ADDRESSING SEX WORK, MSM AND TRANSGENDER PEOPLE IN THE CONTEXT OF THE HIV EPIDEMIC

INFORMATION NOTE

Introduction

The appropriate targeting of HIV investment is crucial to the success of HIV responses. Taking the appropriate targeting of certain populations and interventions to the appropriate scale can be challenging. Marginalized populations such as sex workers, men who have sex with men (MSM), transgender people and people who use drugs have often been overlooked in national strategies and programs – denying countries the opportunity to get ahead of their epidemics. Moreover, certain legal and policy environments that criminalize behaviors of these key populations and/or create barriers to delivering services that can reduce vulnerability to HIV not only impact the trajectory of the epidemic in countries but violate human rights.

The Global Fund's Sexual Orientation and Gender Identities (SOGI) Strategy (2009), as well as Gender Equality Strategy (2008), encourages all partners, especially government, technical and civil society partners at country level, to strengthen their focus on the HIV-related vulnerabilities of people who are marginalized due to real or perceived sexual orientation, gender identity, or consensual sexual behaviors.

Key focus populations of this information note include:

- Sex workers, including men, women, or transgender people who sell;
- Men who have sex with men (MSM);
- The female sexual partners of MSM;
- Transgender people;
- Other sexual minorities

Useful terminology and acronyms are included in the final section of this information note.

Why increased targeting of HIV funding requests is important

HIV disproportionately impacts sex workers, MSM, transgender people and other lesbian, gay, bisexual, transgender and intersex (LGBTI) groups in all countries. They often face significant vulnerability to HIV as a result of high risk behavior, poor coverage by HIV and health services, criminalization, punitive environments, social marginalization and continuing stigma and discrimination. And when living with HIV, access to prevention, treatment, care and support is even more difficult because of membership to an already marginalized and socially excluded population group.

Among the most vulnerable risk groups are MSM and transgender people. Sexual minorities who are also sex workers and/or who also inject drugs are at even higher risk. There are particular risks for those who live in settings such as military facilities and prisons where violence and sexual coercion may be common (See *SOGI Strategy* for references.).

MSM have been profoundly affected by HIV, with a recent review finding that MSM are 19 times more likely to be living with HIV than other men[1]. New infections among MSM are driving or substantially contributing to national epidemics in all regions, accounting for 10% or more of new infections in Côte d'Ivoire, Ghana and Nigeria[2]; 33% in the Dominican Republic and 56% in Peru.[3] HIV prevalence among MSM has been found to be as high as 38% in Jamaica; 25% in Ghana; 43% in coastal Kenya; 25% in Thailand; and 19% in both Guyana and Côte d'Ivoire. Effective policies and programmes for MSM are therefore essential in both concentrated and generalized epidemics.

Sex workers have been among the populations most affected by HIV since the beginning of the epidemic more than 30 years ago. In both concentrated and generalized epidemics, HIV prevalence higher among sex workers than in the general populations. Globally, female sex workers are 13.5 times more likely to be living with HIV than all other women, including in hyper-endemic countries.4

Analysis of available data found a pooled HIV prevalence among female sex workers of 36.9% in sub-Saharan Africa, 10.9% in Eastern Europe and 6.1% in Latin America.5 Median prevalence among male sex workers gleaned from published literature from 24 countries since 2006 is 14%.6 Unpublished data from southern Africa show HIV infection rates among sex workers of 49% to 60%; 69%; and 71%.

Transgender women are among the populations most heavily affected by HIV worldwide. According to a review of available studies from 15 countries, an estimated 19% of transgender women were living with HIV – the odds of HIV infection being 49 times greater than for all adults of reproductive age in these countries[7]. The impact of HIV on transgender men has yet to be established.

Poor coverage of services and populations

According to UNAIDS, more than 70% of countries did not report on levels of access to HIV services for MSM and only 43% of countries reporting in 2012 that their national AIDS strategies addressed transgender people[8]. Where information was reported, access to HIV services varied from 12% in parts of Africa to 43% in parts of Latin America. According to UNAIDS access to HIV prevention programs and services for MSM and transgender people remains inadequate overall. A recent survey by *the Global Forum on MSM & HIV* assessed the availability of and access to testing and prevention services for sexually transmitted infections and HIV among MSM in eight regions. Of the 17 services assessed (including sexually transmitted infection and HIV testing and counseling, HIV treatment, free condoms, mental health services, circumcision, and mass-media campaigns to reduce HIV and to reduce homophobia), only in two areas (sexually transmitted infection testing and circumcision) did a majority of respondents (51% in both cases) report that the services were easily accessible. Respondents also noted the many barriers to their access to services, including homophobia, stigma, and criminalization of same-sex acts, policy barriers, and insensitivity or lack of awareness among health care providers.

HIV prevention programs among sex workers have achieved major progress both in increasing condom use in sex work and in reducing HIV infections – yet more work is needed. Sex work organizations and networks report significant lack of access to condoms in many high prevalence

[1] World Bank, JHSPH, UNDP (2011) The Global HIV Epidemics among Men who have Sex with Men
[2] Case KK et al. (2012). Understanding the modes of transmission model of new HIV infections and its use in prevention planning. Bulletin of the World Health Organization 90:831-838A.
[3] UNAIDS (2013). Report on the global AIDS epidemic.
[4] Kerrigan, D. et al. (2010). *The Global HIV Epidemics among Sex Workers* (Washington, DC: World Bank).
[5] Kerrigan, D. et al. (2010). *The Global HIV Epidemics among Sex Workers* (Washington, DC: World Bank).
[6] UNAIDS Report on the global AIDS epidemic. 2013.
[7] Baral SD et al. (2013). Worldwide burden of HIV in transgender women: a systematic review and meta-analysis. Lancet Infect Dis 13:214-222.
[8] UNAIDS Global Report 2012.

settings and continued client demand for unprotected paid sex.[9] In countries with concentrated epidemics, HIV prevalence trends among recent initiates into sex work provide insight into the trajectory of the HIV epidemic and are a proxy measure of HIV incidence.

While sex between women does not present a high risk of HIV transmission, women who have sex with women do face HIV risks due to the factors that increase women's risk generally and also because they can be targets for sexual violence *because* of their sexual orientation.

Despite high prevalence and incidence, program reach and coverage remains low and governments have historically allocated inadequate resources to MSM, transgender people, other LGBTI groups and sex workers. Fear of violence, stigma and discrimination can also prevent many members of marginalized groups from accessing health care and other services.

All disease programs should be designed using a human rights-based approach which consults with populations who will use the health services in program planning, monitoring, and evaluation; and integrates human rights norms and principles into those disease programs. In particular, Global Fund-supported programs must not infringe human rights, and must ensure non-discrimination, respect for informed consent in medical services, and respect for medical confidentiality.

The impact of criminalization

Countries that do not recognize and protect groups from discrimination are likely to find that those communities have less access to prevention and treatment services. In countries that criminalize MSM, sex workers, or people who use drugs, and where those laws are applied, the negative impact on access to services is even greater.

For this reason, WHO, UNFPA, UNAIDS and the Network of Sex Work Projects recommends that "All countries…work toward decriminalization of sex work and elimination of the unjust application of non-criminal laws and regulations against sex workers."[10] The Global Commission on HIV and the Law recommends that countries repeal laws that prohibit consenting adults to buy or sell sex, and "ensure that enforcement of anti-human-trafficking laws is carefully targeted to punish those who use force, dishonesty or coercion…Anti-human-trafficking laws must not be used against adults involved in consensual sex work."[11]

Similarly, The Global Commission on HIV and the Law notes that "to ensure an effective, sustainable response to HIV that is consistent with human rights obligations…Countries must repeal all laws that criminalize consensual sex between adults of the same sex and/or laws that punish homosexual identity." It also recommends that countries "amend anti-discrimination laws expressly to prohibit discrimination based on sexual orientation (as well as gender identity)."[12] These recommendations are reinforced by guidance issued by UN human rights treaty bodies[13] and by the United Nations High Commissioner for Human Rights.[14]

[9] UNAIDS Guidance Note on HIV and Sex Work (2012) http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2009/JC2306_UNAIDS-guidance-note-HIV-sex-work_en.pdf

[10] WHO, UNFPA, UNAIDS, NSWP. Prevention and treatment of HIV and other sexually transmitted infections for sex workers in low- and middle-income countries (2012).

[11] Global Commission on HIV and the Law. *Risks, Rights and Health* (2012).

[12] Ibid.

[13] See, for example, Human Rights Committee, Toonen v. Australia (CCPR/C/50/D/488/1992); Committee on Economic, Social and Cultural Rights concluding observations on Cyprus (E/C.12/1/ Add.28), para 7; Committee on the Elimination of Discrimination against Women concluding observations on Uganda (CEDAW/C/UGA/CO/7) paras 43-44.

[14] Report of the High Commissioner for Human Rights on Discriminatory Laws and Practices and Acts of Violence against Individuals Based on their Sexual Orientation and Gender Identity, 17 November 2011 (A/HRC/19/41) paras 14, 41-42 and 84(d)

How to address sex work, MSM and transgender people in concept notes

National AIDS programs, Country Coordinating Mechanisms (CCMs) and other applicants need to work in close consultation and with robust participation of networks and representatives of key affected populations, and with technical partners to ensure that comprehensive programs are developed based on the best available local intelligence and to ensure that community needs are adequately addressed in funding requests and programs.

To achieve this, key affected population representatives should be provided with proper training or capacity development support to effectively participate in national proposal making processes.

Involvement in CCMs and Country Dialogue

The Global Fund requires the participation of people living with HIV and Key Populations in CCMs and financial resources are available from the Global Fund Secretariat to support strengthened participation and outreach. The 2010 CCM Funding Policy[15] is available on the Global Fund website. If they are not already members of the CCM, community-led networks and organizations of MSM, transgender persons and sex workers should participate in the Country Dialogue and have meaningful input into the development of the Concept Note. In many contexts their security needs to be assured if they are to effectively participate and contribute to such process. For example, initiating a separate national process, in the form of smaller country dialogues focusing on key populations that will feed into the broader Country Dialogue process, should be considered. Country partners of the Global Fund, such as UN agencies, could host and coordinate this dialogue, providing a safer space for key population representatives to participate and engage in the Country Dialogue process. In cases where national consultations would not be feasible, resource countries could be identified for each region or sub-region to host such dialogues.

Community systems strengthening

Many of the most effective responses to HIV for key affected populations are delivered in community-based settings, often by peers. However, these communities often lack the resources they need to be effective partners in national HIV responses. Funding activities that strengthen community responses are likely to have a positive result. In addition to services and programs, applicants are also encouraged to focus on system weaknesses that affect access to services by key affected populations and apply for resources for community systems strengthening. Such interventions may include capacity building, core funding for networks and organizations of key affected populations, supplies and infrastructure, and partnership building for organizations that represent or work with sexual minority groups, as well as partnership building between networks of PLHIV and networks of key affected populations. Further information is included in the Community Systems Strengthening Framework and the Community Systems Strengthening Guidance Note, on the Global Fund's website.

Improving the evidence base

Global Fund grants can be used to help strengthen the evidence base around marginalized and key affected populations. This can be done for example through:

- The strengthening of epidemiological surveillance systems to understand epidemics among sexual minorities in relation to overall national HIV epidemics
- Defining a basic, minimum package of services which is agreed upon and clearly defined at the national level

[15] 2010 CCM Funding policy http://www.theglobalfund.org/en/ccm/support/funding/

- Improving the evidence base for effective interventions for marginalized populations, including through baseline assessments, sentinel surveillance, national behavioral surveillance surveys, and operational research
- Calculating population size estimates, establishing a system to avoid double counting, and introducing indicators to measure coverage of target populations being reached
- Improved tracking of resource flows to target populations
- M&E strengthening to challenge or expand existing evidence and prevailing hypotheses within national surveillance, program data collection, and national information management systems

The Global Fund Monitoring and Evaluation Toolkit (HIV module, Section 3.1.1) provides more information on improving the evidence base for key populations.

Human rights programming

The concept note requires applicants to identify human rights barriers to accessing health services, including gender inequality. These should be identified based on consultation in country dialogue. To ensure an enabling environment for Global Fund-supported health programs, applicants are strongly encouraged to include interventions that will address these legal barriers to access. Because the following interventions reinforce one another, they are recommended as a package:[16]

1. *Legal environment assessment and law reform:* If no Legal Environment Assessment has been conducted for the country in the past two years, conduct a national Legal Environment Assessment (LEA) of HIV-related laws, regulations, policies as well as access to justice and law enforcement, in order to identify to what extent a country's national legal and regulatory framework addresses relevant human rights issues. Based on the priorities identified in the Legal Environment Assessment, design a costed, time-bound plan to reform policies and laws to enable greater access to health services; include these planned and costed activities in the grant.
2. *Legal literacy and legal aid services*: Educate communities about their legal and human rights, and support their access to justice through either community paralegals integrated into community outreach programs, or legal aid services. A growing body of evidence shows that these activities improve uptake of health services, and provide additional entry points for outreach, testing and treatment.
3. *Training for police, officials and health workers*: While law and policy reform are important, in the short term, training and communication with those who implement laws and policies can help to create a more enabling environment for the health response. Integrating community representatives in these trainings also helps to create channels of communication among key populations, officials and police.
4. *Community-based monitoring:* Monitor and report on incidences of rights violations, including discrimination, gender-based violence, issues with policing of key populations, violations of informed consent, and violations of medical confidentiality, denial of healthcare services, among others.

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http://www.unaids.org/en/media/unaids/contentassets/documents/document/2012/Key_Human_Rights_Programmes_en_May2012.pdf
The four areas outlined here incorporate the seven key programs that UNAIDS recommends national HIV responses include, appropriately tailored to the national and local epidemic:
1. programs to reduce stigma and discrimination
2. programs to sensitize law enforcement agents and law and policy makers
3. HIV-related legal services
4. programs to train health care workers in non-discrimination, confidentiality and informed consent
5. programs to monitor and reform laws, regulations and policies relating to HIV
6. legal literary programs (such as "know your rights/laws" campaigns)
7. programs to reduce harmful gender norms and violence against women and increase their legal, social and economic empowerment in the context of HIV

5. *Policy advocacy and social accountability* – Support community-led advocacy for law and policy reform, including engagement in systems in health facilities that address complaints, and impact litigation.

Note that the community-based monitoring and policy advocacy interventions are similar to those in CSS. While states have the primary responsibility for upholding international human rights standards, community organizations, networks and civil society play an essential role in supporting, monitoring and working with states to ensure that laws and policies are implemented.

Comprehensive programs

Comprehensive programs targeting sex workers, MSM and transgender communities are described in several tools developed by both civil society and UN technical partners. Extracts from tools developed by UNAIDS follow as an example of the kind of information available**.**

The following information is summarized from: **UNAIDS Guidance Note on HIV and Sex Work which addresses female, male and transgender sex workers**, 2012[17, 18] Three pillars can be used to guide effective, evidence-informed responses to HIV and sex work:

Pillar 1: Assure universal access to comprehensive HIV prevention, treatment, care and support
Pillar 2: Build supportive environments, strengthen partnerships and expand choices
Pillar 3: Reduce vulnerability and address structural issues

Comprehensive, accessible, acceptable, sustainable, high-quality, user-friendly HIV prevention, treatment, care and support adapted to local contexts and individual needs should include:

- Actions to address structural barriers, including policies, legislation, and customary practices including stigma-reduction efforts, that prevent access and utilization of appropriate HIV prevention, treatment, and care and support
- Policies and programs to ensure freedom from violence, abuse, and discrimination
- Information for sex workers and their clients and others involved in the sex industry
- Reliable and affordable access to commodities, including high-quality male and female condoms, lubricants and contraceptives, and other requirements for health, such as food, sanitation and clean water
- Access to voluntary HIV testing and counseling, with treatment, effective social support and care for sex workers who test positive for HIV
- Access to high-quality primary health care, TB management, sexual and reproductive health services, especially sexually transmitted infection management and prevention of mother-to-child transmission of HIV
- Access to alcohol and drug-related harm reduction programs, including sterile needles/syringes and opiate-substitution therapy
- Integration of HIV services with all relevant welfare services, including social support mechanisms for sex workers and their families.

The following information is summarized from: **UNAIDS Action Framework: Universal Access for Men who have Sex with Men and Transgender People**, 2009[19]

A conducive legal, policy and social environment is needed to support programming to address HIV-related issues among MSM and transgender people and can be strengthened through:

- The promotion and guarantee of the human rights of MSM and transgender people, including protection from discrimination and the removal of legal barriers to access to

[17] UNAIDS Guidance Note on HIV and Sex Work
[18] WHO, UNFPA, UNAIDS, NSWP. Prevention and treatment of HIV and other sexually transmitted infections for sex workers in low- and middle-income countries (2012) provides evidence to support sex worker interventions
[19] UNAIDS Action Framework: Universal Access for Men who have Sex with Men and Transgender People

appropriate HIV-related services including laws that criminalize sex between males, and public awareness campaigns to promote the inclusion of sexual minorities and decrease homophobia
- An assessment and understanding of the numbers, characteristics and needs of MSM and transgender people including risks associated with injecting drug use, sex work and prison confinement

As with all target populations interventions targeting MSM and transgender people should be designed around the needs of the target population and include their direct input, while it is important to remember that MSM and transgender people are separate populations. The conflation between MSM and transgender people has negatively impacted service provision. Service providers should have demonstrated competency and experience in working with the target populations.[20] Services may include all or some of the following:

- Information and education about HIV and other sexually transmitted infections, and sustained individual and group-level support for safer sex and safer drug use to reduce risk of exposure to HIV
- Provision of, and education about the use of, condoms and water-based lubricants
- Confidential, voluntary HIV counseling and testing
- Detection and management of sexually transmitted infections
- Referral systems for legal, welfare and health services
- Safer drug-use commodities and services
- Appropriate antiretroviral and related treatments, HIV care and support
- Services to prevent and treat viral hepatitis
- Access to mental health services
- Referrals between prevention, care and treatment services
- Services that address the HIV-related risks and needs of the female sexual partners of MSM and transgender people
- For transgender people, in addition to the interventions described above, access to appropriate information, counseling and support on gender identity and, where appropriate, specific issues related to gender reassignment

The importance of partnerships[21]

The Global Fund acknowledges that work in this area is sometimes challenging and can be controversial in many parts of the world. Civil society organizations and in-country technical partners can help advice which approaches will work best depending on the context.

The Global Fund offers considerable potential for targeted programming informed by the meaningful participation of sex workers, lesbian, gay, bisexual and transgender individuals, MSM, and women who have sex with women in country-level decision-making. Partners in country face an unprecedented opportunity to increase resources for HIV services that meet community needs and break some of the taboos around funding HIV programs that deal with the "controversial" issue of sex and sexuality.

Moving on this agenda it is important to ensure care during planning and implementation in order to secure a "do no harm" approach, so that the communities, particularly in countries where they are criminalized, are able to engage in any new spaces safely and with confidence. It is also vital that investment reinforces community efforts and strives to achieve the partnership challenges of ensuring that communities are at the heart of decisions and impact from concept note development through to program implementation.

[20] WHO, UNDP, GFMSM, GIZ : Prevention and Treatment of HIV and Other Sexually Transmitted Infections among Men Who Have Sex With Men and Transgender People: Recommendations for a public health approach.
[21] An article in Health and Human Rights: *Partnership, sex, and marginalization: Moving the global fund sexual orientation and gender identities agenda* emphasizes the importance of partners in supporting Global Fund grants

Technical support resources

In addition to international civil society organizations, technical assistance can also be provided through a number of United Nations organizations including UNDP, UNAIDS Secretariat and WHO country and regional offices. The following resources might be useful:

- UNAIDS Action Framework: Universal Access for Men who have Sex with Men and Transgender People, 2009 http://data.unaids.org/pub/report/2009/jc1720_action_framework_msm_en.pdf
- WHO, UNAIDS, GIZ, MSMGF, UNDP: Prevention and treatment of HIV and other sexually transmitted infections among men who have sex with men and transgender people, 2011 http://www.who.int/hiv/pub/guidelines/msm_guidelines2011/en/index.html
- WHO, UNFPA, UNAIDS, NSWP: Prevention and treatment of HIV and other sexually transmitted infections for sex workers in low- and middle-income countries, 2012 http://apps.who.int/iris/bitstream/10665/77745/1/9789241504744_eng.pdf
- UNAIDS Practical Guidelines for Intensifying HIV Prevention, 2007 http://www.unaids.org/en/KnowledgeCentre/Resources/PolicyGuidance/OperationGuidelines/HIV_prev_operational_guidelines.asp
- UNAIDS Framework for Monitoring and Evaluating HIV Prevention Programs for Most-At-Risk Populations, 2008 http://www.unaids.org/en/dataanalysis/tools/monitoringandevaluationguidanceandtools/
- UNAIDS Guidance Note on HIV and Sex Work, 2012 http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2009/JC2306_UNAIDS-guidance-note-HIV-sex-work_en.pdf
- UNDP Global Commission on HIV and the Law: Risks, Rights and Health, 2012 http://www.hivlawcommission.org/resources/report/FinalReport-Risks,Rights&Health-EN.pdf
- UNICEF Guidance Note on HIV Interventions for Most-At-Risk Young People, 2008 www.unfpa.org/hiv/iatt/docs/mostatrisk.pdf
- WHO Report of a technical consultation: Prevention and treatment of HIV and other sexually transmitted infections among men who have sex with men and transgender populations,2008 http://www.who.int/hiv/pub/populations/msm_mreport_2008/en/index.html
- WHO Rapid Assessment and Response: Adaptation guide on HIV and men who have sex with men, 2004 www.who.int/hiv/pub/prev_care/rar/en/index.html
- World Bank, JHSPH, UNDP: The Global HIV Epidemics among Men Who Have Sex with Men (MSM), 2012 http://publications.worldbank.org/index.php?main_page=product_info&products_id=24048
- PEPFAR Technical Guidance on Combination HIV Prevention, 2011 http://www.pepfar.gov/documents/organization/164010.pdf

Examples of networks

- Global Forum on MSM & HIV (MSMGF) - www.msmandhiv.org
- APCOM – the Asia-Pacific Coalition on Male Sexual Health – www.msmasia.org
- ASICAL –a Latin American MSM-focused coalition - www.asical.org
- Behind the Mask - African LGBTI communication initiative - www.mask.org.za
- CVC – Caribbean Vulnerable Communities Coalition - www.cvccoalition.org
- Network of Sex Work Projects (NSWP) with presence in 40 countries – www.nswp.org
- The African Men's Sexual Health and Rights Network - http://www.amsher.net
- Global Network of People Living with HIV (GNP+) - http://www.gnpplus.net/

Terminology

In the absence of internationally-agreed upon language to describe the key focus populations mentioned in this information sheet, and covered by the SOGI Strategy, the Global Fund uses language from a 2006 meeting of human rights experts. These experts, from diverse regions and backgrounds, including judges, academics, UN officials, NGOs and others, developed and adopted the Yogyakarta Principles – a set of principles on the application of international human rights law in relation to sexual orientation and gender identity (SOGI).

The following terms may also be useful in developing Concept Note:

Sexuality: Sexuality is a central aspect of being human throughout life and encompasses sex, gender identities and roles, sexual orientation, eroticism, pleasure, intimacy and reproduction. Sexuality is experienced and expressed in thoughts, fantasies, desires, beliefs, attitudes, values, behaviors, practices, roles and relationships. While sexuality can include all of these dimensions, not all of them are always experienced or expressed. Sexuality is influenced by the interaction of biological, psychological, social, economic, political, cultural, ethical, legal, historical, religious and spiritual factors. (*World Health Organization: Defining Sexual Health, 2006).*

Gender identity: Gender identity refers to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body. This may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means and other expressions of gender, including dress, speech and mannerisms.

Sexual orientation: Sexual orientation refers to each person's capacity for profound emotional and sexual attraction to, and intimate and sexual relations with, individuals of a different sex (heterosexual) or the same sex (homosexual) or more than one sex (bisexual).

LGBTI (lesbian, gay, bisexual, transgender and intersex): LGBTI is an acronym commonly used in English speaking countries as a more inclusive descriptor of the "gay community" – often viewed as a useful way to refer to people who are not heterosexual.

Sex work and sex workers: It should be noted that "sex workers" are not usually considered as a key group in the context of sexual orientation and gender identities. Sex workers are however identified as a critical group to the Global Fund's SOGI Strategy alongside LGBTI communities. It is important to recognize that the strategic focus on sex work is just as important to the Gender Equality Strategy of the Global Fund as it is to the SOGI Strategy.