¹ UNAIDS, *2008 Report on the Global AIDS Epidemic* (2008), at 83-84. Available at: http://www.unaids.org/en/KnowledgeCentre/HIVData/GlobalReport/2008/2008_Global_report.asp.

² AIDS-Free World press release, *People with Disabilities Are at High Risk of HIV but Absent from AIDS Statistics – 650 million individuals worldwide are living with a disability*, Aug. 4, 2008. Available at: <http://www.aids-free-world.org/images/stories/aidsconference/final%20press%20release%20disabilities.doc>.

³ Office of the U.S. Global AIDS Coordinator, *The U.S. President's Emergency Plan For AIDS Relief Five-Year Strategy*, at 16. Available at: <http://www.pepfar.gov/documents/organization/133035.pdf>.

strategy establishes as a major piece of PEPFAR’s prevention strategy “reaching most-at-risk populations, no matter how stigmatized or marginalized these populations may be.”⁴

One PEPFAR focus regarding stigma and discrimination will be “[e]mphasizing support for marginalized populations as an essential part of country engagement.”⁵ This implies the importance to PEPFAR of supporting the needs and rights of these populations as part of partnership frameworks, which are central to country engagement. Further, PEPFAR supports policy changes to create a safe environment for marginalized populations to seek and receive health and support services. For example, the strategy ensures PEPFAR’s support for “country government policies that ensure that MSM have equal access to health care, HIV/AIDS information and supportive services, and do not face arrest or detention for seeking these services.”⁶ And the strategy specifically recognizes that “Partnership Frameworks allow PEPFAR to leverage policy reform to . . . eliminate barriers to women’s full realization of their rights . . . [such as by addressing] employment or inheritance laws.”⁷

Relevant to another aspect of PHR’s review of partnership frameworks agreements, the five-year strategy commits PEPFAR to working “to ensure that its prevention, care, and treatment programs are free from stigma and discrimination directed toward clients.”⁸ This requires addressing stigma and discrimination in the health sector.

The initial partnership framework agreements, however, inadequately incorporate PEPFAR’s goals of stigma-free HIV programs and reaching even the most marginalized populations. Most of the agreements reviewed failed to address the need for legal and policy reform with respect to curtailing stigma and discrimination and securing the equal rights of women. Those that did were incomplete with respect to issues or populations covered, or vague as to the extent of the commitments being made. Similarly, the majority of agreements did not address stigma and discrimination within the health sector, and the approach of the several that did specifically address this concern did not appear to be comprehensive. Only one agreement recognized people with disabilities (in particular, people with mental disabilities) as a group at heightened risk of contracting HIV.

The frequently failure to address these issues in the framework agreements creates the risk that PEPFAR programs will also insufficiently respond to these issues. Furthermore, we are concerned that the United States is missing an opportunity to use these agreements to help

⁴ Office of the U.S. Global AIDS Coordinator, *The U.S. President’s Emergency Plan For AIDS Relief Five-Year Strategy*, Annex: PEPFAR and Prevention, Care, and Treatment (2009), at 7. Available at: <http://www.pepfar.gov/documents/organization/133434.pdf>.

⁵ *Id.* at 15.

⁶ *Id.* at 11.

⁷ Office of the U.S. Global AIDS Coordinator, *The U.S. President’s Emergency Plan For AIDS Relief Five-Year Strategy*, Annex: PEPFAR’s Contributions to the Global Health Initiative (2009), at 11. Available at: <http://www.pepfar.gov/documents/organization/133437.pdf>.

⁸ Office of the U.S. Global AIDS Coordinator, *The U.S. President’s Emergency Plan For AIDS Relief Five-Year Strategy*, Annex: PEPFAR and Prevention, Care, and Treatment (2009), at 11. Available at: <http://www.pepfar.gov/documents/organization/133434.pdf>. The strategy also states PEPFAR’s support for “efforts to ensure that health care workers are trained to protect patient confidentiality and provide nonjudgmental services.” *Id.* at 28.

catalyze legal and policy reform in partner countries that will contribute to HIV prevention efforts by better protecting the rights of women and marginalized groups.

Future framework agreements should more fully address these issues. And it is critical that they are fully addressed in the partnership framework implementation plans now being developed.

PHR urges that the Office of the U.S. Global AIDS Coordinator (OGAC) update its guidance on partnership frameworks to emphasize these areas and the role that the partnership framework agreements, as well as the implementation plans, can and should have in catalyzing and enforcing national laws and policies that protect human rights. This should include protecting people living with HIV/AIDS from discrimination; ensuring the equal rights of women in all areas; protecting the rights of people with mental and physical disabilities; criminalization of gender-based violence including marital rape; decriminalization of homosexuality;⁹ laws and policies that enable injecting drug users and sex workers to access health and support services, and HIV/AIDS information, without fear or risk of arrest, detention, discrimination, or other negative consequences, and; laws and policies that protect the rights of other marginalized populations, and ensure their equal access to health and support services, and HIV/AIDS information.

When reviewing partnership framework agreements and their implementation plans, OGAC – and Members of Congress in their oversight role – should look for:

- An assessment of how the existing legal and policy framework discriminates against or protects the rights of women and marginalized populations, including people with disabilities; of how effectively protective laws and policies are being implemented and enforced; and; of stigma and discrimination in the health sector, and current measures to address it.
- Objectives and commitments, with specific targets, to reform discriminatory laws and policies to be consistent with and to actively secure the human rights of groups subject to stigmatization and discrimination; to more effectively implement and vigorously enforce protective laws and policies, and; to take measures to reduce stigma and discrimination in the health sector.
- An explicit recognition of people with disabilities as a marginalized population at heightened risk of contracting HIV, with need for targeted HIV prevention strategies.

⁹ PEPFAR's five-year strategy does not expressly commit PEPFAR to opposing decriminalization of homosexuality, though it recognizes the harm criminalization causes. Top U.S. government officials have, however, spoken out against this criminalization. The PEPFAR partnership framework guidance should be revised to encourage partnership frameworks to directly address the need to decriminalize homosexuality. Where it is not possible to address this in the partnership framework agreement directly, the guidance should direct partnership frameworks to, at the least, directly address the legal and policy reform needed to enable men who have sex with men to access health and support services, and HIV/AIDS information, without fear or risk of arrest, detention, discrimination, or other negative consequences. This should lead to activities during the course of implementing the partnership framework that include those directed at, and that lead to, decriminalizing homosexuality.

Framework agreements that do not incorporate these measures should be revised accordingly.¹⁰ Where this is not possible, the partnership framework implementation plans should incorporate the assessments, objectives, commitments, targets, and recognition described above.

It may be that in certain countries, PEPFAR teams determine that deep social and cultural roots of the stigma that must be overcome, or opposition of the partner country's government, precludes the full use of partnership frameworks to catalyze legal and policy change. Teams might even determine that such efforts would be counterproductive towards the objective of securing the rights of women and marginalized groups. If this is the case, PEPFAR teams should communicate this to OGAC, and should develop a strategy – which (to the extent possible) should be incorporated into the partnership framework agreement and implementation plan – to change this environment and to make significant progress in protecting the rights of these populations during the second phase of PEPFAR. A critical component of any such strategy should be support for local civil society organizations composed of or advocating on behalf of such populations, and working to secure their rights.

¹⁰ The OGAC guidance on partnership frameworks calls for the implementation plans to include a situation assessment. Such an assessment is not a required part of the framework agreements. Therefore, the first measure above, an assessment of the legal and policy framework and of health sector discrimination, is unlikely be part of the framework agreements themselves, but should be included in the implementation plans.