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# **Understanding the Legal Barriers to Accessing HIV/AIDS Services by Key Populations: Findings from Expert Panel Meetings in Zambia**

## Final Report



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This report is based on the consultant's reports for the six meetings held in April, June, and October 2016, that were supported by the National AIDS Council through the Global Fund in Chipata and Livingstone, and by the USAID Open Doors project in Kabwe, Kitwe, Lusaka, and Solwezi.

We wish to thank the experts from Chipo Mushota Nkhata Legal and Human Rights Consultancy Firm, Zambia, for the support during the expert panel meetings. The experts included:

Chipo Mushota Nkhata - Human Rights and Social Justice Lawyer

Felicity Kalunga - Human Rights and Social Justice Lawyer

Landilani Banda - Human Rights Lawyer

Groy Shauma - Human Rights Lawyer and Legal Specialist on HIV

Lillian Mushota - Women's Rights Lawyer and Gender Specialist

John Masuwa - Social Justice HIV Community Response Expert

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## ACRONYMS

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AIDS	Acquired immunodeficiency syndrome
ANC	Antenatal care
ART	Antiretroviral therapy
ARV	Antiretroviral
BBS	Biobehavioral survey
BCC	Behavior change communication
BSS	Behavioral surveillance survey
COH	Corridors of Hope
CRP	Community resource partners
CSW	Commercial sex worker
DATF	District AIDS Task Force
DMO	District medical office
ERCJ	Engender Rights Centre for Justice
EVAT	Economic vulnerability assessment tool
FHI 360	Family Health International
FOR	Friends of Rainka
FOR-MC	Friends of Rainka—Medical Consultancy
FSW	Female sex worker
GBV	Gender-based violence
GRZ	Government of the Republic of Zambia
HCW	Health care worker
HIV	Human immunodeficiency virus
HTC	HIV testing and counseling
HU	Howard University
IEC	Information, education, and communication
KP	Key population
LGBTI	Lesbian, gay, bisexual, transgender, intersex
MOH	Ministry of Health
MSM	Men who have sex with men
NAC	National HIV and AIDS/STI/TB Council
NASF	National AIDS Strategic Framework
ODP	Open Doors Project
PEPFAR	U.S. President’s Emergency Plan for AIDS Relief
PLWHA	People living with HIV/AIDS

PPAZ	Planned Parenthood Association of Zambia
PPT	Period presumptive treatment
SOGI	Sexual orientation and gender identity
STI	Sexually transmitted infection
SW	Sex worker
TBZ	TransBantu Association of Zambia
TG	Transgender
USAID	United States Agency for International Development
VCT	Voluntary counseling and testing
WHO	World Health Organization
ZHECT	Zambia Health Education and Communications Trust

## I. EXECUTIVE SUMMARY

The report, *Understanding the Legal Barriers to Accessing HIV/AIDS Services by Key Populations: Findings from Expert Panel Meetings in Zambia*, describes legal and policy issues affecting key populations (KPs) in accessing HIV services. It provides findings from the six districts visited by U.S. Agency for International Development (USAID) Open Doors project and National HIV/AIDS/STI/TB Council (NAC), and gives recommendations for ending human rights abuses, increasing KP members' legal knowledge, revising laws and policies, training health care workers in KP-sensitive approaches, and prioritizing KP programming.

As part of the process to better understand barriers members of KPs face in accessing HIV services, USAID Open Doors and NAC, with support from the Global Fund, held expert panel meetings between April and October 2016 in six districts of Zambia, including: (1) Chipata; (2) Livingstone; (3) Lusaka; (4) Kabwe; (5) Kitwe; and (6) Solwezi. These meetings were attended by female sex workers (FSWs), men who have sex with men (MSM), and transgender (TG) people. A firm of human rights lawyers was engaged to conduct the meetings with 171 KP members (104 FSWs, 54 MSM, 13 TG persons) participating in the discussions who provided testimonies and personal experiences (see Table 1). The participants were selected by influential KPs reached through their

**Table 1. Expert Panel Meeting Participants**

The table shows the number of participants from each KP group and the lawyers who facilitated at each meeting.

Site	Experts/Lawyers	Number of Participants			Totals
		SW	MSM	TG	
Lusaka	Chipo Mushota Nkhata, Felicity Kalunga, Landilani Banda, Groy Shauma, Lillian Mushota, and John Masuwa	14	7	3	24
Kabwe	Chipo Mushota Nkhata, Felicity Kalunga, Groy Shauma, and John Masuwa	11	7	1	19
Kitwe	Chipo Mushota Nkhata, Felicity Kalunga, Landilani Banda, and Lillian Mushota	22	13	3	38
Solwezi	Chipo Mushota Nkhata, Felicity Kalunga, Landilani Banda, and Groy Shauma	25	8	0	33
Livingstone	Chipo Mushota Nkhata, Felicity Kalunga, Landilani Banda, and Groy Shauma	15	11	4	30
Chipata	Chipo Mushota Nkhata, Felicity Kalunga, Lillian Mushota, and John Masuwa	17	8	2	27
		104	54	13	171

organizations. The primary purpose of the meetings were to discuss relevant barriers to uptake of HIV services, with law enforcement and health care providers in attendance, by identifying solutions and paths forward with regards to accessing comprehensive health care services for these populations. Lawyers were present and provided feedback to inquiries presented during expert panel meetings (see Appendix A).

The revised *National AIDS Strategic Framework (R-NASF) 2014–2016* recognizes the difficulties that an inhibiting policy and legal environment create for implementing agencies and various stakeholders when providing services targeted to members of KPs. Sex work and same sex relations are criminalized in Zambia. Punitive laws and law enforcement practices make it more difficult for HIV programs to reach SWs, MSM, and transgender people (see Appendix B).

The expert panel meetings key findings illustrate that KP members are subject to arbitrary arrest and detention, and extortion and discrimination in education, employment, housing, and access to health services, often with the knowledge or participation of law enforcement authorities. They experience violations of their right to access health and HIV services. These include outright denial of care, verbal abuse and harassment, and onerous requirements that disproportionately impact them. For example, hospital staff demand that people examined and/or tested for sexually transmitted infections (STIs) bring in their partner, a requirement that is difficult for KPs to comply with for fear of stigma and discrimination, and perhaps not knowing clients.

Throughout the meetings, KP members identified issues that directly impact their access to health care services, including having their dignity as human beings respected and protected; economic empowerment; knowledge of grievance procedures to address injustices, stigma, and discrimination; and human rights and legal knowledge. In addition, participants suggested portable booklets/fact sheets outlining grievance procedures that are easy to understand. Other health care needs include:

<b>Sex Workers</b>	<b>Men Who Have Sex with Men/Transgender People</b>
<ul style="list-style-type: none"> <li>▪ STI screening</li> <li>▪ Cervical cancer screening</li> <li>▪ HIV counseling and testing</li> <li>▪ Free abortion</li> <li>▪ Free condoms</li> <li>▪ Free medical checkups</li> <li>▪ Access to safe and KP-friendly health institutions and services</li> <li>▪ Access to GBV services</li> </ul>	<ul style="list-style-type: none"> <li>▪ STI screening</li> <li>▪ HIV counseling and testing</li> <li>▪ Free access to PrEP and PEP</li> <li>▪ Free condoms</li> <li>▪ Free medical checkups</li> <li>▪ Free lubricants, dental dams, and finger coats</li> <li>▪ Access to hormones and hormone therapy</li> <li>▪ Access to mental health information and treatment</li> <li>▪ Access to safe and KP-friendly health institutions and services</li> </ul>

## Recommendations from Expert Panel Meetings

The following are recommendations that emerged from the expert panel meetings for addressing legal and policy barriers to KPs' access to health care services:

- Advocate for the review and amendment of mental health laws that will guarantee treatment for all KPs. Included in this recommendation is language requiring facilities to provide psychological evaluations that are free of discrimination and within a non-threatening environment.
- Through sensitivity training of law enforcement officers, specifically addressing stigma reduction, enhance officers' understanding and approach of public health concerns centered upon HIV and STIs among KPs.
- Implement programs such as paralegal training for KPs so they are aware of their legal rights.
- Create a KP national technical working group chaired by NAC with membership from government and nongovernmental agencies.
- Build economic capacity of KPs to reduce their vulnerability.
- Engage NAC and other stakeholders to provide HIV prevention strategies in the National AIDS Strategic Framework (NASF) for 2017–2021.
- Develop a best practice handbook and user guide on laws and human rights for KPs.
- Develop a national HIV strategy and action plan for KPs.

## II. INTRODUCTION

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This report discusses the findings of the expert panel meetings which focuses on factors affecting the right to health and access to health services for key populations. These factors are considered when looking at the the legal environments affecting specific populations in separate sections. These sections overlap and should not be considered in isolation as the topics affect all members of key populations. Lastly, the report discusses recommendations for implementation based on discussions held with members of KPs who participated.

### Objectives

As part of the process to better understand legal barriers members of KPs face in accessing HIV/AIDS services, the USAID Open Doors project and the National AIDS Council conducted expert panel meetings. The three-fold purpose of the meetings was to:

- Develop appropriate recommendations for legal and policy changes, and programmatic strategies
- Interrogate contents of the National Alliance of State and Territorial AIDS Directors (NASTAD) Legal Review Report
- Advise the National AIDS Council (NAC) and the USAID Open Doors project on how they can promote the use of evidence for programming for KPs within the existing laws.

In response to the NASTAD, NAC with support from the Global Fund engaged, the Chipo Mushota Nkhata Legal and Human Rights Consultancy Firm to conduct expert meetings with KPs that where held in Livingstone and Chipata. Through engagements with USAID, the USAID Open Doors project (ODP) was requested to support a similar review process at four additional priority sites: Lusaka, Kabwe, Kitwe, and Solwezi. After these separate consultancy engagements, the consultant produced reports for the work assigned under NAC and USAID ODP.

### Project Overview

The USAID ODP is a five-year cooperative agreement effective May 18, 2016, to May 17, 2021, between FHI 360 and USAID funded by the U.S. President’s Emergency Plan for AIDS Relief (PEPFAR) with a ceiling of US \$24,409,263. The project’s goal is to increase access to and use of comprehensive HIV prevention, care, and treatment services by key populations (KPs)—sex workers (SWs), men who have sex with men (MSM), and transgender people—in targeted provinces of Zambia.

This project is implemented by FHI 360 as the prime partner to USAID in Lusaka, Kabwe, Kitwe, Livingstone, Kapiri Mposhi, Chirundu, Chililabombwe, and Solwezi districts and in partnership with the Zambia Health Education and Communications Trust (ZHECT), Planned Parenthood Association of Zambia (PPAZ), and Howard University (HU). The project aims to contribute to a reduction in new HIV infections in Zambia, in alignment with Zambia’s revised *National AIDS Strategic Framework (R-NASF) 2014–2016* of the National AIDS Council (NAC), and supports the Government of the Republic of Zambia (GRZ)’s vision of “a nation free from the threat of HIV/AIDS.” In addition, community resource partners (CRPs) and members of the key population community, have been engaged to ensure that activities and services are relevant and context specific, in line with the Joint United Nations Programme on HIV and AIDS (UNAIDS) principle: “Nothing for us, without us.”

### Key Populations and HIV in Zambia

Sex work and same sex relations are criminalized in Zambia. Anecdotal evidence indicates that sex work is an important driver of HIV transmission in generalized epidemics. High prevalence among SWs, together with high client numbers and inconsistent condom use likely generates large numbers of new infections. Despite growing recognition of the importance of addressing the health needs of SWs, MSM, and transgender people in Zambia, they are often unable or unwilling to access HIV services because of stigma and discrimination.

#### ***Issues Affecting Key Populations***

- ✓ Sexual abuse by medical personnel and law enforcement officers
- ✓ Extortion and physical violence by law enforcement officers and members of the community
- ✓ Verbal abuse and discrimination by health practitioners
- ✓ Health practitioners are ill equipped to address specific needs of KPs, especially MSM
- ✓ Criminal laws reinforce the discrimination and violence experienced by KPs
- ✓ Lack of human rights and legal knowledge make KPs more vulnerable to abuse and violation of their rights
- ✓ No support structures for KPs
- ✓ Stigma, discrimination, and violence against KPs are barriers to access health care goods and services
- ✓ Lack of HIV-related information makes KPs vulnerable to contracting HIV

According to the 2016 Zambia Population-based HIV Impact Assessment (ZAMPHIA), HIV prevalence among adults aged 15 to 59 years in Zambia is 12.3 percent, 14.9 percent among females and 9.5 percent among males.

Recent estimates among FSWs in five high HIV-prevalence districts indicate average HIV prevalence of 56 percent.<sup>1</sup> Prevalence among MSM is also high relative to the national estimate of 12 percent among men in the general population.<sup>2</sup>

In a *Study on HIV Prevention for Sexual Minority Groups in Zambia* conducted by the Panos Institute Southern Africa, 24.1 percent of self-identified homosexual men tested positive for HIV. Respondents across categories indicated multiple concurrent partnerships, irregular condom use, lack of awareness on risks of unprotected anal sex, limited education on effective HIV prevention methods including appropriate lubricants, prevalent substance abuse, and unease accessing health services due to stigma and discrimination.

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<sup>1</sup>FHI 360 and Tropical Diseases Research Centre (TDRC). Integrated biological and behavioural surveillance survey (IBBSS) among female sex workers and behavioural surveillance survey (BSS) among male long distance truck drivers in five corridors of Hope III project district sites, 2015. Durham (NC) and Ndola (Zambia): FHI 360 and TDRC; 2015.

<sup>2</sup> Panos Institute study on HIV prevention for sexual minority groups in Zambia 2013. Zambia: NASTAD; 2015.

### III. MEETING FINDINGS AND DISCUSSIONS

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#### Legal and Policy Environment

The meetings revealed the legal and policy environment in Zambia is not favorable for the uptake of health services by members of KPs. In particular, SWs indicated that by virtue of their profession being considered illegal, some health care workers refuse to treat them. The lesbian, gay, bisexual, transgender, intersex (LGBTI) group said that the criminalization of same-sex relationships is also a great hindrance to accessing health care services. These laws create a disconnect between access to health services and policy assurance on universal and quality health care provision for all. Key areas highlighted in the meetings include:

- Access and availability of legal services
- Lack of a legal framework in which to operate and criminalize same-sex relationships
- Need to domesticate international conventions and treaties with respect to human rights of the LGBTI community; a disconnect exists between international human rights law and the domestic legal framework
- Repeal laws criminalizing same-sex relationships
- Protection against stigma and discrimination

#### *Quotes from Stakeholders Meetings*

##### **LGBTI**

- ✓ “I went to the clinic for services because I had anal warts and when I got to the doctor I was asked why I had warts on my anus.”
- ✓ “When I visited a clinic the receptionist looked at me in a strange way because she suspected I was lesbian.”
- ✓ “When I confided in the nurse about my sexual orientation, she called everyone in the clinic to come and see what a homosexual looks like.”

##### **Sex Workers**

- ✓ “There are times when we go for services and health care workers ask us if we are married. This gives us fear of going back to the health care institutions.”
- ✓ “The calling out of names at the ART clinic is a problem. Most clinics have separated the ART section from other sections, and it is easy for everyone at the clinic to know who is HIV-positive.”
- ✓ “There are times when we go to see doctors, and it happens that the doctor is also a client. This leads to shunning away in fear of losing them as clients.”
- ✓ “I had a problem with my monthly menstruation; when I went to the clinic the first question I was asked was whether I am married, and I did not understand what that had to do with my problem.”

## Access to Services

All groups identified the threat of arrest and infringement of their bodily security as a barrier to accessing health care. They narrated experiences of being disowned by family members for being gay, lesbian, or transgender. This made them vulnerable to abuse as they had nowhere to go, and no one to pay for their education. Some resorted to sex work as a result. Many KP members stated that since their families have disowned them, there is a need for safehouses to address the problem of lack of shelter. They also felt that many do not have access to relevant information to either hold their family members to legal obligations or protect themselves from threats of being outed, and also noted various human rights violations that accompany such a revelation.

In terms of health care, they felt that many of their members did not understand how they can protect themselves from HIV, particularly when they are made vulnerable due to a lack of shelter, income, a family support structure, and are subject to a range of human rights violations. Additionally they indicated the need to create information-sharing platforms for relevant HIV-related information, e.g., through support groups and a resource center. They shared experiences of how they used to meet periodically to discuss various topics including HIV prevention, safety and security, and other issues affecting them. They stopped meeting because they ran out of funding for printing IEC materials and providing transportation for members from various destinations. They stated they could also use the safe house as a platform to share information of various topics affecting them since some of the members are already living together.

While the experts appreciated the need for safety and learning more about the barriers KPs face with regards to accessing health care services, they felt a KP-specific resource center and/or safe house would make KPs even more vulnerable to discrimination and abuse. The panel felt it was better to mainstream these services within existing or general shelters that are set up by the government under the Anti-Gender-Based Violence Act or the women's movement, e.g., YWCA. The experts advised that since funding has already been secured for the purposes of stand-alone resource centers for KPs, the centers could be tried as a pilot. Guidelines for operation and rules governing occupation also need to be developed. They should be careful to obtain wide consultation as they formulate the guidelines so they do not have internal disagreements. The experts also advised that KP leadership and their partners such as NAC and FHI 360 must start engaging existing shelters or safe houses for the purpose of offering services to members of KPs. This would also present an opportunity for sharing information with other members of the public

who seek refuge in such places which will eventually present a platform for public discussion of the challenges faced by KPs.

All groups further identified the lack of information on health care and related matters as barriers to access to health care. They stated that they lacked information on:

- HIV prevention
- Protection of bodily integrity as a result of violations by health workers
- Grievance procedures for discrimination they experience at the hands of health care workers
- The correlation between laws on sex work, sodomy, and the right to health care

### **Economic Empowerment**

KP members identified economic empowerment as vital in accessing health care. They said there are no decent jobs, and therefore it is difficult for them to be economically independent. Transgender persons conveyed they do not feel comfortable dressing the way they would like and being their true selves because employers would not employ them. They identified economic dependence on family members as being closely linked to the effects of criminalization: meaning, KP members believe that because certain aspects of their lifestyle are criminalized, family members—who often do not approve of the way in which they live — threaten to disown them. If disowned, they do not have any family support structure and therefore do not have anyone to pay for their formal education or to provide shelter and other basic necessities. They are dependent on their families who often use this dependence to threaten them. If the law did not criminalize their lifestyle, they would be able to live independently of their families in that they would be able to get jobs, challenge employers who victimize them, and also challenge their families who neglect their responsibilities toward them. The stigma attached to being transgender or gay affects one's socioeconomic life to the extent that they are rejected by society, which makes it nearly impossible to be educated or employed.

In response to the issues discussed, experts advised that parents have a legal obligation to provide basic necessities for their children, including the provision of food, shelter, clothing, health care, and education. Although these relationships are strained between the child and their parents, the parents can be compelled by law to provide such necessities. This is particularly true for people under the age of 25 who are receiving educational support from their families. Individuals under the age of 18 cannot and should not be forced into safe houses or resource centers. Doing so

is illegal under Zambian law because minors do not have the legal capacity to make decisions concerning their livelihoods. Until an individual reaches the age of 18 they are under the care of their parents or legal guardians and therefore cannot make decisions to live on their own or with friends without the parents' or guardian's consent. Any person who takes away a child from their parent or legal guardian without lawful authority commits a crime under Section 171 of the Penal Code of Zambia. The crime is amplified if done so in order to assert one's sexual and reproductive health rights. As such it is deemed as acquiring a minor for sexual or immoral purposes, for which the legal punishment is much more severe. As guidelines are being developed for the safe house/resource center, the aforementioned should be taken into account. Even if a parent raises the issue of a child's "deviant behavior," they would have to prove it in court while also justifying their neglect of legal and parental responsibilities.

FHI 360 reassured participants that the organization's work with KPs includes a strong component of economic empowerment which will be published soon.

### **Health Care Provider Training in KP-Tailored Services**

The LGBTI group identified the lack of training of health workers as a barrier to accessing health services. They stated that health workers are not properly trained to provide health services specific to KPs. Further, participants observed that health care providers are guided by policies and programs that regard people in terms of homogeniuzed health goods and services and fail to meet the needs of specific populations. They identified sexuality training and awareness activities as solutions for empowering health care providers to address their needs.

Participants also discussed options for HIV prevention. One participant asked what members of KPs can do to prevent HIV and AIDS. Participants provided the following options for mitigating HIV:

- Use safe sex practices. However, this can only be achieved if KP members have access to sexual and reproductive health services and supplements, and if misconceptions regarding homosexual sex practices are eliminated. A participant emphasized the importance of access to products such as dental dams and finger coats.

### **Grievance Channels and Legal Literacy**

Some participants wanted to know what they can do when a health practitioner refuses to attend to a KP member due to cultural or spiritual beliefs. Experts responded by describing appropriate grievance channels. The first is to lodge a

complaint with the person in charge of the health institution. If that person is not responsive, they can then go to the professional body responsible for the particular health practitioner. If it is a doctor, the complaint would go to the Health Practitioner Council of Zambia and if it is a nurse the General Nursing Council of Zambia. These bodies would then investigate the complaint and discipline the practitioner if found negligent of.

After this feedback, a participant stated there seems to be a disconnect between the law criminalizing same-sex relationships and sex work, and the practice of lodging complaints against health care practitioners. The expert stated there is no disconnect as it is the duty of health practitioners to treat all patients equally regardless of sexual orientation or work. The expert said it is a question of interpretation and application; for example, a health practitioner is not in a position to determine a person's sexual orientation or whether their sexual practices are illegal; therefore they are not in a position to determine whether or not an individual's activities shall be criminalized.

Experts also emphasized the need for legal literacy for KP members so they feel confident in their approach with health institutions and in rebutting threats of imprisonment. Further, for access to health care, they need to be trained in complaint procedures related to health institutions. In doing so, the patient needs to know what is or is not deemed acceptable treatment by health care workers. Nurses and doctors should not, for example, use cultural and religious beliefs as the basis for refusing treatment to a patient.

### **Police Harassments and Litigation**

KP members described situations of police harassment, and transgender persons spoke about experiences of harassment based on perceived homosexual status. Some transgender persons were arrested for impersonating a member of the opposite sex while sex workers reported harassment on account of their presence on the street.

The role of lawyers in offering legal services to KPs was discussed. One participant stated it is difficult to find lawyers who are willing to litigate cases involving KP members. They wanted to know if the experts would be available to litigate such cases. The experts responded by stating that lawyers are not needed in all circumstances. They further stated that lawyers are expensive and charge for their services. As it was noted, a prudent use of resources is to train paralegals in providing services for minor cases and to seek a lawyer only when a situation

requires their specific level of expertise. The experts also stated that legal literacy will mitigate a lot of the negative experiences KP members face with the law. The experts stated they would be available (for a fee) should their services be required. The participant informed the experts that some funds have been secured through the Global Fund to pay for legal services for members of KPs. In addition, FHI 360 informed meeting participants of plans to train peer promoters from the KP community as paralegals, and will budget for possible legal litigation when matters involving KP members are concerned.

### **Actions Recommended by Experts for Immediate Implementation:**

A discussion was held at the end of each meeting in the six districts to identify activities that would be most important for NAC and for FHI 360 to implement (see corresponding list). These actions also appear in the full list of recommendations on page 21 and in Appendix C.

- Communication, safety, and security: Form a network of KP members for effective communication and implementation of activities. Through support structures, provide safe spaces and psychosocial and legal support services.
- Advocacy training: Meetings with police to address police brutality, rape by police officers, and gender-based violence.
- Health care worker meetings: Address issues related to confidentiality, forced HIV testing, sensitivity to the needs of KPs, and sexual abuse against sex workers.
- Capacity building and empowerment activities: Paralegal training in the next two months, business entrepreneurship training for economic empowerment, provide educational requirements for school-age children and dependents of SWs, support for monthly group meetings, and train KPs as lay counselors and peer educators.
- Ensure steady and constant supply and distribution of condoms and lubricants.
- Design and develop information, education, and communication (IEC) materials for KPs.
- Develop a training manual on human rights, sexual orientation and gender identity (SOGI) for KPs to help them understand their legal rights.
- Develop a best practice handbook and user guide on laws and human rights for KPs.
- Begin developing strategic litigation priorities for KPs.
- Arrange dialogue meetings with law makers and policy makers.

## IV. KEY POPULATIONS RESPONSES TO LEGAL AND POLICY ENVIRONMENT AFFECTING THEIR ACCESS TO HEALTH SERVICES

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### SEX WORKERS

#### Overview

Sex work is illegal in Zambia. Sex workers (SWs) predominantly work on the street, in brothels, bars, nightclubs, and/or other establishments. SWs transact sex for money, food, clothing, or other resources. The provisions of law state that living off the earnings of sex work, encouraging others to become SWs, and the use of premises for sex work is illegal. Such laws criminalizes the work of a sex worker, pimps, and even police officers who extort SWs for money (police officers who confiscate sex workers' belongings and send them out to do short time sessions to raise money).

SWs are often subjected to harassment, arrest, or detention in police roundups; particularly those that operate on the streets or in brothels. Vagrancy and public disorder offenses are applied in Zambia against SWs operating in public. SWs are arrested by the police based on appearance, even if they have not committed an offense.

Across the six districts, SWs noted with dismay the many cases of police harassment and brutalities that pose a threat to contracting HIV and causing death by violence, arbitrary arrest, physical abuse (beating, whipping, kicking), extortion, sexual abuse, threatening violence through the use of guns, firing tear gas canisters at patrons in clubs, and emotional abuse (insults, name calling).

#### ***Experiences of Police Harassment and Brutality***

- ✓ Demanding sex in exchange for freedom when arrested for vagrancy offenses; yet clients of sex workers are let go
- ✓ Arresting sex workers and detaining them for as long as one week with no charge
- ✓ Insisting arrested sex workers clean police station toilets and surrounding areas in skimpy outfits
- ✓ Charging sex workers more than K135 for vagrancy offenses in order to be released from police custody; no receipts are issued for payments, and sex workers are asked to sign in the occurrence book
- ✓ Forcing sex workers to have sexual encounters with their clients with a view of paying off the officers to permit them to operate on the streets

Because sex work is criminalized, SWs are often reluctant to report experiences of rape, which increases their vulnerability to HIV for fear of further abuse from the police. During the meetings, experts advised the SWs to report all law enforcement officers who abuse them to the available grievance channels within police services as well as to institutions such as the Human Rights Commission, the Anti-Corruption Commission, and the Investigator General. The police service has grievance procedures at each police station. If one does not trust these services, they can lodge a complaint at another police station or with the Police Public Complaints Commission (PPCC). Unfortunately, the PPCC only has an office in Lusaka. Several nongovernmental organizations (NGOs) can help with lodging complaints to the aforementioned institutions as they have different geographical coverage. The experts gave participants the names of relevant organizations within their respective districts. They also informed them that the Human Rights Commission has a presence in six of the 10 provinces in Zambia and provided contact details of other organizations working in human rights.

The experts also stated that the vagrancy laws under which SWs were arrested were disorderly conduct, which is difficult to prove and even if proven attract an imprisonment term of no more than one month or a fine of no more than K18 (or

#### ***Personal Quotes from Expert Panel Meetings***

- ✓ “I was beaten badly by a client who demanded his money back after sex. When I refused, he battered me until I gave him back his money.”
- ✓ “I locked up my children to go for sex work at night. When the neighbors reported me, and the police arrested me, I was locked up in police cells for three days together with my children.”
- ✓ “I was picked up by a soldier that I spent the night with at his home. In the morning he accused me of stealing ZMW1500. I was detained for two days at the police station without any charge.”
- ✓ “A truck driver client refused to honor the agreement and when I reported the matter to the police, the police demanded half of what the client paid.”
- ✓ “A client took me to a lodge that is near a graveyard; to my surprise instead of going in the guesthouse he forcibly dragged me to the gate of the graveyard. I was rescued by some men after I screamed.”
- ✓ “A client picked me and took me to his house. To my surprise I found four other men. They all raped me taking turns and later chased me and threatened to kill me if I said a word.”
- ✓ “I was beaten by a police officer, and my leg was swollen for a month. I reported the matter to the police. The police officer was not charged, and the police did nothing.”

both). Police officers are therefore not permitted to give any sanction for these offenses as must be proved in a court of law.

SWs identified the problem of rape by street kids as increasingly prevalent. They emphasized the fact that most of them have been gang-raped by street kids who don't use condoms.

### **Barriers to Health Care Services**

Some SWs said they felt they could not go to the clinic or hospital to seek health services for fear that some of the doctors, who are also their clients, may expose them and reduce their chances of further transactions. Others noted self-stigma, negative attitudes by nurses, doctors demanding sex after treatment, and a lack of confidentiality. The experts recommended health care providers needed to be sensitized on issues and challenges faced by SWs, and the Health Professions Council and General Nursing Council should be engaged to strengthen ethics enforcement. The experts also informed the SWs of the various grievance procedures that exist within health institutions. They stated that all government health institutions have administrative systems in place to address complaints; i.e., the person in charge of the health facility, the superintendent, the District Medical Officer in charge, and the Provincial Medical Officer in charge of the Province.

Some clinics refuse to attend to SWs, demanding they be accompanied by their partners as a prerequisite for accessing voluntary counseling and testing (VCT) and STI treatment. In addition, SWs said the location of ART clinics makes it difficult for them to pick up medications. Below are other challenges faced by SWs at health facilities:

- Harassment by health personnel
- Health care workers tell them to go and buy the drugs that are prescribed
- Lack of confidentiality and lack of respect from health care personnel; some nurses shout at HIV patients who go for ART
- Health personnel who knows a woman seeking medical attention is a SW discriminates against and verbally abuses her
- Limited access to family planning; injectables are sold for K20 while female and male condoms are free

## Way Forward and Recommendations by Expert Panel

Engaging and involving SWs in HIV prevention programs will increase their trust and confidence in accessing services. SWs should be considered partners—working as peer promoters and advocates—in spearheading HIV prevention programs. These recommendations speak to involvement, but sex work needs to be decriminalized and treated as a legitimate form of work for the good of the public health.

### Recommendations for FHI 360 and NAC:

- Create safe spaces for SWs practice to mitigate attacks by street kids.
- Empower SWs with information on the law and their rights so they can identify violations committed against them.
- Train SWs on how to preserve evidence when they are victims of violence or rape.
- Empower SWs with user-friendly information on available grievance channels and procedures, including court and court processes, complaints to Police Public Complaints Commission, Human Rights Commission, and the National Legal Aid Clinic for Women, etc.
- FHI 360 work with Human Rights Commission to investigate cases once evidence is collected and inspect the occurrence book for the number of cases recorded.

### Recommendations for SWs:

- SWs are encouraged to document experiences of physical and sexual violence and report them to organizations such as the Police Public Complaints Commission, Human Rights Commission, magistrate's court, and groups that seek to protect women's rights.
- SWs to create structures and networks in supporting one another.
- Report cases of gender-based violence through fast-track courts established for such cases. Engage with the women's movement first to ensure that they are responsive.
- Report violations at the hands of police as follows:
  - Institute criminal proceedings by reporting the matter to a police station. If this is not tenable, then report to any magistrate court.
  - Use administrative structures within the police that regulates police conduct such as the Police Public Complaints Commission.
  - Lodge a complaint with any human rights institution such as the Human Rights Commission, Anti-Corruption Commission, National Legal Aid Clinic for Women, etc.

## MEN WHO HAVE SEX WITH MEN (MSM) AND TRANSGENDER PEOPLE

### Overview

In Zambia, men who have sex with men (MSM) and transgender people are hidden because they are viewed as undesirable, deviants, demonic, mentally ill, or sinners. MSM and transgender people live in constant fear of prosecution and thus do not reveal themselves. Currently in Zambia, law on transgender issues is silent, but the sexual conduct of transgender people is integrated with MSM sexual acts, which are prohibited by Section 154-158 of the penal code of Zambia. The maximum penalty for unnatural sex was increased from 14 years to life imprisonment in 2005.

#### ***Experiences of Police Harassment and Brutality***

- ✓ Demanding up to K2,000 from a gay man who was picked up by police after a male friend he was having a drink with at a lodge allegedly reported him as being gay; no receipt was issued for the payment
- ✓ Threatening arrest of transgender persons for impersonating a member of the opposite sex
- ✓ An LGBTI person was beaten up by some people on suspicion that he was gay. He went to the police to lodge a complaint, and the cops retorted that his type are beaten up because they are men who make themselves women. He left without formally lodging his complaint.
- ✓ In Ndeke township, a trans woman was invited for drinks by a man. After having sex, the man beat her up for pretending to be a woman. She went to the police station to lodge a complaint and the police started counseling her on her need to change her evil ways. She left without lodging a complaint.
- ✓ Some gay and transgender friends went out for drinks at a place called the Flemings Club in Chimwemwe (Kitwe). A group of guys attacked them and beat them up. They threw beer bottles at them, but injured one of their own in the process. The group that attacked them managed to catch one of the gay friends and quickly rushed to the police to report an assault. They called witnesses from the club who were also gay. These witnesses testified that the accused was a victim, not a perpetrator and that is why he was let go. They believed that their friend would not have been let go if the witnesses were not one of their own.
- ✓ In Lusaka, at Alpha Bar, two gay men were chatting in a car. A street kid went to ask for money, and they chased him. He went to report to the police that two men were having sex in the car. The police went to search them and told them to undress so they could see if they had erections. They were detained for loitering and spent a night in police custody.

MSM and transgender persons are highly stigmatized and discriminated against; they are targets of prejudice, harassment, violence, and abuse within the general society and also in health care settings. MSM and transgender persons are limited in exercising their civil, political, and social rights in Zambia and are confronted with a wide set of barriers in accessing health services, as well as negative attitudes toward alternative sexual and gender identities within the family and community level.

MSM and transgender persons may be heterosexual, bisexual, and/or homosexual men/women. They may have sex with other men for a variety of reasons other than as an expression of their gender identity and sexual orientation. Some may regularly have sex with others of the same sex, without seeing themselves as gay or bisexual (whether due to cultural, religious, or personal reasons). Still others may temporarily do so due to circumstances, such as being confined to a facility (i.e., prison) or separated for a period of time from the opposite sex (i.e., during military training, prison). In other cases, MSM may be sex workers; this is due to the fact that a motivating factor, such as money, alcohol, and other expressions of gifts may be involved. MSM and transgender persons have insufficient knowledge on health-seeking behavior and relevant life-saving HIV and AIDS knowledge. More young MSM and transgender persons experience early sexual debut with no, or dangerously low, knowledge of HIV and sexually transmitted infections (STIs).

#### ***Experiences of MSM and Transgender People at Health Centers***

- ✓ A doctor from Kalulushi Clinic asked a member of the LGBTI community how he got anal warts. When the person answered, he stopped treating the patient.
- ✓ A trans woman went to a clinic for treatment. When she presented herself to the receptionist, the receptionist looked at her with shock due to her gender expression. Her identity documents, which she presented to the receptionist, did not match her appearance. The receptionist gathered people, saying, “come and see a gay person.” The mob came and mocked her.
- ✓ A doctor refused to treat a gay person for an STI because he was friends with the doctor’s brother and did not support their lifestyle. The doctor referred him to another doctor.
- ✓ In a key informant interview conducted by one of the participants, a medical superintendent in Mongu said she can never offer health services to a sex worker or a gay person.
- ✓ A sister in charge at one of the PPAZ clinics said she can not offer services to LGBTI persons who present themselves as a couple, but perhaps on an individual basis, because LGBTI is not part of the Zambian culture.

Experts responded by saying all cases deserve redress for violation of medical ethics and professional misconduct and can be addressed through the complaints mechanisms discussed above. The experts added that health practitioners can refuse to treat a person but are not supposed to show the patient that they don't want to treat them. This is what is referred to as a "conscientious" objection. Conscientious objection is a term used to refer to doctors' entitlement in offering medical services based upon deeply held beliefs, often religious in nature. It is a highly controversial term, but historically doctors have held a special place in their own values in the delivery of health care and some are not willing to compromise this, even in the face of human rights arguments against it. The medical profession has not settled this matter and some doctors still claim it as their right. However, if in refusing to treat a patient, the medical practitioners behave unprofessionally, they can still be cited for malpractice. In the event that the health care practitioner is conflicted between KP issues and their cultural and religious beliefs, a referral to another health care practitioner should be made.

The existence of sodomy offenses creates an atmosphere of fear and intimidation in which MSM risk violence and abuse targeted against them, particularly if they are open about their sexuality. MSM report that police often use the threat of criminal prosecution to harass and extort money. MSM are highly stigmatized and fear discrimination or prosecution if they identify themselves to health authorities. Criminalization also creates pressure on MSM to marry and hide their sexuality, which can then place their wives at risk of HIV.

### **Barriers to Health Care Services**

MSM and transgender persons do not seek health care services due to fear of stigma and discrimination, being outed, and abuse and negative attitudes from health care workers. Below are other challenges faced by these groups.

- Lack of privacy for clients to disclose their sexual orientation, gender identity, and/or sexual practices
- Harassment and derision by health care workers
- Prejudice that leads to harassment and isolation, which in turn leads to risky sexual practices
- Family rejection and public humiliation
- Lack of access to preventive information and lack of access to antiretroviral therapy (ART), which leads to increased use of herbal medication
- Those who are HIV-positive and are on ART have challenges with adherence
- Lack of information on how ART and hormone therapy can be used in combination in a way that does not harm the patient

## Way Forward and Recommendations by the Experts

### Recommendations for FHI 360 and NAC:

The criminalization of consensual sex between adults violates human rights to privacy, equality, and nondiscrimination, which are protected by international human rights law. Legal environments that support effective HIV responses among MSM are ones in which sex between consenting men has been decriminalized, and in which police work as partners in promoting violence protection and HIV prevention. FHI 360 and NAC must work together to contribute to the creation of a conducive legislative framework by engaging Parliament and the Ministry of Justice to decriminalize consensual sex between persons of the same sex.

Further, in order to contribute to better health outcomes for KPs and ensure redress for health-violated rights, FHI 360 and NAC must empower both rights holders and duty bearers to:

- Integrate MSM and LGBTI-friendly health services in mainstream health care centers.
- Train health care workers on comprehensive sex and sexuality education and specific needs of the LGBTI community.
- Provide paralegal or other legal training that addresses justice concerns.

### Recommendations for MSM and TG:

KP members should be empowered with information on the law and their rights so they are able to identify violations committed against them. They should understand what conduct is criminal and what is not. Many of the experiences described are not criminal, e.g., conversing in a car, lodging a complaint at a police station following a human rights violation, and breach of peaceful conduct. They could lodge complaints against discriminatory police conduct by police officers to complaint bodies such as the Police Public Complaints Commission and in deserving cases, to the Anti-Corruption Commission.

## V. RECOMMENDATIONS

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The expert panel made the following recommendations for addressing the legal and policy barriers faced by KPs in accessing health care services. The recommendations, based on the six meetings and discussions conducted in Chipata, Kabwe, Kitwe, Livingstone, Lusaka, and Solwezi, are for USAID Open Doors and NAC. These organizations, together with other partners, will explore and prioritize implementation of the activities.

### Capacity Building

- Train health care providers in mainstream health service delivery in the provision of KP-sensitive clinical and prevention services using a human rights approach.
- Build capacity of law enforcement officers through training in sensitivity and stigma reduction aimed at enhancing their understanding of the importance of a public health approach in addressing HIV and STIs among KPs and as part of their public policy considerations when deciding to prosecute matters related to KPs.
- Implement programs such as paralegal training targeted at empowering KP members to claim their legal rights.

### Law Reform

- Initiate legal reform through submissions to the Zambia Law Development Commission which will amend the Penal Code and Criminal Procedure Code with a focus on the need to decriminalize sex work and same-sex intercourse between consenting adults.
- Support efforts (to the extent that mandate allows) of KP organizations in using positive laws that offer some level of protection for KPs in litigating cases that challenge negative legislative provisions which ultimately creates an improved legal environment.
- Dialogue with key law and policy makers on the need for legislative reform and the impact of existing laws on public health.

### Policy/Strategic Programming

- Promote policy reforms by utilizing existing research to understand the diversity of KPs (age, gender, lifestyle, and community norms). Policies should cover those who face multiple risks and those most affected by barriers, e.g., adolescents, gay persons who are also sex workers.
- Develop a national HIV strategy and action plan for KPs.

- Assess public health facilities capacity for addressing KP programs.
- Create a KP steering committee composed of various members representing their respective ministries, networks, and KP community-based organizations (CBOs).

### Other Interventions

- Document human rights abuses experienced by KPs to inform desired interventions.
- Increase human rights advocacy activities targeted at common perpetrators of human rights violations against KPs, e.g., police, health practitioners, and street kids.
- Increase human rights awareness programs targeted at the general population.
- Revise and distribute HIV-related IEC materials to target KPs.
- Embark on human rights-related strategic litigation for KPs.
- Conduct policy dialogue meetings, community dialogue meetings, and continuous professional development training for traditional, religious, and political leaders, and medical health providers in addressing the social and cultural barriers that promote stigma and discrimination.

## APPENDIX A. DISCUSSION ON KEY POPULATION EXPERIENCES BY DISTRICT

### Livingstone Expert Panel Meeting

**Experts:** Chipu Mushota Nkhata, Felicity Kalunga, Landilani Banda, and Groy Shauma

**Participants:** 15 FSWs, 11 MSM, and 4 transgender persons

Questions from KPs	Responses from Lawyers
<p>How can we deal with degrading treatment and violence targeted at female sex workers (FSWs) experienced at hands of the community?</p>	<ul style="list-style-type: none"> <li>▪ FSWs should create safe environments in which to operate, e.g., be cautious when invited for work and operate from a client’s place.</li> <li>▪ Lobby for the creation of safe places such as “red light districts” where you can trade in sex work.</li> <li>▪ Community should be sensitized to respect the human rights of FSWs.</li> <li>▪ FSWs can use their structured networks as a means to record instances of violence and degrading treatment. The information can then be shared to name and shame perpetrators.</li> </ul>
<p>How can we deal with degrading treatment, violence, and harassment targeted at FSWs experienced at hands of police officers? For example:</p> <ul style="list-style-type: none"> <li>▪ Police officers demanding sex in exchange for freedom.</li> <li>▪ Police officers grabbing money, cell phones, and other valuables from SWs.</li> <li>▪ Police officers forcing SWs to have short-term sexual encounters with their clients with a view of paying off the officers to permit them to operate on the streets.</li> <li>▪ Police officers refusing to record and investigate complaints by SWs.</li> <li>▪ Police officers abusing their authority by colluding with other FSWs to reduce competition in a particular area where SWs are operating.</li> </ul>	<ul style="list-style-type: none"> <li>▪ FSWs should be empowered with information on the law and their rights in order to identify violations committed against them; training and development of a pocket booklet that addresses their common legal and constitutional rights should be created.</li> <li>▪ When FSWs are victims of violence or rape, they should preserve any evidence that would help link the accused person to the crime.</li> <li>▪ FSWs should be empowered with user-friendly information on available grievance channels and procedures. For example: court/court processes; complaints to administrative structures within the police that regulate police conduct such as the Police Public Complaints Commission; and complaints to human rights institutions such as the Human Rights Commission, and National Legal Aid Clinic for Women, etc.</li> <li>▪ FSWs should have access to toll free lines that offer services them services; this is complement to the pocket booklets.</li> <li>▪ FSWs should create support structures and networks to share and document experiences as well as offer support services to each other.</li> </ul>

Questions from KPs	Responses from Lawyers
	<ul style="list-style-type: none"> <li>▪ FSWs must prioritize the identification and use of safe spaces from which to practice.</li> <li>▪ FSWs should take advantage of fast track courts established to address gender-based violence by reporting gender-based violence they experience as a result of their work.</li> </ul>
<p>Where do SWs go to report violations they experience at the hands of police? – Report to Police Public Complaint Commission; sue or commence criminal proceedings.</p>	<ul style="list-style-type: none"> <li>▪ Magistrate courts</li> <li>▪ Administrative structures within the police that regulate police conduct such as the Police Public Complaints Commission</li> <li>▪ Human rights institutions such as the Human Rights Commission, Anti-Corruption Commission, National Legal Aid Clinic for Women, etc.</li> </ul>
<p>How do FSWs deal with poor service delivery and ill-treatment by medical personnel on the grounds of being a sex worker; e.g., refusal to offer health services?</p>	<ul style="list-style-type: none"> <li>▪ Report to administrative structures within health institutions</li> <li>▪ Report to the Health Professions Council of Zambia, Medical Association of Zambia, and the General Nursing Council of Zambia</li> </ul>
<p>What can SWs do if they want to register an organization that champions their access to HIV-related services?</p>	<ul style="list-style-type: none"> <li>▪ FSWs have to work within the law, and therefore cannot legally register as an organization. This is because the registration of a SW organization can prove difficult, as it could be perceived as promoting immortality rather than accessing health care. However, SWs can strategically create networks and other such structures to champion their cause in a coordinated manner. The ultimate goal is to ensure SWs are organized and able to access HIV-related services.</li> </ul>
<p>At what age can a person change their identity documents if the person’s sex/gender was wrongly assigned at birth and how can the change be effected?</p>	<ul style="list-style-type: none"> <li>▪ A person obtains their National Registration Card (NRC) at 16 years old, but can only change their sex/gender on the ID documents at age 18.</li> <li>▪ A person can change details on their NRC by way of a Statutory Declaration.</li> <li>▪ To effect a change of name a deed poll can be prepared and filed at the high court.</li> </ul>
<p>What laws can a person rely on to effect the change of gender/sex?</p>	<ul style="list-style-type: none"> <li>▪ There is no law that specifically prohibits or allows a change of sex/gender (transition). However, the National Registration Act allows a person to change their details on the NRC by way of Statutory Declaration.</li> </ul>
<p>What happens when a person is discriminated against on the basis of their gender identity or sexual</p>	<ul style="list-style-type: none"> <li>▪ Article 23 of the Zambian Constitution prohibits discrimination. Further, the Industrial and Labour Relations Act prohibits discrimination of any kind. A</li> </ul>

Questions from KPs	Responses from Lawyers
<p>orientation at the workplace? For example: being dismissed for changing their sex/gender on their identity documents, being dismissed when their gender identity or sexual orientation is discovered.</p>	<p>person can commence an action in court to protect their right to protection against discrimination. If the person is a member of a Trade Union, that person can seek redress through their Trade Union.</p>
<p>Is there a reliable network of lawyers where MSMs can go for legal representation?</p>	<ul style="list-style-type: none"> <li>▪ No. However, lawyers can be identified and engaged through structured networks of key populations.</li> </ul>
<p>Can a same sex couple adopt a child in Zambia?</p>	<ul style="list-style-type: none"> <li>▪ Adoption of children is regulated by the Adoption Act, which does not allow same sex couples to adopt children.</li> </ul>
<p>Where does a person go if another person who knows of the person's sexual orientation demands sex or money and threatens to disclose their sexual orientation if they do not yield to the demand?</p>	<ul style="list-style-type: none"> <li>▪ The affected person can report the incidence to the police without disclosing their sexual orientation or gender identity because blackmail and extortion are crimes under the laws of Zambia.</li> </ul>
<p>What is the actual content of sections 155-158 of the Penal Code; in particular what is the sentence for same sex relationship?</p>	<ul style="list-style-type: none"> <li>▪ Sections 155-158 prohibit the conduct of same sex relations as it refers to them as offenses against the order of nature. The minimum sentence for the actual commission of the offense is 15 years and the maximum is life sentence. For the attempt, the minimum sentence is 7 years and maximum is 14 years.</li> </ul>
<p>If I am in a same sex relationship with a consenting adult, what concern is it of anyone?</p>	<ul style="list-style-type: none"> <li>▪ It is not a concern to anyone. However, the right to privacy in the Constitution of Zambia has limited application particularly with regard to same sex relations. The criminalization of same sex relations gives power to the police to interfere in same sex relations therefore making it a concern of the state.</li> </ul>
<p>Are health practitioners well equipped to provide HIV health services to the LGBTI community?</p>	<ul style="list-style-type: none"> <li>▪ Health professionals are not well equipped to respond to the health needs of the LGBTI community because they focus solely on the medical approach and have limited or no access to relevant health products. They are also ill equipped to address health needs of the LGBTI community due to limited human rights training.</li> </ul>
<p>Does the government offer checks and balances to health institutions and if so how? Is there a legal provision that compels them to do so?</p>	<ul style="list-style-type: none"> <li>▪ There are established administrative structures within health institutions and regulatory bodies that offer checks and balances.</li> </ul>

Questions from KPs	Responses from Lawyers
How does government define sexual orientation?	<ul style="list-style-type: none"> <li>▪ There is no specific definition under any law or policy in Zambia. However, since Zambia is a member state of the United Nations (UN) and the African Union (AU), we adopt the definitions provided by those organizations.</li> </ul>
The government seeks to promote the health of all people. What does this mean for LGBTI if they do not order health products for LGBTI when they are ordering essential drugs?	<ul style="list-style-type: none"> <li>▪ The Ministry of Health cannot include health products for the LGBTI community on the essential drug list because of the criminalization of same sex relations. However, the National AIDS Council (NAC) is mandated to offer goods and services that mitigate HIV and are therefore in a better position to order health products for LGBTI.</li> </ul>

## Chipata Expert Panel Meeting

**Experts:** Chipo Mushota Nkhata, Felicity Kalunga, Lillian Mushota, and John Masuwa

**Participants:** 17 FSWs, 8 MSM, and 2 transgender persons

Questions from KPs	Responses from Lawyers
<p>How can we deal with degrading treatment, violence, and harassment targeted at female sex workers (FSWs) experienced at hands of police officers? For example: police officers demanding sex in exchange for freedom; police officers grabbing money from SWs; police officers refusing to record and investigate complaints by SWs.</p>	<ul style="list-style-type: none"> <li>▪ FSWs should be empowered with information on the law and their rights in order to identify violations committed against them; the training and development of a pocket booklet that addresses their common legal and constitutional rights.</li> <li>▪ NAC, working with its partners, should organize paralegal training among FSWs to improve their legal literacy, assertiveness, and self-confidence.</li> <li>▪ When FSWs are victims of violence or rape, they should preserve any evidence that would help link the accused person to the crime.</li> <li>▪ FSWs should be empowered with user-friendly information on available grievance channels and procedures. For example: court/court processes, complaints to administrative structures within the police that regulate police conduct such as the Police Public Complaints Commission; complaints to human rights institutions such as Human Rights Commission, National Legal Aid Clinic for Women, etc.</li> <li>▪ FSWs should create support structures and networks to share and document experiences as well as offer support services to each other</li> <li>▪ FSWs must prioritize the identification and use of safe spaces from which to practice</li> <li>▪ FSWs should take advantage of fast track courts established to address gender-based violence by reporting cases of gender-based violence they experience</li> <li>▪ NAC and other stakeholders must train police and other law enforcement officers concerning the rights of SWs.</li> </ul>
<p>Where can a commercial sex worker (CSW) go to seek redress for police brutality?</p>	<ul style="list-style-type: none"> <li>▪ The law provides for institutions that address police brutality, including the Police Public Complaints Commission (PPCA) and Human Rights Commission. The PPCA is made up of the police and other institutions and may not always be effective, and their processes take a considerable amount of time as they hear complaints from all over the country. CSWs can also seek redress from the courts; particularly the magistrate courts.</li> </ul>

Questions from KPs	Responses from Lawyers
	<ul style="list-style-type: none"> <li>▪ Other institutions that CSWs can access to seek redress for police brutality include the Anti-Corruption Commission and National Legal Aid Clinic for Women.</li> <li>▪ Although the law provides mechanisms for redress and institutions to address such police brutality, these are often managed by people who may themselves stigmatize complainants. Therefore, there is need to initiate programs that aim to build their capacities to better protect all vulnerable groups from police brutality in accordance with the law and without discrimination.</li> </ul>
<p>How can a FSW enforce an agreement to pay for sex? Some clients refuse to pay for sex after the service is provided.</p>	<ul style="list-style-type: none"> <li>▪ A CSW cannot legally enforce their agreement with a client. Although they have a contract, the contract is illegal in the broad definition of sex work. However, between the contracting parties, the SW must find a way of collecting the agreed amount before services are offered. In Kenya, SWs are able to pass on the money collected to each other for safekeeping. They are also able to collect the money and pass it to a bartender or lodge operator for safekeeping. In Zambia, SWs must consider forming support groups to facilitate the storage of payments received, among other things.</li> </ul>
<p>How do FSWs deal with poor service delivery and ill-treatment by medical personnel on the grounds of being a SW? For example:</p> <p>(1): Refusal to attend to FSWs</p> <p>(2): Demanding that FSWs are accompanied by their partners as a prerequisite for accessing antenatal services and STI treatment</p> <p>(3): Refusal to attend to FSWs who are referred from a private hospital to a public hospital</p>	<ul style="list-style-type: none"> <li>▪ Aggrieved FSWs should report to administrative structures within the health institution; i.e, the person in charge of the health facility; superintendent; district medical officer in charge, or provincial medical officer.</li> <li>▪ Reports can also be channelled to the Health Professions Council of Zambia, Medical Association of Zambia, and General Nursing Council of Zambia.</li> <li>▪ The aforementioned institutions are often accessible and do not often require written complaints. However, good practice demands that complaints are in writing to provide evidence that said institutions were engaged. Further, these actions must be accompanied by advocacy mechanisms such as running a media campaign against these abuses.</li> <li>▪ As an immediate intervention, NAC and the Ministry of Health must engage with identified health institutions to put a stop to the discrimination in accessing health services and eventually train partners and stakeholders on good practice in health service delivery.</li> </ul>

<p>What do you do with people who pretend to be homosexual so you can disclose information about yourself and they can use it to blackmail you or threaten you with police prosecution or disclosure of your sexual orientation to your family?</p>	<ul style="list-style-type: none"> <li>▪ The affected person can report the incidence to the police without disclosing their sexual orientation or gender identity because blackmail and extortion are crimes under the laws of Zambia.</li> <li>▪ The LGBTI community must ensure they safeguard themselves from manipulation by people who work on their fear of being prosecuted. They should also ensure they do not unnecessarily disclose information about themselves without obtaining similar information from the other person—particularly to people they meet through social media.</li> <li>▪ It is also important for the LGBTI community to have legal literacy so they are not unnecessarily threatened with prosecution. Paralegal training would equip members of KPs in understanding the law and what is prohibited under the law. For example, the law in Zambia proscribes the act of having sexual relations with a member of the same sex. Therefore unless the other person gathers evidence which shows that same sex intercourse occurred or that there was more than preparatory steps taken toward this, then there is no offense committed. If the LGBTI community knows what the law is, they should not have fear of prosecution.</li> </ul>
<p>When a homosexual man is raped, can he lodge a complaint with the police?</p>	<ul style="list-style-type: none"> <li>▪ Yes. Although the offense would not be rape, but sodomy. The homosexual man need not disclose his own sexual orientation when lodging the complaint.</li> </ul>
<p>When suspected of being homosexual can you be forced to take a medical test?</p>	<ul style="list-style-type: none"> <li>▪ No. It infringes on your right to privacy and bodily integrity as one must consent to all treatment or medical tests. Further, there is no medical test that can disclose a person’s sexual orientation, thus it is an unnecessary intrusion on a person’s privacy and bodily integrity.</li> </ul>
<p>Is it right for medical personnel to demand that one bring their partner for treatment of an STI? How do you deal with a health practitioner who refuses to attend to you on account of not bringing your partner due to their homophobic tendencies?</p>	<ul style="list-style-type: none"> <li>▪ It is not mandatory for a person to be accompanied by their partner in order to access health services. When a person is denied health services on account of not being accompanied by a partner, or on account of a health practitioner’s homophobic tendencies, they should follow the procedures for complaints outlined above.</li> <li>▪ Report to administrative structures within the health institution, i.e., the person in charge of the health facility; superintendent; district medical officer when dealing with a health practitioner who refuses services.</li> <li>▪ Report to the Health Professions Council of Zambia, Medical Association of Zambia, and General Nursing</li> </ul>

	<p>Council of Zambia. The aforementioned institutions are often accessible and do not often require written complaints. However, good practice demands that complaints are in writing to provide evidence that the said institutions were engaged. Further, these actions must be accompanied by advocacy mechanisms such as running a media campaign. As an immediate intervention, NAC and the Ministry of Health must engage with the identified health institutions to put a stop to the discrimination in accessing health services and eventually train partners and stakeholders on good practices within health service delivery.</p>
<p>If a gay person has an STI in the anal area, and they are afraid of being asked intrusive questions, where can they go for treatment? How can a lesbian or gay person access products such as lubricants, condoms, and sex toys to prevent infection of HIV and STIs caused by unsafe sexual practices?</p>	<ul style="list-style-type: none"> <li>▪ NAC, with the support of the Global Fund, is in the process of establishing key population friendly health services and facilities in selected districts (Livingstone, Lusaka, and Kitwe). However, NAC will work with the Ministry of Health to sensitize health workers in other public sector facilities to ensure that public facilities provide discrimination-free health services.</li> </ul>
<p>How can a gay person deal with pressure to marry from the family?</p>	<ul style="list-style-type: none"> <li>▪ There is no law that compels a person to marry or get married at a particular age. In fact, under the Anti-Gender Based Violence Act, such pressure would amount to harassment and is a form of gender-based violence.</li> <li>▪ If a gay person does not stigmatize themselves, they are able to better deal with this pressure, though effective communication with family members is still essential.</li> <li>▪ Members of the LGBTI community also need to empower themselves economically to enhance their livelihood so they can live independently.</li> </ul>

## Lusaka Expert Panel Meeting

**Experts:** Chipo Mushota Nkhata, Felicity Kalunga, Landilani Banda, Groy Shauma, Lillian Mushota, and John Masuwa

**Participants:** 14 FSWs, 7 MSM, and 3 transgender persons

Questions from KPs	Responses from Lawyers
<p>How can key populations set up a resource center?</p>	<ul style="list-style-type: none"> <li>▪ Resource centers can be established informally. The establishment of these centers should not be identified as strictly for KP members since this may attract negative attention from the community and law enforcement agencies. This is because formal establishments may pose a number of challenges at this stage. Members of KPs can hold seminars or workshops in which resource personnel make presentations. KP members should also be trained in ways of storing digital information to mitigate their vulnerability to prosecution for moral activities and or subversion. Information must be shared on HIV transmission, access to health care and related matters, and access to justice for human rights violations which they experience. This is important for health care services and specifically the prevention of HIV among members of KPs and between KPs and the general public. Information sharing and education must happen in safe spaces.</li> <li>▪ A safe house should also be set up through informal channels. Think through the issue well and find donors who agree with your values. Set guidelines that will regulate the functioning of the safe houses. The guidelines must ensure that the occupants are not subjected to vulnerability of abuse and human rights violations. The guidelines must also be respected by all occupants. To achieve this, all organizations working with the targeted KPs must solicit consensus among their members in the formulation of the guidelines. In addition, leadership should use the safe houses or resource centers to conduct periodic literacy training that meets the needs of KPs as discussed above.</li> </ul>
<p>Do police officers understand the laws of impersonation?</p>	<ul style="list-style-type: none"> <li>▪ The crime of impersonation cannot apply to transgender people. Transgender people and members of other KPs need legal literacy on crimes the police could potentially charge them with. This would also help thier understand the elements of each crime and what evidence the police would require to prove certain offenses. KPs must</li> </ul>

Questions from KPs	Responses from Lawyers
	<p>understand the process of criminal proceedings in order to know when and how to intervene effectively. When a person is arrested, the police should provide a formal charge to the person, which must state the offense charged and the law pursuant to which a person is charged. This helps the person in question to determine the legitimacy of the charge and to adequately prepare their defense. If a person has been improperly prosecuted, they can sue the state for compensation. The experts further stated that administrative processes can be used to address police harassment. KP members need to be sensitized about these measures in order to change police practices which violate their rights.</p>
<p>What can members of KPs do to avert police harassment?</p>	<ul style="list-style-type: none"> <li>▪ Coordination, networking, and rapid response groups. From a legal perspective, deal with day-to-day cases through legal literacy and procedures for getting bond; for long-term solutions, commence strategic litigation to challenge the laws that are abused by police; use paralegals to collect information and follow up cases and prepare for strategic litigation; document incidences of harassment and abuses.</li> </ul>

## Kabwe Expert Panel Meeting

**Experts:** Chipu Mushota Nkhata, Felicity Kalunga, Groy Shauma, and John Masuwa

**Participants:** 11 FSWs, 7 MSM, and 1 transgender person

Questions from KPs	Responses from Lawyers
How do we handle the street kids/adults who sometimes pose as clients and refuse to pay after sex and who, many times, rape us?	<ul style="list-style-type: none"> <li>▪ FHI 360 must design programs that target street kids and address this concern. In the meantime, street kids must be reported to the police as this is a crime. CSWs must also create safe spaces for their practice to mitigate attacks by street kids.</li> </ul>
How do we deal with health practitioners who refuse to treat a patient on account of their perceived sexual orientation?	<ul style="list-style-type: none"> <li>▪ Aggrieved FSWs should report through administrative structures within the health institution; i.e., the person in charge of the health facility; superintendent; district medical officer, or provincial medical officer.</li> <li>▪ Reports can also be channelled to the Health Professions Council of Zambia, Medical Association of Zambia, and General Nursing Council of Zambia. The aforementioned institutions are often accessible and do not often require written complaints. However, good practice demands that complaints are in writing to also provide evidence that the said institutions were engaged. Further, these actions must be accompanied by advocacy mechanisms such as running a media campaign against abuses.</li> </ul>
How do we deal with health practitioners who insist on providing sexual and reproductive health services to CSWs only if they come with their partners?	<ul style="list-style-type: none"> <li>▪ This problem must be documented and brought to the attention of the Ministry of Health to clarify their health policy and practice to ensure it is not discriminatory against persons who either do not have partners or whose partners are unwilling to accompany them to the hospital or clinic. It is illegal and unconstitutional for health practitioners to insist that sexual and reproductive health rights can only be enjoyed if people access the services as couples. The policy guidance was made in good faith to ensure that STIs and other sexual reproductive issues are addressed between partners, but this was not intended to bar people from accessing services as individuals.</li> </ul>
If a member of a key population is too scared to go for medical treatment to a hospital or clinic, can they buy medicine from a drug store?	<ul style="list-style-type: none"> <li>▪ Even if they buy off the counter drugs or drugs that do not need a prescription, it is not advisable to do so as they will not be subjected to medical examination, and the medication may not work effectively. KP members and relevant stakeholders must work toward addressing</li> </ul>

Questions from KPs	Responses from Lawyers
	the barriers to health care as opposed to forcing alternatives solutions.
Is it a crime to be homosexual or transgender? What is the worst case scenario when a homosexual couple is found in the act of sexual intercourse?	<ul style="list-style-type: none"> <li>▪ Sections 155-158 prohibit the conduct of same sex intercourse as it refers to it as an offense against the order of nature. The minimum sentence for the actual commission of the offense is 15 years and the maximum is life. For the attempt, the minimum sentence is 7 years and maximum is 14 years. Gender identity is not criminalized by law.</li> </ul>
Can homosexual couples be forced to undergo anal examination?	<ul style="list-style-type: none"> <li>▪ No. It infringes on your right to privacy and bodily integrity as one must consent to all treatment or medical tests. Further, there is no medical test that can disclose a person's sexual orientation; thus it is an unnecessary intrusion on a person's privacy and bodily integrity.</li> </ul>
Can a person sue another person for calling them gay or lesbian, as is the case with witchcraft?	<ul style="list-style-type: none"> <li>▪ Yes, a person can sue in civil law for the tort of defamation. The elements of the tort of defamation must all be proved.</li> </ul>

## Kitwe Expert Panel Meeting

**Experts:** Chipu Mushota Nkhata, Felicity Kalunga, Landilani Banda, and Lillian Mushota

**Participants:** 22 FSWs, 13 MSM, and 3 transgender persons

Questions from KPs	Responses from Lawyers
<p>What can you do if health practitioners do the following?</p> <ul style="list-style-type: none"> <li>▪ Doctors ask a CSW if she is married and if not, how she got a particular STI? This happened to a CSW who sought medical treatment at the Kawama Clinic in Kitwe.</li> <li>▪ Nurses at ART clinic in Kawama Clinic shout out patient’s names for them to get their drugs. This is discriminatory as other patients waiting end up knowing that a particular person is getting ARVs from the ART clinic. Some of the people who go to the health institution for other ailments are clients of CSWs, and this practice does not just expose them to discrimination and abuse, but makes them lose their clients; ultimately resulting in the need to attend a different clinic.</li> <li>▪ A doctor at Twatasha Clinic in Kitwe was examining a CSW who had a problem with her menstruation. The doctor asked her if she was married, and she said no. After that, he gave her a negative attitude and referred her to another doctor who just checked for BP and gave her Panadol. None of the doctors explained what was wrong. She left the medicine and walked away.</li> <li>▪ A transgender person who is also a CSW stated that she and her</li> </ul>	<ul style="list-style-type: none"> <li>▪ When CSWs experience discrimination and abuse in health settings, they must address complaints with administrative systems in place. Aggrieved CSWs should report to administrative structures within the health institution, i.e., person in charge of the health facility, superintendent; district medical officer, provincial medical officer.</li> <li>▪ Reports can also be lodged with the Health Professions Council of Zambia and General Nursing Council of Zambia. The aforementioned institutions are often accessible and do not require written complaints. However, good practice demands that complaints are in writing to further provide evidence that the institutions were engaged. Additionally, these actions must be accompanied by advocacy mechanisms such as running a media campaign against abuses. This kind of naming and shaming activity should be well thought out and well planned and supported. It requires the gathering of evidence that can justify it.</li> <li>▪ It has been suggested that CSWs go to health institutions with a positive attitude and not give incentives for the doctors and nurses to treat them badly.</li> <li>▪ Vital tests are always done in health institutions as a starting point so patients must not downplay them. Sometimes doctors ask questions about family history to ascertain the cause of one’s illness; as such questions must not always be viewed with suspicion. Patients also have the right to ask the health practitioner why they are interested in their family history so as to determine whether there is a genuine inquiry or the health practitioner is being intrusive. Only when the motive of a health practitioner is clearly discriminatory should a person go through the grievance procedure outlined above.</li> <li>▪ Another solution is offered by PPAZ, which is now offering KP-friendly health services. To mitigate the barriers of access to health services, PPAZ is working</li> </ul>

Questions from KPs	Responses from Lawyers
<p>colleagues experienced discrimination in the mobile clinics in Kitwe. They were denied voluntary counseling and testing (VCT) services on account of their perceived same sex relationships. The nurses queried why a man had a small voice and stated that why should they give services to persons who have sex with members of the same sex.</p>	<p>with the government through NAC and district medical officers to offer comprehensive sexual and reproductive health services. PPAZ has trained health practitioners who do not discriminate and who are patient and professional. They also work in communities and can provide transport for groups of people in communities who need to access health services within their clinic. FHI 360 also informed participants there are some private health institutions which have entered into an agreement with the government to distribute ARVs at no cost. The private health institutions will receive medications from the government periodically which will be distributed. Their environments are more friendly and do not discriminate against KPs.</p>
<p>How can sex workers who are illiterate be empowered to lodge complaints against abuses?</p>	<ul style="list-style-type: none"> <li>▪ SWs need to form an emergency response group or team that will respond to complaints in a timely manner concerning rights violations against its members, offer support, and take up cases of a CSW who has experienced such a violation but is not able to immediately follow up due to illness or lack of knowledge or expertise. This group can also make third-party complaints on behalf of its members. With specific reference to police violence, the panel of experts advised CSWs to take note of police officer's names, and also to log into the register at the police station as documented evidence.</li> <li>▪ File complaints with the District Health Management Board. This board encourages health initiatives that are community based and has informal procedures for lodging health-related complaints.</li> <li>▪ SWs who are literate and able to write can lodge complaints on behalf of their colleagues. FHI 360 will train SWs who are peer promoters to assist colleagues in addressing such barriers.</li> </ul>
<p>How can sex workers receive VCT and other health services if they are always asked to come with their partners?</p>	<ul style="list-style-type: none"> <li>▪ The experts responded that it is illegal and unconstitutional for health practitioners to insist that sexual and reproductive health rights can only be granted if people access the services as couples. The policy guidance was made in good faith to ensure that STIs and other sexual reproductive issues are addressed between partners, but this was not intended to prohibit people from accessing services as individuals. PPAZ added that partner tracing has changed over time. The health practitioners are now encouraged to provide</li> </ul>

Questions from KPs	Responses from Lawyers
	<p>shared treatment for STIs once it is determined a person has an established relationship.</p>
<p>There are transgender people who are HIV-positive and are on ART. How can they take drugs and still undergo hormonal therapy?</p>	<ul style="list-style-type: none"> <li>▪ These persons should seek medical advice from health practitioners. The danger of withholding such vital information from a health practitioner may affect their ability to effectively treat an opportunistic disease and thus effectively curb HIV. This concern was followed up with a question as to whether the health care provider is obligated to report patients who identify as transgender. In response, the experts advised there is no law against transgenderism in Zambia.</li> </ul>
<p>How can the LGBTI community seek the services of medical practitioners if they don't offer LGBTI-friendly services?</p>	<ul style="list-style-type: none"> <li>▪ The projects that FHI 360 and NAC are running together with partners such as PPAZ are aimed at offering KP-friendly health services. This position was supported by the NAC representative present at the meeting who stated the onus now lies on KP members to access these services as they are being formulated for them. However, there is a need to address cultural and religious beliefs and personal opinions and morals that may conflict with the delivery of health care services.</li> </ul>
<p>Isn't it a risky for members of the LGBTI community to lodge grievances to complaint bodies on health-related violations they experience?</p>	<ul style="list-style-type: none"> <li>▪ It is not risky because the complaints are based on health-related violations and not sexual orientation or illegal activities. Health practitioners do not often have proof of one's sexual orientation and therefore would have to rely on a perceived sexual orientation and would thus have to prove an illegal activity has occurred. A member of the LGBTI community, on the other hand, would have to prove that a health practitioner has violated their ethics and behaved unprofessionally. This warrants that such a person has knowledge of medical ethics and professional conduct for health practitioners and that they are well vested with legal and human rights issues. Such literacy in this regard becomes essential.</li> </ul>
<p>What is the most strategic implementation plan that exists to deal with LGBTI's access to health services in force now?</p>	<ul style="list-style-type: none"> <li>▪ FHI 360 and NAC responded that work with PPAZ is the most comprehensive as it was planned and is being implemented with the input of KPs. The PPAZ doctors work in government clinics. They are the link between government clinics and the community with regard to services offered to KPs. This is also coupled with the work of peer educators from LGBTI communities and</li> </ul>

Questions from KPs	Responses from Lawyers
	the input of KPs in the formulation of the next national AIDS strategic plan.
How can the law deal with the negative prejudices that health practitioners have?	<ul style="list-style-type: none"> <li>▪ By strengthening laws to deal with stigma and discrimination as well as health policies that speak to the needs of LGBTI patients; by enforcing already existing laws that prescribe professional ethics and conduct. The use of established grievance procedures is important. Members of KPs need to tell their stories of experiences in the health sector. They need to document as much of their experiences as possible so they can share these with the outside world. This will make their experiences more visible, and the barriers they encounter will gain attention from the health practitioners and members of the public.</li> </ul>
The LGBTI community wanted to know how they can document experiences in a hostile legal and social environment.	<ul style="list-style-type: none"> <li>▪ Documentation can be done in several ways. This is subject to a full training, but to begin they can tell their stories by using pseudo names. Others can document through filming short documentaries, audio stories, podcasts, or movies by using actors who tell stories based on true occurrences. KP members need to find ways of telling their stories that will appeal to one's sense of humanity and conscious. Religious and traditional leaders can also be used to tell stories provided they are well trained on the issues.</li> </ul>
How can you address blackmail done by law enforcement agencies?	<ul style="list-style-type: none"> <li>▪ The LGBTI community must gather evidence of such blackmail and report it to the Anti-Corruption Commission or the PPCC.</li> </ul>
Can evidence that is recorded on a phone against a police officer be used in court?	<ul style="list-style-type: none"> <li>▪ Generally such evidence can be used. However, KP members have to be trained on how to properly utilize evidence and what type of evidence the courts would accept (and why).</li> </ul>
With the crime of assault, is it true that whoever reports the crime first to the police is the innocent one?	<ul style="list-style-type: none"> <li>▪ Experts stated that every crime reported to the police has to be investigated and proved in a court of law. It's not about who reports first.</li> </ul>
If a gay couple is found in the act of having sex is there any defense open to them, e.g., consent?	<ul style="list-style-type: none"> <li>▪ No. There is no defense that such a couple can use at law.</li> </ul>

## Solwezi Expert Panel Meeting

**Experts:** Chipu Mushota Nkhata, Felicity Kalunga, Landilani Banda, and Groy Shauma

**Participants:** 25 FSWs and 8 MSM

Questions from KPs	Responses from Lawyers
<p>Why is it that health workers and communities in general do not respect sex workers?</p>	<ul style="list-style-type: none"> <li>▪ If health practitioners know that a patient is a SW they discriminate against them because they have their own prejudices about sex work and don't approve of the work SWs do.</li> <li>▪ Health care providers also have an upper hand over patients who are in need of treatment.</li> <li>▪ Sometimes nurses are overwhelmed and fail to uphold ethics.</li> <li>▪ This behavior is unacceptable and grievance procedures must be followed to seek redress.</li> </ul>
<p>Is there any law that supports SWs?</p>	<ul style="list-style-type: none"> <li>▪ It is illegal in Zambia to charge someone for sex. To this extent the law does not protect or support SWs.</li> <li>▪ However, the constitution supports fundamental rights for everyone including SWs.</li> <li>▪ We have individual laws that protect against human rights violations for everyone, e.g., the Anti-Gender Based Violence Act, the Penal Code, Criminal Procedure Code, etc.</li> </ul>
<p>Where can a SW report if they are verbally abused or mistreated by health personnel (in particular, health personnel at Mushitala Clinic are very abusive and discourteous)?</p>	<ul style="list-style-type: none"> <li>▪ Aggrieved FSWs should report to administrative structures within the health institution, i.e., the person in charge of the health facility, superintendent, district medical officer, or provincial medical officer.</li> <li>▪ Reports can also be channelled to the Health Professions Council of Zambia, Medical Association of Zambia, and General Nursing Council of Zambia. The aforementioned institutions are often accessible and do not often require written complaints. However, good practice demands that complaints are in writing to also provide evidence that the said institutions were engaged. Further, these actions must be accompanied by advocacy mechanisms such as running a media campaign against these abuses.</li> </ul>
<p>Can SWs organize themselves and get identity cards like miners so that police harassment can stop?</p>	<ul style="list-style-type: none"> <li>▪ No, they cannot because sex work is illegal. It would amount to admission of the crime.</li> </ul>

Questions from KPs	Responses from Lawyers
<p>Is there a way SWs can be empowered economically so that they can stop sex work? Some SWs have skills but don't have capital to invest in their own businesses. Some of the skills identified were psychosocial counseling, peer education, chicken rearing, tailoring, skills training, e.g., ability to conduct training of trainers.</p>	<ul style="list-style-type: none"> <li>▪ FHI 360 will support economic empowerment activities aimed at KPs. Also, KP groups will be able to apply for grants under the USAID Open Doors project once the call for proposals is issued for funding. Therefore, KPs are encouraged to form smaller groups, which can submit proposals and receive both technical and financial support from FHI 360.</li> </ul>
<p>How can we help a fellow SW who is arrested by law enforcement officers?</p>	<ul style="list-style-type: none"> <li>▪ Create rapid response groups that will be trained on how to take out a police bond or court bail in the quickest possible time. This can also be strengthened by paralegal training to help all SWs understand the law and know how to preserve evidence while in police custody.</li> </ul>
<p>How can we deal with corrupt police officers who extort money from us?</p>	<ul style="list-style-type: none"> <li>▪ Collect evidence and report them. CSWs must be in the habit of documenting experiences and reporting cases. The law must not be used to perpetrate violence against vulnerable and marginalized groups.</li> </ul>
<p>Where else can you report problems since police are too harsh?</p>	<ul style="list-style-type: none"> <li>▪ Cases can be reported to the magistrates courts. CSWs can also lodge complaints with bodies such as the Human Rights Commission, Police Public Complaints Authority, and Anti-Corruption Commission. However, they must have all the relevant facts as this will help with a quicker investigation.</li> </ul>
<p>How can you deal with medical officers who conduct abortions illegally? What can be done to those medical officials that carry out abortions that lead to death? Family planning is expensive because government hospitals and clinics often don't have medicines. Many doctors in Solwezi own pharmacies, and they take the medicines there.</p>	<ul style="list-style-type: none"> <li>▪ The doctor will not perform an illegal abortion if they are not asked to do so. This means both the doctor and you as a client are in breach of the law. This makes it difficult to report the case. It is easier when you report on behalf of a friend or relative who has passed on. However, you need to provide evidence.</li> <li>▪ With regard to medical personal who get drugs from the government health facilities and sell them in their private hospitals, this cases must be documented and reported to institutions like the ACC and the police. The office of the District Commissioner is also helpful/useful in resolving such matters.</li> </ul>
<p>What can one do if they want to access family planning but are denied such access because they refuse to test for HIV? In Solwezi,</p>	<ul style="list-style-type: none"> <li>▪ Sometimes health practitioners test blood in order to determine compatibility with drugs and not necessarily for HIV. HIV testing must never be compelled. It must be voluntary and must be accompanied by counseling. The</li> </ul>

Questions from KPs	Responses from Lawyers
<p>family planning is dependent on HIV testing in government health institutions. If you refuse to test for HIV, they cannot give family planning. This is why people resort to abortions.</p>	<p>guidelines for HIV testing state these facts. Many of the health institutions offer HIV services as an opt out service, but implement it as if it is mandatory. If the HIV tests are being forced on persons, this must be reported to the authorities, particularly the Ministry of Health, and/or any of the district offices responsible for health: e.g., District Health Management Board or District Commissioner.</p>
<p>Is it mandatory for someone to be asked for his partner when all he wants is condoms?</p>	<ul style="list-style-type: none"> <li>▪ No, it isn't. If this is the policy of health institutions in Solwezi it must be brought to the attention of the Ministry of Health to clarify their health policy and practice and ensure that it is not discriminatory against persons who do not have partners or whose partners are unwilling to accompany them to the hospital or clinic. It is illegal and unconstitutional for health practitioners to insist that sexual and reproductive health rights can only be enjoyed if people access the services as couples. The policy guidance was made in good faith to ensure that STIs and other sexual reproductive issues are addressed between partners, but this was not intended to bar people from accessing services as individuals. This is particularly true for access to condoms.</li> </ul>
<p>I heard of a person who died of anal warts. How can someone go to the clinic if they have anal warts? I think there would be a lot of questions of how they got them.</p>	<ul style="list-style-type: none"> <li>▪ A person should feel confident to go to a health institution to seek medical treatment for any ailments they face. Part of the reason there is doctor-client confidentiality is to create an environment where clients are confident that they can disclose personal details to a medical professional, and those details will be kept safe and private. This is part of medical ethics of doctors. The patients must be free to disclose relevant information in order to get quality health care services. Medical personnel must be able to guarantee privacy and confidentiality.</li> </ul>
<p>If you want to form a group, how can you go about it? It is difficult to meet in Solwezi because we stay far apart. We also don't know each other. This is a good platform to know each other and plan how we can do it.</p>	<ul style="list-style-type: none"> <li>▪ The easiest way is to get in touch with organizations that already have community groups, e.g., Friends of Rainka, TransBantu Zambia, and Lotus Identity, which can help others establish a community group. KP groups can also learn from support groups under NZP+ how they have managed to create thousands of support groups across the country.</li> <li>▪ KP members also need to support each other by creating opportunities to discuss their everyday</li> </ul>

Questions from KPs	Responses from Lawyers
	experiences, and how they interact with health care providers and law enforcement officers.
How can we get prompt responses to human rights violations that our members experience since you people are in Lusaka and can't always attend to these things?	<ul style="list-style-type: none"> <li>▪ By creating support groups and training members of the groups on how to address the common experiences that members encounter.</li> <li>▪ The support groups must also identify allies in their district and work with them to get their causes heard and expose injustice that their members experience.</li> </ul>

## APPENDIX B. ZAMBIAN LEGISLATION IMPACTING KEY POPULATIONS

Key Population	Activity/Title	Legislation/Penalty
<b>Sex Worker</b>	<b>Sex work</b> Male person living on earnings of prostitution or persistently soliciting	<b>The Penal Code Act</b> <b>Section 146.</b> (1) Every male person who (a) knowingly lives wholly or in part on the earnings of prostitution; or (b) in any public place persistently solicits or importunes for immoral purposes; is guilty of a misdemeanour. (2) Where a male person is proved to live with or to be habitually in the company of a prostitute or is proved to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that he is aiding, abetting or compelling her prostitution with any other person, or generally, he shall, unless he shall satisfy the court to the contrary, be deemed to be knowingly living on the earnings of prostitution.
	Woman living on, aiding, etc., for gain prostitution of another woman	<b>Section 147.</b> Every woman who knowingly lives wholly or in part on the earnings of the prostitution of another or who is proved to have, for the purpose of gain, exercised control, direction or influence over the movements of a prostitute in such a manner as to show that she is aiding, abetting or compelling her prostitution with any person, or generally, is guilty of a misdemeanour.
	Power of search	<b>Section 148.</b> If it is made to appear to a magistrate, by information on oath, that there is reason to suspect that any house or any part of a house is used by a woman or girl for purposes of prostitution, and that any person residing in or frequenting the house is knowingly living wholly or in part on the earnings of the prostitute, or is exercising control, direction or influence over the movements of the prostitute, the magistrate may issue a warrant authorising any police officer to enter and search the house and to arrest such person.
	Brothels	<b>Section 149.</b> Any person who keeps a house, room, set of rooms, or place of any kind whatsoever for purposes of prostitution is guilty of a misdemeanour.

Key Population	Activity/Title	Legislation/Penalty
<b>MSM</b>	<p><b>Consensual sex between men</b></p> <p>Unnatural offences</p> <p>Attempt to commit unnatural offences</p> <p>Indecent practices between males</p>	<p><b>The Penal Code Act</b></p> <p><b>Section 155.</b> Any person who:  (a) has carnal knowledge of any person against the order of nature; or  (b) has carnal knowledge of an animal; or  (c) permits a male person to have carnal knowledge of him or her against the order of nature;  is guilty of a felony and is liable to imprisonment for fourteen years.</p> <p><b>Section 156.</b> Any person who attempts to commit any of the offences specified in the last preceding section is guilty of a felony and is liable to imprisonment for seven years.</p> <p><b>Section 158.</b> Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, is guilty of a felony and is liable to imprisonment for five years.</p>
<b>Transgender People</b>	<p><b>Above under SW and MSM apply for TG. However, police seem to be charging TG people with impersonation, rogue and vagabond, and 'loitering'</b></p> <p>Idle and disorderly persons</p>	<p><b>The Penal Code Act</b></p> <p><b>Section 178.</b> The following persons:  (e) every person who, without lawful excuse, publicly does any indecent act;  (f) every person who publicly conducts himself in a manner likely to cause a breach of the peace; and  (g) every person who in any public place solicits for immoral purposes;  are deemed idle and disorderly persons, and are liable to imprisonment for one month or to a fine not exceeding sixty penalty units or to both.</p>



## APPENDIX C. PROPOSED ACTIVITIES IN THE SHORT, MEDIUM, AND LONG TERM FOR NAC AND USAID OPEN DOORS

Objectives	Activities
<b>Short-Term</b>	
Effective coordination of the work of KPs and work affecting KPs	<ul style="list-style-type: none"> <li>Establish organized networks of KPs</li> <li>Empower community-based organizations to effectively implement activities for KPs</li> <li>Assess institutional capacity of key stakeholders to implement programs targeting KPs, e.g., HRC, GNCZ, HPCZ, PPCA, Investigator General, Office of District Administrator, etc.</li> </ul>
Raise awareness of the law and constitutional rights as they impact access to health-related services	<ul style="list-style-type: none"> <li>Develop training manuals and user guides for law enforcement officers, health practitioners, traditional leaders, and religious leaders</li> <li>Develop user guides for KPs</li> <li>Training of KPs in paralegal work and evidence gathering</li> <li>Establish a fund for supporting publications in local journals and in books that can be used as reference materials</li> </ul>
Retainer for lawyers to protect KPs	<ul style="list-style-type: none"> <li>Establish a fund for strategic litigation and development of guidelines for the use of the fund</li> </ul>
Create safe spaces for KPs	<ul style="list-style-type: none"> <li>Establish safe houses and resource centers</li> <li>Engage organizations already running safe houses to mainstream their services</li> <li>Train KPs to create safe spaces for themselves</li> <li>Training in digital security and other aspects of security</li> </ul>
Engage legal and policy makers on issues affecting KPs	<ul style="list-style-type: none"> <li>Need to document experiences of KPs to use for advocacy</li> <li>Meeting with policy and law makers on need for law reform and the impact of existing laws on public health</li> <li>Use existing research to understand the diversity of the KPs (age, gender, lifestyle, and community norms) and brainstorm possible solutions</li> </ul>
Empower KPs economically	<ul style="list-style-type: none"> <li>Provide technical and financial support for activities of KPs</li> </ul>
<b>Medium-Term</b>	
Create a conducive regulatory environment for access to HIV-related services for KPs so that access and accessibility to services are clear	<ul style="list-style-type: none"> <li>Build capacities of key institutions to implement programs affecting KPs</li> <li>Initiate law reform: engage Zambia Law Development Commission and Ministry of Justice in discussions aimed at law reform to decriminalize sodomy laws and other aspects of sexual intercourse between consenting adults</li> <li>Conduct judicial colloquia on the effects of criminalization on the rights of KPs to equality and access to health</li> </ul>

Objectives	Activities
	<ul style="list-style-type: none"> <li>▪ Hold countrywide training workshops with key law enforcement officers such as police command, prison command, magistrates, police officers, prison officers, and at training institutions for law enforcement officers</li> <li>▪ Conduct dialogue meetings with law and policy makers</li> </ul>
Raise awareness of the law and constitutional rights as they impact access to health-related services	<ul style="list-style-type: none"> <li>▪ Conduct follow-up trainings for key stakeholders such as KPs, traditional leaders, legislators, lawyers, law enforcement officers, and health practitioners</li> <li>▪ Conduct refresher training of KPs in paralegal work and evidence gathering</li> <li>▪ Engage law schools and medical schools at institutions of higher learning to teach students the rights of KPs and marginalized groups and the impact of criminalization on enjoyment of fundamental rights</li> </ul>
Retainer for lawyers to protect KPs	<ul style="list-style-type: none"> <li>▪ Maintain a litigation fund for cases of health rights violations against KPs</li> </ul>
Engage legal and policy makers on issues affecting KPs	<ul style="list-style-type: none"> <li>▪ Meetings aimed at decriminalizing sodomy and related laws</li> <li>▪ Formulation of policies to address the impact of criminal laws affecting KPs on public health and the effects of multiple risks faced by people who belong to more than one group of KPs</li> </ul>
<b>Long-Term</b>	
Raise awareness of the law and constitutional rights as they impact access to health-related services	<ul style="list-style-type: none"> <li>▪ Develop public awareness campaigns on rights of KPs and the impact of rights violations on public health</li> <li>▪ Train communities on rights of KPs and impact of rights violations on public health</li> </ul>
Create a conducive regulatory environment for access to HIV-related services for KPs	<ul style="list-style-type: none"> <li>▪ Conduct litigation on rights violations experienced by KPs</li> <li>▪ Enact favorable laws that support the lifestyle of KPs and advance public health</li> <li>▪ Create steering committees composed of various members representing line ministries, KPs, CBOs, FBOs</li> </ul>
Retainer for lawyers to protect KPs	<ul style="list-style-type: none"> <li>▪ Maintain a litigation fund for cases of health rights violations against KPs</li> </ul>
Engage legal and policy makers on issues affecting KPs	<ul style="list-style-type: none"> <li>▪ Need to document experiences of KPs to use for advocacy</li> <li>▪ Dialogue meetings with policy and law makers</li> </ul>

