Policy Brief: Thinking out of the box: sexualities, gender and HIV

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This is one of an initial five Policy Briefs developed by the Centre for Sexualities, AIDS and Gender at the University of Pretoria for the Irish Embassy Pretoria as a follow on to training provided by the Centre to Irish Aid personnel at the University from 18 – 21 April 2016. The aim of these Policy Briefs is to expand briefly on a core topic area relevant to the intersections between HIV and AIDS, gender, gender-based violence and sexualities, providing the reader with a brief background, an examination of key issues and setting out challenges for those working in the field.

Context

IIn all societies there are socially and culturally defined attitudes, behaviours, expectations and responsibilities that are considered appropriate for women and men. These may vary according to culture, class and ethnicity and they may vary over time. Nevertheless these "scripts" are a source of comfort and constancy for many, and are often experienced as safe and stable aspects of identity, often buttressed by religious beliefs and practices. But it would also be true to say that the actual situation is more complex than this and that in all communities there are people who vary in some way from what is perceived as within the accepted and expected normative structures of their communities. These norms may evolve and shift over time, and are frequently challenged by those who consider themselves as identifying outside of heteronormative sexual and gender identities. This can be expressed through ways in which people dress or choosing not to conform to rigid gender boundaries or attire. Others may express themselves – through practices and actions – in ways which do not easily fit into neat boxes of "masculine" or "feminine". Still others might not only express gender variance outwardly, but also feel that inside themselves, their gender identity (the inner feeling of being a man or a woman) does not conform to the sex assigned to them at birth (male or female).

Gender goes hand in hand with sexuality, which describes the ways in which a person expresses themselves and acts as a sexual being. Social and cultural expectations often bring together beliefs about ways of being sexual with ideas about what is proper for a person of a particular gender: a man must be masculine and he must be attracted only to women, for example. However, there are different ways of being sexual, and different ways of feeling and expressing gender, in all societies.

So if we recognise that human beings come in various forms, in all our communities, this raises interesting questions.

- Are our communities safe for people who are variant around sexuality and gender?
- Are there special and unique HIV and GBV risks that such people might experience?
- Are our programmes around HIV, gender and GBV mindful of these variances and risks, and inclusive of all?
- Are we making assumptions about the groups we work with, that everyone in them is heterosexual and gender conforming?
- What can we all learn from these naturally occurring variations in all societies?

Some definitions

Sexual orientation and gender identity (SOGI)

All humans have a sexual orientation and a gender identity, which is largely stable but can vary across particular contexts and moments (for example a man might identify as heterosexual but end up having sex with other men in prison).

Sexual orientation

Refers to the emotional, romantic or sexual attraction to other people. This attraction can be to the opposite sex (*heterosexual or straight*), the same sex (*homosexual or gay/lesbian*) or to no-one (*asexual*). Some people may be attracted to both sexes and would be described as *bisexual*.

Gender identity

Gender identity is defined as one's innermost concept of self as male or female. As noted above, a person's gender identity can be the same or different from their sex assigned at birth. If there is a match between the sex assigned at birth and the person's gender identity, we may say they are "*cisgender*", with "cis" meaning "same". If the person's sex assigned at birth does not match their gender identity we would say they are "*transgender*", with "trans" meaning "opposite".

Gender expression

Your gender expression is the way that you present your gender. You can present your gender by your dress, your actions and your attitude.

Biological sex

YYour biological sex is determined by the physical sex characteristics you are born with and which you develop during puberty. These include your

genitalia, your physical body shape, voice pitch, body hair, hormones and chromosomes. Based on your biological sex characteristics, you will usually be labelled as male or female, although there is a lot of variety within the groups "male" or "female" and in some cases quite significant overlaps between these two groups.

For *intersex* persons in particular, there are significant ways in which the characteristics of male and female bodies overlap, inside the same person. For this very small group of people, regarded as a naturally occurring variation in any society, the labels male and female are not helpful as intersex persons may fall in between these two categories.

While most people in the majority of societies are assumed to be heterosexual, cisgender, and not intersex, there is a small, and probably constant, number of people in all societies who express that they experience themselves as not fitting the categories mentioned above. Sometimes the umbrella term LGBTI (lesbian, gay, bisexual, transgender and intersex) or the term sexual and gender minorities is used to describe this group. But not everyone feels comfortable with the term LGBTI, and not everyone uses these words to describe themselves. Some men who have sex with men (MSM) do not identify as gay because their communities do not accommodate such people, or because there is pressure to marry women and conform to rigid gender roles. These labels can be restricting and unhelpful.

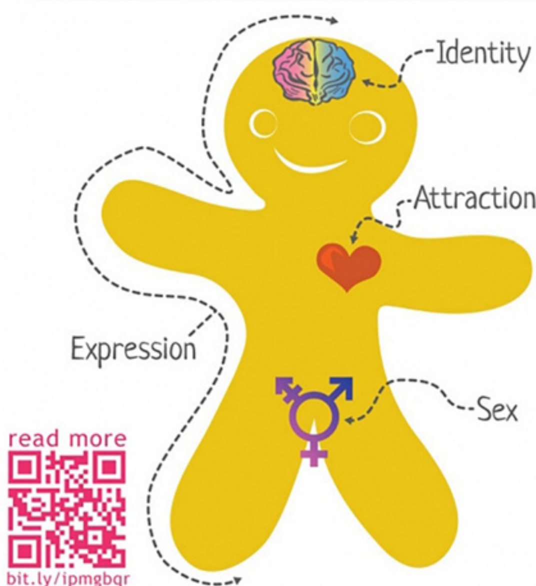
As a result the term SOGI is used to indicate that we all have a basic sexual orientation (SO) or gender identity (GI). This is true for all human beings – how we identify and name ourselves is up to us. Perhaps what is most important is that while most of us find comfort in fitting in as heterosexual and cisgender people, and believe this to be the required "norm", there are some who do not. From a human rights and social justice point of view these people can and should be protected.

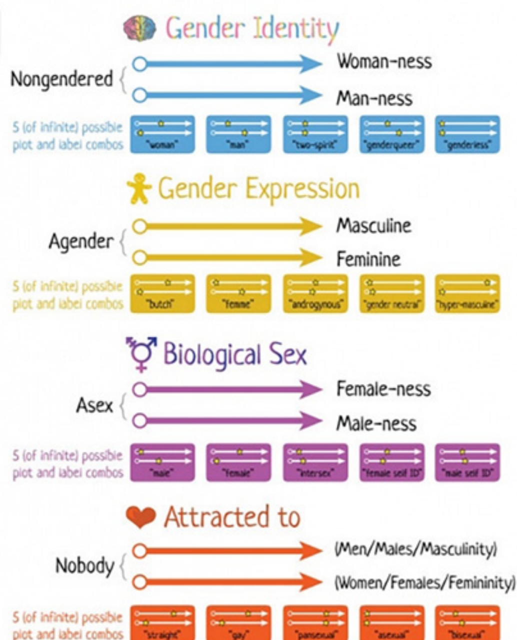
The "genderbread person" below provides a graphic depiction of the different variables outlined above.

Why are sex, sexual orientation, gender identity and gender expression so important?
These variations in human qualities, behaviours and attributes may affect the lived realities of people in all kinds of ways, and their vulnerability and relationship to HIV and GBV. Such diversities are often under-acknowledged in many conventional HIV programmes, as well as those exploring GBV and gender. For example when a lesbian woman who dresses in a masculine way (against social norms) is beaten up, raped (sometimes acquiring HIV) or murdered, this can be understood as a hate crime against her sexual orientation. But it can also be understood as a form of GBV because she has "violated" gender norms and expression for the social category "woman".

SOGI, sexualities and key populations

Inequality and discrimination (based on gender, race, sexual orientation, gender identity, gender expression or economic, legal or social status) play a central role not only in the way in which HIV is transmitted but also in the ways in which groups of people can respond to HIV. Many people who vary around sexual orientation or gender identity fall into the category of "key populations" (KPs) because this variation may make them more vulnerable to





HIV, sexually, socially and legally, and/or because higher rates of HIV have been identified in some LGBTI people.

Evidence

Throughout the world, LGBTI people face discrimination and stigma and are denied access to health, jobs, human rights and other opportunities on the basis of their sexual orientation and gender identity[1] These forms of social, economic and legal exclusion make the lives of many sexual and gender minorities difficult and in turn, play a central role in LGBTI persons' access to healthcare and other basic services, including HIV treatment. Socially marginalized people are more affected by HIV than the general population.

Women who have sex with women, bisexual and lesbian women

All women are vulnerable in some ways, due to gender inequalities resulting in reduced employment opportunities (and the related financial constraints), freedom of movement and exposure to domestic and other violence, among various other societal factors. This situation is often worse for lesbian women, as stigma and discrimination worsen barriers to accessing quality health care. The belief that sex between women carries a low possibility of HIV transmission has led to the almost universal exclusion of women who have sex with women from HIV prevention efforts and research. The lack of indicators and focus on these women reflects the current state of mainstream knowledge about HIV epidemiology which does not see these groups of sexually diverse women as being affected enough for them to be included as a special focus in global HIV efforts.

Transgender men and women

All transgender people, but especially transwomen, are highly vulnerable to HIV. Marginalisation, limited access to employment, resulting poverty, and related higher rates of sex work all place transgender women (and men) in an especially vulnerable position. Because of stigma, transwomen are highly vulnerable to sexual assault and punitive rape. Similarly for lesbian women and transmen in Africa, "corrective" rape, which may in some instances, be informed by transphobia, is an ongoing human rights issue. Transgender individuals face barriers in accessing health care, even more so owing to the fact that the very nature of their health needs is so specific. Very seldom do sexual and reproductive health and rights programmes address the needs of transgender individuals.

Men who have sex with men, bisexual men and gay men

MSM still face criminalisation, discrimination and violence in many countries, with little hope of adequate access to HIV prevention, treatment, care and support. MSM remain marginalised in, if not completely absent from, the response to AIDS in many countries, although data shows high HIV prevalence and that human rights abuses against MSM are rife. In addition there is a need to better understand the particular needs and vulnerabilities of MSM in countries with generalized epidemics. MSM are at an increased vulnerability for a variety of reasons, not least of which are:

- HIV is more easily transmitted through unprotected anal sex than through unprotected vaginal sex
- In countries and cultures where MSM are stigmatised they are reluctant to seek health care for other sexually transmitted infections (STIs), resulting in genital lesions and sores that further increase the risk of transmission
- Criminalisation (or stigmatisation) of same-sex practices pushes gay men into marriages or relationships with women to disguise their sexual orientation, thus heightening their risk of transmitting the virus to their wives or girlfriends
- Criminalization and marginalisation also drives these individuals away from accessing timeous, accurate and full health care and diagnosis. The lack of adequate training of healthcare personnel worsens this, and
- Low self-esteem, lack of self-acceptance and low social acceptance of sexual orientation often leads to high stress and a lack of psychological support for gay men. This may lead to the abuse of substances, having multiple sexual partners, inability to negotiate safe sex, and entering into sex work for financial reasons. All of these behaviours place gay men in a higher risk category for transmission of HIV.

Compared with other adults of reproductive age, HIV prevalence is thought to be 19 times higher among gay men and other men who have sex with men and 49 times higher among transgender women than among the general population. Although LGBTI persons are identified as key populations in several of the HIV programmes and interventions carried out in the Southern African region, there are still laws and policies which contribute to the marginalization and vulnerability of LGBTI people.

The section below looks at some of the problematic laws and policies relevant to LGBTI persons that exist in countries within Southern Africa. Legal and social reform to end discrimination and prejudice based on sexual orientation, gender identity and

1 http://www.aidsaccountability.org/?page_id=4756

gender expression would also address HIV, GBV and social exclusion for people whose sexuality and gender is variant.

Status quo around LGBTI persons in Southern Africa

Zimbabwe

Anal intercourse between human males is against the law in Zimbabwe and punishable by a term of imprisonment or a fine. LGBTI persons face harassment and discrimination and there are no anti-discrimination provisions around SOGI issues in Zimbabwe's laws. LGBTI people in Zimbabwe can approach Gays and Lesbians of Zimbabwe for HIV prevention support and psychosocial support and treatment and referrals for HIV testing.

South Africa

South Africa has a number of progressive laws which promote equality and prohibit discrimination based on sexual orientation and gender identity. However, conservative attitudes prevail and LGBTI people continue to face stigma and discrimination. The Alternation of Sex Status act allows people to change their gender mark but only if they are married and although not legally required, public service officials require a medical letter before changing a person's gender mark. Stigma and discrimination in healthcare is pervasive. A draft law on addressing hate crimes is currently being developed and a nation task team has been established to investigate and respond to hate crimes which target gender and sexual minorities.

Mauritius

In Mauritius, sodomy is a crime and social attitudes are prejudicial against LGBTI persons. Men who have sex with men and transgender persons are noted as key populations in the Mauritian national strategic plan on HIV.

DRC

Although homosexual activity is not criminalised in the DRC, there have been recent attempts to pass laws which would criminalise same-sex sexual activity. Prosecution under the public indecency provisions is a possibility for LGBTI persons and laws are in place which prohibit same-sex couples from adopting children. LGBTI persons in the DRC face ongoing societal disapproval and harassment. Positively, however, the Ministry of Health in the DRC is working to reduce stigma amongst LGBT groups.

Lesotho

Same-sex activity is prohibited in Lesotho and sodomy is an offence punishable by arrest. There is widespread discrimination and harassment against LGBTI people. Currently, there is no legislation which specifically prohibits discrimination based on sexual orientation or gender identity.

Strategies[2]

A change in punitive laws is the most obvious need in addressing the social and legal exclusion of LGBTI people, even though this remains a long-term strategy. In the interim, consideration should be given to building partnerships with community leaders, law enforcement officials, health officials, families and the media, even in the presence of a hostile legal environment, because this can be effective in the short term while legal avenues are being pursued.

Standardised operating procedures and tools to identify KPs, the integration of KPs into ministries' strategic plans, with KP input, and the allocation of resources and monitoring and evaluation components to these plans is good planning. This should be built on meaningful data sets to inform policy and programming.

Linked to this, at the implementation level, peer-led and community-based approaches for effective intervention are respectful and more likely to work. Holistic services should address their needs and experiences, including violence prevention and mental health issues. A crucial mental health issue identified is support around self-stigma, a critical issue in KP wellness, both physical and emotional.

At the social level, strategies to address negative attitudes towards KPs by researchers, policy makers, health care providers and the general public will go some way to building a social movement for greater acceptance, especially as lawmakers often assert they must reflect public opinion in developing new laws or establishing case law.

Resource allocation and training of public service officials is also crucial to improving the lives and health of LGBTI people. Where service providers, for example in the health sector, are well trained and sensitised on LGBTI issues and commit to respecting confidentiality at all times, discrimination and re-victimisation may be prevented, ensuring that LGBTI persons are protected, not harmed.

Critiques and challenges

Across the region, there is a significant gap around interventions and programmes that realise the health and life outcomes of all people regardless of sexual orientation, gender identity or gender expression.

One of the key gaps in the regional response to HIV has been the over reliance on conventional and biomedical approaches to HIV prevention and

2 https://www.dropbox.com/sh/41ckdfse0q31ew5/AAArVn00NmEUh-JMpOwruGVn7a/4%20Rapporteurs%20presentation/KeyMessages.pdf?dl=0

treatment and a failure to reflect on the impact of the social and structural aspects affecting human agency and choice. In relation to sexual orientation and gender identity, more attention needs to be paid to the inequalities and forms of legal and social exclusion that are experienced by LGBTI persons.

One key intervention that could positively assist in promoting better understanding of gender and sexualities and their relation to HIV is around comprehensive sexual education (CSE). CSE, which can take place in formal educational settings and other, less formal settings, should be promoted as an important site for attitude change and development. These education settings should acknowledge the sexually and gender variant persons in those spaces too.

And finally, it is recommended that the focus of interventions around "gender" should be on all people disadvantaged by the gender system. In other words, when we talk of a gender analysis, or gender mainstreaming, or gender sensitivity, we should not simply rely on the default meaning of "gender" as being about "women".

Issues to flag

- In carrying out law and policy reform initiatives and interventions which target or impact on LGBTI persons, it is important to bear in mind that LGBTI persons must not be treated as a monolithic group, with the same concerns and needs. Although LGBTI persons are connected because they challenge gender and sexual "boxes", the needs and aspirations of each group within the community differ.
- Sex and gender "boxes" may be limiting for all of us, because some of us do not fit neatly into simple categories. It is true that women are most often marginalised and oppressed, but men who are not patriarchal, and people who are gender variant or sexually variant, may also be marginalised by the gender system. Doing good gender work can include everyone!

References and Resources

(i) The DiDiRi Collective is a collaboration between the AIDS and Rights Alliance for Southern Africa (ARASA), Positive Vibes Trust, COC and Hivos. It was established in 2012 to implement a 3-year regional programme on Sexual and Reproductive Health and Rights (SRHR) for Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) people in Southern Africa. See: www.didiri.org

(ii) Professor Tyree Boyd-Pates maintains a website of free reading material on the subjects of race, class, gender, culture and sexuality. See: www.tyreebp.com

(iii) The African Gender Institute (AGI) is based in South Africa but publishes research and writing from around Africa relating to gender and sexualities. See in particular the reader developed by Professor Sylvia Tamale in 2011 called "African Sexualities: A Reader." The AGI website is available at: www.agi.ac.za

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