Literature Review

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Adrian Di Lollo

Strengthening
Africa’s Country Coordinating Mechanisms through empowerment of marginalized communities

Holding leaders accountable
A review of the literature analyzing the Global Fund’s performance in improving participation of women, girls and SOGI population groups into Country Coordinating Mechanisms with a focus on the Gender Equality and Sexual Orientations and Gender Identity Strategies

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A truly democratic, fully participatory process requires that the constitution of all Country Coordinating Mechanisms (CCMs) include the communities that will be affected by its programs. There is no substitute for direct participation and empowerment of affected communities, as compared to civil society representation, in combating HIV and AIDS, tuberculosis, and malaria.\textsuperscript{1}

1. Introduction

In order to ensure accountability, powerful funders, and the mechanisms they use to determine who to fund, need to ensure inclusion of marginalized and stigmatized people. This is very much the case for the Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM) as at least two of these diseases are assigned massive social stigma in many countries and disproportionately affect marginalized groups.

The Global Fund recognizes that woman, girls, men who have sex with men (MSM), transgender people, sex workers and other marginalized population groups face challenges in being able to access or benefit from Global Fund grants. The GFATM also recognizes that such groups often have limited access to the decision-making bodies of the Global Fund and in particular to the Country Coordinating Mechanisms (CCMs).

Central to the Global Fund’s commitment to local ownership and participatory decision making the Country Coordinating Mechanisms are country-based, multi-stakeholder partnerships which develop and submit grant proposals to the Global Fund based on priority needs at the national level. After grant approval, the CCMs are responsible for overseeing the progress during and after implementation, as well as the monitoring and evaluation (M&E) thereof. Effective exclusion of representatives of marginalized groups, often those most in need of accessing services and support, undermines the Global Fund’s efforts and principles on multiple levels. The need to comprehensively address gender issues in regard to all three areas of need in Global Fund policy and programming was acknowledged at the 12th GFATM Board Meeting in 2007.\textsuperscript{2} The meeting identified that a response was needed to address the recognized vulnerability of women, girls and
those marginalized because of their sexual orientation and gender identity (SOGI). The result was the development of the Gender Equality (GE) Strategy and the Global Fund Strategy in Relation to Sexual Orientation and Gender Identities (SOGI) which were adopted at the 18th Board Meeting of the GFATM in 2009.

The strategies are intended to fundamentally and positively impact the policies and operations of GFATM with regard to GE and SOGI issues. As will be demonstrated in this literature review, GE and SOGI populations have had, and continue to have, significant difficulty in accessing services provided through Global Fund grants and in having their voices heard in many of GFATM’s CCMs. The two strategies reflect a strong desire and determination at the Global Fund to improve access for GE and SOGI groups at various levels of the GFATM grant process.

Through the CCMs, the GFATM has intended to include representatives of governmental organizations, non-government organizations (NGOs), the private sector, technical specialists and academic institutions as well as affected communities (including women, girls and LGBT), in guiding the response to the epidemic. Both the GE and SOGI strategies acknowledge the impact that CCMs can have on ensuring that gender equality and SOGI are more prioritized in project and proposal development at country level.

This literature review examines the academic, media and civil society dialogues around the level of participation of women, girls and other marginalized groups due to their sexual orientation and gender identity in CCM processes. It examines the many responses to GE and SOGI policies and summarizes exactly what the experts and key stakeholders are saying about the progress of their implementation. In particular, this literature review examines and summarizes not only what the researchers and stakeholder organizations are saying about the GE and SOGI strategies and about the participation of marginalized groups in the CCMs, but also their recommendations to bring about the full implementation of these strategies.

It should be noted that this literature review is part of, and will contribute to, a broader initiative being undertaken by AIDS Accountability International (AAI) entitled: Strengthening Africa’s Country Coordinating Mechanisms through Empowerment of Marginalized Communities.
2. Status quo at the Global Fund

Seale emphasizes that the Global Fund’s advocacy and communications efforts promote clear messages concerning evidence-based and rights-based approaches in the response to all three diseases and adds that “the Secretariat provides leadership, internally and externally, to integrate human rights principles and other principles outlined in the GE and SOGI strategies into all aspects of Global Fund structures and operations”.

Seale also locates the issue of composition of CCM leadership and membership as one of the equity principles which underpins the Global Fund model. He notes that such composition must take account of sex, participation of members representing people affected and/or infected by HIV/AIDS, TB or Malaria, and inclusion of expertise in gender or related issues.

It is also quite clear that the Fund has done a great deal in recent years to improve meaningful input from key population groups. However, there is also a shared acknowledgement that there is much more that the Global Fund can and should do.

He notes that the Global Fund recognizes that some population groups may require extra attention and encourages countries to “know your epidemic”. Seale also emphasizes that the Global Fund works closely with civil society organizations, including networks of people living with the diseases, women’s groups and networks of MSM as well sex worker populations. His argument primarily revolves around the suggestion that the Global Fund undertake such collaborations in order to raise awareness, generate demand and build organizational capacity so that marginalized groups can participate fully in program design and delivery.

As this review will demonstrate, it is indeed the general consensus among the reviewed works of researchers and commentators herein that the Global Fund undertakes such activities as outlined by Seale. It is also quite clear that the Fund has done a great deal in recent years to improve meaningful input from key population groups. However, there is also a shared acknowledgement that there is much more that the Global Fund can and should do. To cite one example of how significant the challenges are, Grover et al. cite the fact that people living with illness constitute only eight per cent of CCM membership worldwide, while key affected populations constitute a mere one per cent.
3. The Global Fund strategies and their implementation

Ogden et al. applaud the Gender Equality Strategy for providing practical steps for implementation. They note, for example, that the strategy’s framework illustrates how gender can be integrated into the Global Fund’s guiding principles, and that it provides instructions for developing gender-sensitive indicators and suggests ways to make programming gender-sensitive. Ogden et al. also note that the strategy highlights the need for capacity building on gender and encourages the participation of women and women’s groups in program planning, design and implementation. Importantly, the researchers also underline requirements in the strategy that that key Global Fund agencies must develop their own internal capacity concerning gender and that gender-specific principles and practices are properly operationalized.

However, Ogden et al. also issue a note of caution; underlining the fact that the Global Fund’s model emphasizes country leadership, the researchers argue that there are inadequate requirements guiding precisely what recipients need to do. They contend that it is uncertain whether all partners will be willing and able to realize the gender plan and question whether the Global Fund will be able, given its country-led model, to fulfill its responsibility to gender-responsive programming without undertaking a much more directive approach.
The Pangaea Global AIDS Foundation concludes that the Global Fund has not been able to generate the same level of “vigorous internal and external advocacy” to promote the GE strategy as has been the case with the SOGI strategy.\textsuperscript{8}

They also found that some transgender people, people living with HIV and AIDS, and sex workers did not feel included within the GE strategy. This finding is perhaps informed by the contentions of Seale et al., which suggest that the SOGI strategy is more relevant to transgendered persons, sex workers and MSM.\textsuperscript{9}

The Pangaea report also reflects a highly poignant comment from a key informant who asserted that: “The greatest strength of the gender strategy is the strategy itself – that it exists.”\textsuperscript{10} However, the interviewee qualified this conclusion by identifying that the greatest challenge for the strategy’s implementation is the lack of measurable indicators and a lack of oversight by the Global Fund Board at the committee level.

Another key informant asserted that implementation of the GE strategy was being compromised by a lack of political will from the Global Fund leadership.

Although qualifying their findings as “retrospective”, Ashburn et al. claim that the Global Fund’s CCMs generally lack the capacity to design effective gender relations objectives, programs and performance measures.\textsuperscript{11} They argue that some Global Fund partners, including fund portfolio managers and local fund agents often lack the capacity to manage gender-related programming whilst administering grants. Ashburn et al. acknowledge, however, that the GE Strategy aims to address these weaknesses.
While strongly commending the Fund for developing its “bold” Gender Equality Strategy, Ashburn et al. conclude: “Now it (the Global Fund) needs to ensure that the capacity exists for putting that strategy into practice - both in-country actors, to design and implement gender-responsive programming, and in Global Fund structures.”

In acknowledging the fact that the Global Fund requires that women be represented on CCMs, Ashburn et al. also caution that such representation alone does not ensure that gender-related HIV/AIDS drivers will be sufficiently addressed in the proposals developed and reviewed by the CCM:

[H]aving a certain quota of women members does not guarantee that general principles will be integrated, gender analysis applied, or evidence used to support planning for more gender-responsive HIV/AIDS programming. Nor does it assure Global Fund recipient and sub recipient organizations of obtaining the gender expertise they need.

Drawing from their research in Mozambique, Ashburn et al. demonstrate the importance of ensuring that gender units established in Global Fund recipient and sub recipient organizations are appropriately positioned to be able to exercise meaningful and broad influence in policy and programming.

In this example, the researchers note that while Mozambique’s national AIDS council (O Conselho Nacional de Combate Ao HIV/SIDA) has a gender unit, program directors seem to be lacking the kind of gender sensibility and gender consciousness that would be necessary to operationalize the gender perspective of the National Strategic Plan [for AIDS]. Ashburn et al. further note that the gender unit staff members do not have access to all ministry departments or to decision making processes at all levels, and conclude that it (the gender unit) consequently has inadequate influence on programming.

Ogden et al. recognize that the Global Fund has worked to increase women’s participation in its processes by ensuring that women are represented in all CCMs. Making a similar case to Ashburn et al., the researchers argue that simply having an appropriate gender balance on the CCMs does not mean that such members, purely based on the fact that they are women, will have the necessary expertise to provide guidance and technical assistance on gender issues.

Noting that the Global Fund encourages its CCMs to work with civil society organizations to help improve the effectiveness of local partnerships, Ogden et al. strongly advocate for the inclusion of women’s organizations on the CCMs (which they believe are underrepresented) to ensure that gender issues related to programming are better reflected in proposals.

While noting that consultation and participation were crucial elements during the development stages of the SOGI strategy, Seale et al. affirm that effective

“CCMs need to be challenged by the Global Fund and supported by other institutions to prioritize legal and human rights programmes for key populations.”

(UNDP, 2010, p. 53)
implementation will only be achieved through strong and ongoing partnerships and note that:

[T]he diverse partners — in particular the governments and other stakeholders in recipient countries that helped develop the Strategy — must now commit to stronger collaboration on this agenda and must demonstrate bold leadership in overcoming the considerable technical and political challenges of implementation that lie ahead.16

Seale et al. also argue that the Global Fund’s commitment to consult broadly with key groups was undertaken to ensure that the final SOGI strategy was integrated with the realities on the ground and that it also recognized and compensated for lack of evidence in some countries. This seems to bode well for the strategy’s implementation.
4. Performance indicators

Some of the sources consulted for this literature review are less specific and oftentimes uncertain in their conclusions around the issue of whether or not the GE and SOGI strategies contain measurable indicators. The Pangaea report, however, makes this issue clearer. The researchers confirm that programs of action and performance indicators (to be monitored by the Global Fund M&E Unit) have been developed for both strategies. Pangaea found that these appear to have had only limited impact. Furthermore, a UNDP analysis points out that most indicators included in the 2009 M&E toolkit were bespoke output/process indicators.\(^{17}\) The researchers argue that “this suggests that CCMs are looking for indicators other than those recommended by the Global Fund when they consider it necessary to measure human rights-related programmes.”\(^ {18}\)

With regard to the SOGI strategy, however, the UNDP found that the Global Fund was committed to updating the M&E toolkit to review ways in which monitoring, evaluation and reporting can effectively discern the extent to which funding is succeeding or failing to address the health and human rights of the populations targeted by the strategy.
5. Possible challenges to implementation

In noting that social marginalization and outright criminalization makes it difficult to collect data through standard measures on groups such as SOGI and sex workers, the UNDP identified a major challenge in implementing strategic goals for these populations. Poor data on SOGI and sex worker populations makes it difficult to access them with services, let alone to facilitate their structured input into CCMs. The UNDP also notes that prevailing negative social stereotypes are fed by criminalization and this can affect a CCMs’ assessments of national priorities. As of Round 9, the Global Fund recommended that CCMs include representatives from key affected populations in their membership. The UNDP report also asserts that: “CCMs need to be challenged by the Global Fund and supported by other institutions to prioritize legal and human rights programmes for key populations.”

Fried and Kowalski-Morton laud the ability of Global Fund to “cut through political discomfort with sexuality” that has so often prevented funds for HIV and AIDS information and services reaching the most-at-risk and marginalized communities. The researchers cite examples in which GFATM-funded programs have reached sex workers, MSM and LGBT communities in countries where government and other funding sources have ignored or downplayed their needs. They also note that a secondary outcome of GFATM-funded programs in China and Moldova has been the opening up of a public discourse concerning needs for these communities. They also argue that the barriers preventing the participation of criminalized and marginalized groups are not insurmountable. They cite examples in Kyrgyzstan and Ukraine where drug users (or their advocates) have used their positions as members of the Global Fund’s CCMs to ensure that grant proposals address their needs. They also note that in Thailand and Russia, coalitions of NGOs which are led by and work with drug users have been successful in securing funding from the GFATM for HIV prevention and treatment services, thereby bypassing a CCM that had been excluding them.
This is extremely encouraging because it shows that this process which is outlined in the SOGI Strategy (and other Global Fund documents) has the potential to work on the ground.

In support of this, the Pangaea report advocates that:

[N]on-CCMs GES and SOGI proposals should be encouraged for funding by the Global Fund particularly in instances where the existing CCM will support proposals that support gender equality and sexual minorities, where such programmes are responsive to a country’s epidemic.

Reflecting the concerns emphasized in several of the sources, the UNDP report notes that the marginalization and criminalization of key populations at the country levels can prevent them from participating meaningfully in a range of Global Fund processes including CCM functions such as program implementation. The authors suggest that this exclusion may be indirectly responsible for the widespread program attrition identified by their study.

The UNDP found that there was an attrition of 23 per cent of key Global Fund human rights program between successful proposals and approval of current work plans. They note that this has the potential to undermine other Global Fund investments in the countries where program are needed to address human rights issues. It is noted later in the report that program aimed at empowering people to assert their rights (e.g. law and policy reform, legal services and ‘know your rights’ program) are less likely to benefit marginalized and typically criminalized groups than stigma reduction program in other sectors of the population.

The UNDP identifies that the 23 per cent attrition of human rights programs seems to occur:

[A]fter approval of the proposal by the Global Fund Board subject to Technical Review Panel (TRP) clarification and grant negotiation. A combination of political and technical factors is identified as the cause of the attrition and the UNDP advocates for further investigation. UNDP adds that a requirement (or at least encouragement) by the GFATM and its partners to inclusion of meaningful indicators for these programmes in processes (of the Global Fund) would be desirable.

The UNDP concludes that “the Secretariat should respond to the attrition of key human rights from the time of Global Fund Board approval of HIV proposals to the grant-signing process.”

In addition to being addressed in the 2010 UNDP analysis above, the issue of the high attrition rate of human rights-related programs was addressed at an international meeting of GFATM in 2011. This was referenced in the meeting report and also addressed by two of the reports attached as annexes, one by Fuleihan and one by Seale. However, it is likely that more diagnostic investigation of this issue is required.

While noting the effectiveness of the two senior advisors and the technical officer appointed to help implement the two strategies Pangaea argues that it is unreasonable to rely on three individual staff members to lead implementation of what should essentially be Secretariat-wide priorities. Mentioning that while programs of action have been developed
for both strategies (and that performance indicators are tracked by the M&E Unit) Pangaea asserts that these appear to have had limited impact, as awareness across other departments of the Secretariat is highly variable. The researchers did not get the sense that staff members felt a joint responsibility for either of the two strategies and that they preferred to rely on the senior advisors for gender and SOGI matters.

Kerr et al. strongly support the development of formal criteria to facilitate the non-CCM approved proposals for funding, something that would (several years after the publication of their article) be incorporated into the GE and SOGI strategies. The researchers assert that such a policy would “send a strong message to the international community that GFATM will do whatever it takes to combat HIV/AIDS, TB and malaria and, in doing so, would establish the primacy of health and human rights over national and international politics.” The UNDP report concurs entirely with Kerr et al.’s assertions but also argues that the Global fund is “in a position to send a strong message” to its own CCMs that program for marginalized and criminalized groups are essential to develop and implement.

The Pangaea report makes numerous recommendations concerning the implementation of the strategies some of which have direct bearing on participation by the targeted population groups. Some of the key recommendations include:

- CCMs should ensure meaningful representation of the key populations (Women, MSM, sex workers, injecting drug users [IDUs] and transgendered people), and in leadership roles and that gender experts are consulted;
- CCMs should demonstrate how they have meaningfully incorporated the two strategies, and how technical assistance offered by Global Fund partners has been incorporated, when submitting new proposals;
- All CCM members should be educated concerning the strategies and be regularly updated on the progress of their implementation.

Perhaps the single most significant of Pangaea’s recommendations concerning gender and participation is that the Global Fund takes action to strengthen and ensure women’s meaningful participation in decision making procedures within all its governing structures.

Key to the success of the implementation of both policies will be the ability to actively engage civil society organizations representing the key populations. Clayton and Cohen, however, argue that mechanisms for Global Fund support of such community engagement remain unclear. The authors contend that this might discourage key civil society groups from accessing the support they need and argue that in some cases CCMs do not effectively do their job of incorporating civil society contributions into proposals. Clayton and Cohen reason that as civil society is the most-likely implementation agent of human rights programs, meaningful engagement by civil society in proposal preparation is critical to their success. This view is highly significant because it illustrates one of the central challenges – effective civil society engagement – in the implementation of both the GE and the SOGI strategies.

“The marginalization and criminalization of key populations at the country level can prevent them from participating meaningfully in Global Fund processes.”

(UNDP, 2010, p. 35)
6. Stigmatization and criminalization

Fried and Kowalski-Morton note that the Global Fund has enabled many countries to develop their responses to the HIV/AIDS epidemic to an unprecedented scale which has resulted in programs reaching otherwise underserved communities.\textsuperscript{32} They add, however, that regions or countries where sex workers, men who have sex with men and/or LGBT are criminalized or stigmatized, organizations led by or who work with these groups may have major challenges in participating in Global Fund processes and accessing funding. The researchers further note that where sex work and homosexuality are criminalized, it is rare that a government principal recipient will seek the active participation of sex worker or lesbian, gay, bisexual and transgender (LGBT) organizations.

Reporting on an international AIDS conference in Vienna, Droggitis highlighted the expressed concern of delegates from the Middle East North Africa (MENA) region who argued that the Global Fund’s current funding architecture did not enable money to flow to the most at-risk populations in their countries.\textsuperscript{33} Droggitis explains that MENA group representatives did not negate the importance of contributions from middle-income governments for HIV/AIDS program. The concern was around the allocation of funds in a region in which some affected groups are heavily stigmatized and marginalized by the same government that receives the funds. Droggitis advocates that “funds must go straight to the civil society organizations invested in these populations in order to be effective.”\textsuperscript{34}

Drawing from a 2010 World Bank report\textsuperscript{35}, Droggitis concludes that strengthening civil society contributions to HIV/AIDS programming is critical to the MENA region, where HIV transmission is concentrated in hidden and stigmatized populations. The report notes the “meagre contribution” of non-governmental organizations, community groups and people living with HIV in the formulation, planning, and implementation of the government HIV/AIDS responses as a major structural weakness. Droggitis asserts that at least in theory, the Global Fund’s CCM model is one way for these
countries to gather and invest in civil society in a way that ensures meaningful input from marginalized groups. On the flipside, the UNDP report persuades that local factors, including criminalization, can prevent not only the participation of representatives of marginalized groups in CCM processes but also hinder the design and implementation of programmes to assist the populations that such groups represent.³⁶

Droggisis identifies a contradiction, also noted by other researchers, that notwithstanding their usefulness as a mechanism for bringing all sectors of the HIV/AIDS response together for planning and implementation, CCMs are sometimes dominated by the very governments that actively stigmatize most-at-risk populations such as MSM, sex workers, injecting drug users and others marginalized populations. She notes that this leads to not only poor representation on the CCM, but also to limited programming targeted toward these marginalized groups. A study undertaken by Global Network of People Living with HIV/AIDS in 2003 strongly suggests that this has been a widespread concern for some years.³⁷ Reflecting comments from activists all over the world on how CCMs could be improved, one stakeholder stated that “Manipulation or control of the CCM by a government should cease.”³⁸

The potential and actual tension between the dual Global Fund objectives of promoting “national ownership” by being country-led and the critical obligation to promote the needs of marginalized (and often criminalized) groups was alluded to or directly addressed by several commentators. Kerr et al., for example, acknowledge the benefits of a funding model that promotes country ownership, not least that it can help facilitate efficient use of resources, but cautions that the level of partnership required can create difficult barriers for many criminalized applicants.³⁹ Sex workers may be particularly vulnerable in this sense in that once entering a public partnership they expose themselves as “criminals.” Noting that countries that criminalize sex work are much less likely to develop human rights programmes for this group, the UNDP found that in such countries CCMs are tending not to respond to the needs of sex workers despite a high need and evidence of the effectiveness of such programmes.

“The Global Fund Secretariat should respond to the attrition of key human rights from the time of Global Fund Board approval of HIV proposals to the grant-signing process.”

(UNDP, 2010, p. 66)
A startling example of how the barrier of complete denial was overcome is demonstrated by Mykhalovsky. A research team in Togo was told by government officials not to proceed with their proposal to research MSM, because such people did not exist in the country. The team proceeded and undertook the research using a community-based ethnographic approach which not only identified 122 MSM but uncovered significant gaps in their knowledge of HIV risk factors. A new set networks and program for MSM were developed as a result of the research. The literature contains numerous examples of official (i.e. government-led) discrimination against and marginalization of LGBT and MSM which results in no programming for these groups despite overwhelming need. The very real danger of legal sanction against those who work with those communities is illustrated by Csete. In that example Csete describes how the only NGO working on LGBT rights in Botswana was prevented by the government from registering as a legal entity, thus preventing it (the NGO) from applying for donor funding.

Herrera’s assertion that the participation on CCMs by marginalized communities is often compromised due to resource and skill constraints is supported by other researchers. Fried and Kowalski-Morton, for example, note that barriers to participation can be related to capacity and cite the fact that many sex worker, LGBT and MSM organizations are small and not sufficiently equipped to complete the technically complex applications necessary to gain access to Global Fund resources. They add that such organizations can be similarly effectively disenfranchised by an inability to navigate the complex bureaucracies which exist at the country level. In a survey undertaken by The Global Network of People Living with HIV/AIDS, activists from a range of countries listed such things as lack of skills and knowledge, education level, lack of self-confidence in one’s abilities, lack of informatics equipment and IT skills, and lack of capacity to manage financial resources, as barriers to CCM participation.
While noting that CCMs are a good mechanism for bringing all sectors of the HIV/AIDS response together for planning and implementation in many countries, Fried and Kowalski-Morton emphasize their concern over what they term “underlying power differentials” among the so-called “partners” mandated by the Global Fund. The researchers argue that such differentials often result in CCMs being government-dominated. In this dynamic, representatives from civil society organizations often have limited ability to influence the CCM. Fried and Kowalski-Morton reason that since groups representing MSM, LGBT people and sex workers are often themselves marginalized, or intentionally operate covertly for fear of reprisal, their capacity to engage in CCM processes can be even more limited.

Clayton and Cohen argue that in the less-democratic states (where human rights advocacy is needed most) government-dominated CCMs are disinclined to apply for funding for human rights activities that they perceive as a potential threat to their sovereignty. The authors note that general human rights interventions such as legal empowerment and human rights training are much more likely to be developed and implemented by non-governmental organizations working directly with the affected communities. Referencing research undertaken by Csete, Clayton and Cohen conclude that it is “unfortunate that NGOs representing the populations most likely to be affected by AIDS-related human rights abuses have faced significant and perhaps disproportionate barriers to CCM participation.”

Grover et al. note that the ability of marginalized groups to access funding depends greatly on the social, political and legal context of the state. They note that almost 70 per cent of Global Fund grants are awarded to government principal recipients. Reflecting the concerns of others, however, the authors add that “where the activities of a group are criminalized, representative civil society organizations and community groups are less likely to receive funds as sub-recipients.” Noting the difficulty of engaging marginalized groups through existing health care services and systems in an oppressive political environment, Grover et al. argue that the provision of support for programs which promote the participation and strengthening of the operational capacity of affected marginalized communities has proven to be effective. As an example, the authors cite evidence which indicates that community organizations are the most effective providers of services such as peer outreach, condom or needle and syringe distribution.

Arguing from a human rights perspective, Wolfe and Carr purport that the Global Fund’s strengths can also represent vulnerabilities. The authors note that the GFATM funds country-based programs based on priority need including those in more repressive societies which have scant regard for the human rights of some population groups. Wolf and Carr note that two of the three diseases on which the Fund focuses, HIV/AIDS and tuberculosis, are often concentrated in groups particularly vulnerable to rights abuses, including those deprived of liberty and criminalized populations such as sex workers, people who inject drugs and MSM. They argue that:

>Health interventions are often blurred with law enforcement for these populations and run the risk of further marginalizing them unless implemented with attention to consent, confidentiality, and other features of an enabling legal environment that protects and fulfills human rights.

Drawing from a number of recent sources, the UNDP also suggests that there is widespread international concern over the failure of governments and other stakeholders to address
the rights of key groups in the context of HIV. Indicating that more incisive and in-depth action is necessary to address this situation the UNDP report concludes:

[A]s the Global Fund essentially respects nationally-owned and country-led responses, it is necessary to consider technical, political and sociocultural factors operating at the country level which may contribute to inadequate programmes to support the rights of key population.54

Arguing that “government institutions are critical partners to the success of the SOGI strategy”, Seale calls for a patient and long-term approach in engaging government around issues related to criminalized and marginalized groups.55 This stance seems to be supported by evidence presented by Fried and Kowalski-Morton. The researchers highlight an example from Honduras where, in 2004, the government allowed three NGOs working on LGBT rights and HIV prevention to legally register after a 10-year struggle to do so. Following this a representative of an LGBT rights organization took up a seat on the CCM and new indicators were added to the grant agreement for the following phase to specifically measure the impact of HIV prevention efforts among MSM and sex workers. Fried and Kowalski-Morton note that this was largely due to advocacy by CCM members to ensure their participation on the CCM and in grant implementation. The researchers also record that in Kyrgyzstan, representatives of organizations that work with drug users and sex workers have been participants on the CCM since its inception and have helped to ensure that country proposals address the needs of, and direct funding to, community-based organizations that are led by or work with drug users and sex workers.

Fried and Kowalski-Morton also note that the Global Fund does recognize the difficulties experienced by criminalized and stigmatized groups in working within CCM structures and that provision is made for such groups to be able to apply directly for funds, by-passing the CCM. They add that, in practice, few groups working with marginalized groups have been able to use this procedure effectively to secure Global Fund grants. It needs to be noted that Fried and Kowalski-Morton made this assessment in 2008. From a review of the relatively scant literature published since that time it has been difficult to ascertain the extent to which the situation has fundamentally changed. In any event, Fried and Kowalski articulate a challenge that the Global Fund cannot avoid addressing. Noting, as other researchers have, that the Global Fund relies on a country-driven model of funding, Fried and Kowalski note the ability of population groups marginalized by the governments of those countries to influence funding priorities, program design and other aspects are often severely limited. They conclude that if the Global Fund truly aims to fill resource gaps and to stem the pandemic, it must come to terms with this dilemma.

Encouragingly, the Global Fund is committing itself to reprioritizing the GE and SOGI strategies in line with the synergies and opportunities evident in the GFATM’s Fund Strategy and Transformation Plan. This is highly significant because it shows the Global Fund’s commitment to mainstreaming implantation of the two strategies through synthesizing and aligning them with two other critical strategic organizational documents (reprioritized in line with the in the Global Fund Strategy). Clayton and Cohen cite it as “noteworthy” that recently revised CCM guidelines reemphasize the Global Fund’s commitment to human rights.56 The authors add that these guidelines include strong provisions engaging civil society including that of marginalized groups. That said, if the Global Fund is to be held accountable for implementing these strategies, and carrying out these promises, there need to be adequate mechanisms of voice and representation on the CCMS, in order to ensure such transparency.

Seale et al. capture that essence of the challenge faced by the Global Fund in terms of marginalized populations when they assert that “key inhibiting factor often described is that established institutions in many countries, including many NGOs, remain inaccessible to minority groups.”57 CCMs must, therefore, succeed where many other institutions fail.
7. Data disaggregation

At least three reviewed sources called for the Global Fund to institute a policy of disaggregating data collection and reporting by “male” and “female”. Ogden et al., for example, argue that without gender disaggregation it will be difficult to assess how well Global Fund programs serve the needs of the particular demographic groups. Pangaea goes a step further and recommends that GFATM looks at strategies to improve data collection and reporting on transgender-identified program participants and other sexual minorities (but to do so in a way that protects their human rights). Grover et al. make the case for the prioritization of funding for project led by community-based organizations serving marginalized populations. In doing so, the writers also advocate that, as a requirement, disaggregated data be included in funding proposals in order to ensure the proposed interventions adequately meet the needs of these populations.
8. Case study

Increasing the participation of lesbian, gay, bisexual and transgender (LGBT) people in CCMs

Advocacy in Latin America: Are there lessons from Latin America for Southern African countries?

While noting that gay, transgender and MSM populations are the most affected by HIV and AIDS across the Latin American and Caribbean region (LACC), Montoya Herrera (2008) explains that the participation and advocacy actions with the CCM by members of these communities had traditionally been constrained by lack of technical skills, limited organizational development and poor management skills. However, in 2004 the Association for Comprehensive Health and Citizenship in Latin America (ASICAL) with the support of the International Alliance against HIV/AIDS and GTZ, developed and implemented a project to address the marginalization of these communities.

Herrera (2008) explains that the overarching goal was to improve the use of fund for prevention and care in Latin America broadening the participation of gay, bisexual and transgendered groups in the CCM and the projects supported by the Global Fund. Needs would therefore be identified, programs designed and money utilized by the most affected and at-risk communities themselves. In less than three years the network of organizations involved in the initiative developed and implemented a training program from which 25 capacitated technical support centres emerged. The impact was phenomenal. Some 63 participants of 53 organizations of from 20 countries across the region participated in the training in this period. Ultimately, 60 groups participated in the implementation of the MSM component alone. CCM membership of the key population groups increased by 10 percent as participation by such groups in the implementation of Global Fund-supported projects increased substantially. Among the conclusions and lessons drawn from the project Herrera lists the following:

- The need to strengthen communications between the CCMs and organizations representing marginalized population groups;
- The need to increase participation by transgendered persons especially in terms of training around HIV and AIDS epidemiological information;
- The importance of regional international “south-south” collaboration,
- The importance of supporting regional networks and proving them with support services and monitoring.
9. Human rights perspective and relevant recommendations

The UNDP report argues that the failure to implement almost a quarter of the human rights programs planned by the Global Fund has significant implications for the organization both in terms of its investments and its principles. Summing up its recommendations, the report asserts that:

"Increased technical assistance, strategic information and advocacy from technical and development partners of the Global Fund, more stringent oversight and support by country level stakeholders including CCMs, and monitoring by the Global Fund Secretariat, may be required to ensure that planned human rights programmes are implemented." 61

Later in its report, the UNDP recognizes that the Global Fund was already actively supporting human rights programs in HIV responses and noting that all successful proposals in rounds 6 and 7 contained at least one of the key human rights programs. Tellingly, however, the authors add that the demand for such programs from applicants was weak “CCMs tended to include only a few of the key human rights programs in proposals, thus leaving out programs necessary to address important aspects of the social and legal environment.” 62

Concluding that CCMs are generally not developing human rights programs for populations most in need 6 of their proposals, the UNDP emphasizes the necessity not only for increased technical assistance for applicants but also “further support, encouragement and – if necessary – instance from the Global Fund and the Joint United Nations Programme on HIV/AIDS, for comprehensive human rights responses in HIV programming.” 63

Among the wide range of recommendations made by the UNDP report, the selected following points (extrapolated, summarized and/or paraphrased) are particularly relevant to this review:

- **Support human rights analysis of HIV responses:**
  - CCMs should request technical assistance for key human rights programs when developing Global Fund proposals;
  - CCMs should include human rights analysis as part of the Global Fund proposal development process

- **Enhance technical assistance in order to improve the implementation of planned human rights programs:**
  - CCMs must be supported to ensure that programs that contribute to the elimination of stigma and discrimination against people with HIV and marginalized/criminalized groups are maximized throughout the grant cycle;
  - Global Fund must act to reduce the attrition rate of human rights programs;
  - Applicants should be encouraged and supported to include a comprehensive technical support plan for human rights programming (development, implementation and monitoring) in the overarching technical support plan included in the proposal.

- **Improve monitoring and evaluation of human rights programming:**
  - Technical assistance must be provided to CCMs (and other national stakeholders) on developing appropriate indicators for monitoring and evaluation of key human rights programs;
  - Indicators for human rights programs must be costed and included in budgets.

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1 The UNDP (2010) lists men who have sex with men (MSM), sex workers, people who use drugs and prisoners as the population groups most in need.
Strengthen evidence-informed advocacy on the importance of key human rights program as a part of rights-based HIV responses:

- Provide support to national stakeholders to conduct population surveillance, collect data on access to services for key populations and carry out a human rights analysis of HIV responses with particular attention to key human rights programs.

- Increase the use of evidence-informed advocacy on the importance of key human rights programs so as to contribute to efforts by stakeholders to remove punitive and discriminatory laws, policies and practices that block effective HIV responses.

In March 2011, a meeting of 42 Global Fund key stakeholders took place to discuss how the Global Fund could most effectively operationalize its human rights strategic objective. The scope of the meeting covered the following human rights issues related to the Global Fund’s 2012–2016 strategy, all of which are highly relevant to the issue of meaningful input into CCMs by woman, girls, LGBT and other marginalized or criminalized population groups:

- Scope and content of the Global Fund’s human rights commitment and obligation;
- Promoting human rights in Global Fund-supported programs and advocacy;
- Oversight and monitoring and evaluation of the Global Fund’s portfolio according to human rights criteria; and
- Addressing human rights risks and violations associated with Global Fund grants.

This meeting of international stakeholders (as recorded in the meeting report) made sets of recommendations under five headings, one of which concerned civil society participation in Global Fund processes. The recommendations under this heading included:

- Clarify guidance for multi-country and non-CCM submissions, especially for human rights advocacy; and
- Strengthen participation of key populations in proposal development and implementation.

A sub-recommendation of this second one reads as follows:

[Continued to strengthen participation of key populations on CCMs by requiring rather than encouraging membership of key populations (depending on the country’s epidemiological profile), such as women, young people, men who have sex with men, transgender people, people who use drugs, sex workers, prisoners, the indigent, and others, except in circumstances where doing so may result in harm to the individual or affected community.]

“A key inhibiting factor often described is that established institutions in many countries, including many NGOs, remain inaccessible to minority groups.”

(Seale et al., 2010, p. 7)

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2For the purposes of referencing the report of this meeting (published by a coalition of major stakeholders including the UNDP, Ford Foundation, UN AIDS, Open Society Foundation and others) will be referred to as UNDP (2011).
These are highly significant recommendations because they reflect, broadly or specifically, the concerns and suggestions of several other papers reviewed herein published before the 2011 meeting. Particularly significant here is the proposal to require than merely encourage CCM membership for representatives of key populations. Reflecting the views of others including Pangaea, this recommendation also emphasizes the importance of facilitating participation by marginalized groups in a way that ensures their protection and safeguards their human rights. While acknowledging that the Global Fund encourages the participation of vulnerable groups in CCMs, Grover et al. argue that it needs to go further and require CCM membership for the most relevant at-risk populations.

Another set of recommendations in the meeting report concerns accountability and oversight. One proposal is to strengthen monitoring and evaluation systems to ensure greater promotion and protection of human rights and (as a sub-recommendation) to encourage CCMs to include activities to monitor human rights of Global Fund-supported programs. Another recommendation under accountability and oversight is to strengthen capacity and increase accountability around human rights issues at the Global Fund. Part of a sub recommendation under this sub-heading includes a proposal to provide specific guidance and funding to CCMs to assist them to fulfill their oversight role with respect to human rights.

A final set of recommendations concerns partnership and advocacy. One such recommendation is to “clearly define the roles and responsibilities of Global Fund structures and partners in supporting human rights programming and advocacy”. Another recommendation calls for the adoption of a coordinated approach with partners to address countries where the need for human rights programming is the greatest. One of its sub-recommendations is to:

[W]ork with partners to proactively support the development of Global Fund proposals that include appropriately targeted human rights programming, strengthen civil society...
participation on CCMs and support leadership on human rights issues at a national level.  

While “partners” in this context could certainly include government, it is interesting to note that the recommendations in this report are not as explicit in the need to involve government as others reviewed herein have advocated including Seale, Fried and Kowalski-Morton. However, on the issue of the need for increased civil society participation there is no ambiguity. Grover et al., for example, argue that there is a need to facilitate meaningful input beyond the CCM level:

[Alongside increased participation at the CCM level, there must also be an increase in participation at the level of implementation and service delivery, namely by increasing the participation of civil society and community groups as primary and sub-recipients, and in monitoring and evaluation of Global Fund-supported programs.]

Reflecting a sentiment expressed in much of the literature, Grover et al. assert that it is the affected communities themselves are in the best position to provide informed feedback on programs of which they are the intended beneficiaries. They argue that community organizations are best situated to engage in “watch dog” activities and to facilitate programs themselves that address stigmatization and discrimination. The authors caution that participation of these groups must not be tokenistic and emphasize the critical importance of allowing community organizations to take the lead. True accountability must actively include and incorporate these groups into the planning and implementation of programs. The presence of women, girls and LGBT groups on CCMs is not enough to suggest that accountability in the GE and SOGI strategies is being met or achieved. Actionable involvement must also be taking place.

While noting that substantial progress has been made, Clayton and Cohen emphasize the need to build further on successes and in doing so make recommendations in regard to strengthening CCMs. One is that the Global Fund board should adopt the recently proposed guidelines for strengthening CCMs. They argue that these guidelines be urgently implemented along with capacity building for CCMs and communities in order to improve meaningful participation. The authors also recommend that the Global Fund should:

- Clarify the grounds for non-CCM submissions, especially for human rights advocacy, and encourage the use of the community systems strengthening and dual track financing mechanisms; and
- Engage its partners to explore ways to buttress direct support to civil society coalitions to develop whole or partial proposals on human rights themes.

Finally, Clayton & Cohen recommend that all applicants for Global Fund grants be asked to explain the ways in which civil society consultation on human rights programming and accountability was undertaken including details of outreach, in the preparation of the proposal. The authors maintain that this will help “ensure participation in proposal development by as broad a range of civil society organizations as possible.”

As previously noted, the positive impact of Global Fund efforts to become more inclusive of civil society organizations led by or representing key populations has been documented by several sources. In context of strengthening capacity of key Global Fund structures to oversee, monitor and evaluate human rights programs, Fuleihan et al. assert that “policies to meaningfully involve representatives of key populations on CCMs and the Global Fund Board have represented significant steps towards institutionalizing partnership with stakeholders.” Encouragingly, the authors argue that with a greater focus on inclusiveness and attention to the importance of human rights programming, CCMs will be better positioned to track implementation of these critical initiatives as part of the Global Fund grant criteria. Moving beyond the CCM the authors also advocate that more members with human rights and legal experience and expertise be admitted to the
Technical Review Panel (TRPs). They reason that in doing so, the TRP will be strengthened in its ability to adequately assess rights-based programming in grant proposals to the Global Fund.

Reflecting the concerns of others including Ogden et al. and Pangaea, Wolfe and Carr note the vulnerability of marginalized criminalized groups when undertaking public work such as CCM participation. The authors, however, go a step further and advocate requiring human rights protection plans for CCMs and non-CCM applicants proposing work with criminalized and key affected populations, in settings where people are deprived of liberty. They propose that such protection plans should also cover countries restricting NGO freedom, free movement of evaluators, or free flow of information about the three diseases. However, Wolfe and Carr also advocate that the Global Fund should continue to incentivize work with vulnerable populations to minimize the deterrent effect. They also argue that the Global Fund should emphasize that approval of applications depends on accurate analysis of the epidemic and proposals addressing those at greatest risk.

A final, and very helpful, indicator of the way forward is provided by Seale in the context of reporting on outcomes of the international Global Fund meeting of 2011. He reflects that there is an opportunity to use an equity focus to help improve program oversight at the country level, as well as a sense of local ownership, by empowering CCM members representing key affected populations to understand and engage around equity and rights.
“The Global Fund encourages the participation of vulnerable groups in CCMs, but it must go further and require CCM membership for the most relevant at-risk populations.”

(Grover, 2011, p. 20)
Conclusion

It is important to acknowledge, as numerous sources reviewed in this paper have done, that much has been achieved to date in terms of the Global Fund facilitating the meaningful input of marginalized groups into CCM processes and programming. Furthermore, we must acknowledge that this trend, however gradual, has been progressing for some years. In the context of examining the question of whether leadership and governance for health had improved, Yu asserted in 2008 that:

[People living with HIV or AIDS] PLWHA are now often included in the decision-making processes through a number of coordinating mechanisms, such as the CCMs of the Global Fund. Together with scaled-up responses, especially in terms of treatment for HIV/AIDS, smarter policies have been initiated that target populations previously neglected in many countries, such as drug users, sex workers, and men who have sex with men.  

It is equally important to note, however, that there is a strong consensus that the status quo in terms of marginalized populations and their level of participation in the CCMs is far from acceptable in many countries. But this challenge is not a policy one. In summing up its evaluation of the two strategies, the Pangaea report poignantly notes: “The challenge is not further policy refinement, but sustained implementation.” In its response to the Pangaea report the Global Fund itself advances the notion that:

[H]owever, the key test of the Global Fund’s commitment to the Gender Equality and SOGI strategies will be sustained implementation across all the Global Fund’s structures, continued funding support, and sound guidance and technical support for countries.

Acknowledging that more effort will be required to build on the achievements to date the Global Fund concludes that its gender equality and SOGI work will now “move forward in the context of the new strategy for 2012-2016”. The Global Fund emphasizes that this will be achieved on a manner “consistent with the objectives of investing more strategically for impact and promoting and protecting human rights.”

The UNDP asserts that the findings of its report underscore the need for the Global Fund (and its range of partners) to include meaningful indicators that address human rights issues in all of the programs it supports. This literature review has found that while there are indicators for both strategies there is a general sense among researchers and commentators that these are, in many cases, either too insipid or are not used sufficiently.

“The Global Fund should adopt proposed guidelines for strengthening CCMs. These Guidelines should be urgently implemented together capacity building for CCMs and communities to improve meaningful participation.”

(Clayton & Cohen, 2011, p. 28)

The high attrition rate of human rights programs supported by the Global Fund has only been noted relatively recently. However, this attrition has the potential to help derail key elements of both strategies. Consequently, much more monitoring and
evaluation work is required to determine the precise points at which the programs fall apart. If the Global Fund is to be held accountable for the operationalization of the GE and SOGI strategies, the implementation of many of the recommendations outlined in the previous section will go a long way to reducing the rate of attrition.

Despite a broad search, this researcher was not able to obtain documents that reported specifically on the implementation of the two strategies, or anything that identified any early successes or challenges in the implementation process. The Global Fund’s response to the Pangaea report stated that there had been “progress and gains in the implementation of both strategies” but did not provide details of the substance of such progress and gains. Importantly, however, the Global Fund asserts in this document that more effort is needed by the organization to ensure that the implementation of the GE and SOGI strategies is “prioritized at all levels of the Secretariat and through the Global Fund Strategy (2012-2016) and Consolidated Transformational Plan.”

The GE strategy recognizes and provides examples of the particular vulnerability of girls. In addition, SOGI-related related health and rights work is strongly linked with work to empower girls as well as women. Despite the firm strategy-basis on which to do so, this consultant was unable to locate any material which describes initiatives to engage girls (i.e. females under 18 years) in CCM processes. The development of interventions to appropriately facilitate this engagement should be considered a priority.

The effective implementation of these two Global Fund strategies is integral in achieving accountability in the African AIDS response. It is important to be clear, too, that this means many things; accountability is holding those responsible for their commitments, be it donor institutions like the global fund, CCMs or civil society members. Each level of leadership and governance is responsible for holding various promises they have made. In the same way, accountability falls on the shoulders of each stakeholder, at each echelon of the AIDS governance ladder. It is the perspective of AIDS Accountability International that this responsibility is shared equally by those at the top level of leadership at the Global Fund, and those who head up small community-based LGBT organizations in rural Southern Africa. Achieving accountability in the representation of women, girls and LGBT on the CCMs is a joint responsibility that will yield positive joint results if achieved.
11. **About AIDS Accountability International**

AAI is an independent non-profit organization established to increase accountability and inspire bolder leadership in the response to the AIDS epidemic. It does so by rating and comparing the degree to which state and non-state actors are fulfilling the commitments they have made to respond to the epidemic. AAI aims to build bridges between actors and institutions that collect and analyze primary data in the field of HIV/AIDS and those who make use of this data in different contexts, such as policy makers and advocates. AAI provides these actors with a compass that points to new policy and programmatic directions and helps stimulate debate on the need for greater accountability and leadership. AAI’s efforts are made possible through the support of Ford Foundation, Swedish International Development Cooperation Agency (Sida), Norwegian Ministry of Foreign Affairs and Open Society Foundation for South Africa as well as leading experts and civil society organizations in the field of HIV/AIDS.

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13. **Key Contact Information**

- **E-mail:** info@aidsaccountability.org
- **Web:** www.aidsaccountability.org
- **Sweden Secretariat**
  Eriksbergsgatan 46
  SE- 114 30 Stockholm
  Sweden
  Phone:+46 8 700 46 14
  Fax: +46 8 700 46 50
- **South Africa Rating Centre**
  38 Hout Street,
  Cape Town
  South Africa  8000
  Phone: +27 (0) 21 487 3010

Project Manager: Phillipa Tucker:
Phillipa[at] aidsaccountability.org or +27 (0)82 225 1598
14. Reference List


15. **Endnotes**

1. Grover et al., 2010, p.17.
2. AAI, 2011.
3. Sexual Orientation, Gender Identity. “SOGI” mainly refers to lesbian, gay, bisexual and transgendered people (LGBT) and sex workers. The term can also include men who have sex with men but who do not necessarily identify as “gay” or “bisexual.”
4. Ibid.
7. Ogden et al., 2009
10. Pangea (2011: 10)
11. Ashburn et al., 2009
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15. Ogden et al., 2008.
17. UNDP, 2010,
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50. Grover et al., 2011.