Author’s response to reviews

Title: Key populations and human rights in the context of HIV services rendition in Ghana

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Version: 1 Date: 26 Mar 2017

Author’s response to reviews:

March 26 2017

The Editor,

BMC International Health and Human Rights

“Key populations and human rights in the context of HIV services rendition in Ghana ” – Manuscript # IHHR-D-16-00072

Dear Editor,

We thank you for the opportunity to resubmit our manuscript. We are also grateful to the reviewers for the useful comments. We have diligently addressed their comments. In making these changes we feel that the revised manuscript has been greatly improved.

In addition to the point-by-point response to the comments from the two reviewers, we have tracked all of the essential changes made in the manuscript – included as an additional file. Please note that those changes are not traceable in the version of the manuscript we upload, the changes are highlighted in the additional file.

It is our hope that the revisions meet your standards and that the paper would be published in the BMC International Health and Human Rights. We look forward to working with you towards a final published product.
Sincerely,

Amos Laar, Ph.D
Corresponding Author
On behalf of co-author

Point-by-point responses to reviewers’ comments

Reviewer 1:

Reviewer’s Comment.

Introductory comments from Reviewer 1

This paper addresses an important topic that, despite considerable scholarly and policy attention, continues to be policy relevant. I am unfamiliar with the circumstances in Ghana and think that a paper exploring them would be of interest.

Action taken by authors:
Thank for this and the other kind suggestions. No other action required

Reviewer’s Comment.

I found the paper dissatisfying in that it did not provide enough details about the Ghanaian experience. There were too many generalities without the specific examples to persuade the reader of a premise that I think could easily be supported. For example, there are general statements about the criminalized "status", but no specific statutory language. It would be very helpful to understand how specific Ghanaian laws interfere with the human rights of individuals and those who wish to help them achieve the best possible health.
To give a specific example, the paragraph on lines 127-138 refers to a number of different specific laws, but never indicates what they provide.

Similarly, there is mention of "police swoops -- in line with the Police Act 1970," but there is no description of what authority the act provides, what the police do in these "swoops", and what the impact is on HIV prevention.

There is a little more of this in the discussion of the international legal frameworks, but even that could benefit from more specific discussion.

Action taken by authors:
We thank the reviewer for these very useful queries. In response to this and other comments, we have significantly revised the manuscript both in structure and content. We have introduced relevant Ghanaian examples. Relevant portions of the Ghana Criminal Code, the Constitution of Ghana, and other Government Policies have been introduced into the manuscript.

Regarding Police Swoops, we have introduced additional background information including media reports, and actions/interventions of the Ghana Office of the UNAIDS in response to such swoops. Relevant references have been cited.

Reviewer’s Comment.
As another example, in the recommendations, there is a mention of Drop in Center (line 297), but they are not described. I wanted to know what they are and why they may be helpful.

Action taken by authors:
Thank you. We have elaborated on the DICs - from lines 364 of the manuscript.
Reviewer’s Comment.

I also thought that, structurally, it would help to establish first the human rights and the sources of those rights that are implicated by the criminal laws discussed before describing the rights violations. This would help in making the case for the importance of the human rights concepts for health and provide a framework for explaining how current law is inconsistent with those rights. This could easily be accomplished by moving some of the material in the discussion section earlier in the paper.

Action taken by authors:

We agree. This comment motivated our restructuring of the manuscript. We have moved up the paragraph on international norms, now titled “Relevant international human rights norms in the context of HIV and key populations”. Please see lines 91 – 123

Reviewer’s Comment.

At the very end of the recommendations (lines 304-307), there is a brief mention of an interim measure that the government could take. I would encourage the authors to consider expanding on the discussion of what could be done short of changing the legal codes, as there are often interim steps and barriers to actually making those changes.

Action taken by authors:

As suggested, we have expanded the manuscript’s recommendation section – elaborating on originally presented text, and providing new suggestions. These now cover dreams of international guidelines, and our support of actionable steps initiated locally/in Ghana towards uplifting rights of some key populations. Please see lines 351 – 375
Reviewer’s Comment.

In sum, I think that the paper has an important message to convey, but it needs more details to support the arguments being made to persuade a reader.

Action taken by authors:

Thank you. We are convinced that these details are provided in the current version.

Reviewer 2:

Reviewer’s Comment.

General comments

The topic of this paper is interesting and certainly relevant to the context of Ghana. That said, I see some major issues that would need to be addressed to ensure that the manuscript could be publishable.

Action taken by authors:

We thank the reviewer for this and the other relevant queries included in this report. We have tried our best to have them addressed in the current version of the manuscript.

Reviewer’s Comment.

1. 'Key populations' appears to be used to refer primarily to MSM and female sex workers. The generally accepted definition of 'key populations' is much broader, including male sex workers, injecting drug users, transgender people, and often prisoners, migrants and others. If this paper is only concerned with MSM and female sex workers, this should be explicitly stated and the
language of 'key populations' removed; otherwise the whole range of key populations should be included.

Action taken by authors:

In response to this, we have provided clarifying sentences at the introductory section of the manuscript – first recognizing the tall list of key populations but then situating the scope of our paper, which focuses on two of them. Please see our revised abstract as also lines 47 – 51 of the manuscript.

Reviewer’s Comment.

2. The manuscript seems to suggest that relatively little work has been done on HIV, law and human rights and that most of this comes out of the global north. This is simply not true. The important body of work on the Global Commission on HIV and the Law should be discussed, as well as the follow-on work that this has spawned in many regions of the world including sub-Saharan Africa. There is excellent work being done in this area across many countries in the region, much of it 'southern'-led. ARASA, KELIN and ENDA Sante are a few examples of local organizations doing this work in the region. They, and others, have published extensively on their work. This work could all be used to better contextualize the discussions about Ghana in the manuscript.

Action taken by authors:

We apologize for the confusion. In response to this comment, the background section of the manuscript has been reworked. A clarifying sentence has been introduced making the less than optimal research, advocacy and policy analysis on the subject in Ghana (and not globally). The important work by the Global Commission on HIV and the Law has been acknowledge.
Reviewer’s Comment.

3. I find the presentation of multiple different approaches for overcoming the barriers posed by legal barriers to access to HIV services a little confusing, particularly as they appear to be framed as an 'either/or' choice: either you can choose harm reduction or a 'human rights approach' as those these are distinct/conflicting approaches. The paper veers between human rights, ethics and harm reduction without explaining why these different approaches are addressed. Furthermore, harm reduction is usually used in the context of drug use and this is also true of the article cited to illustrate the links between harm reduction and human rights. Extrapolating these links to public health more broadly requires deeper analysis. I would suggest focusing the paper on only one of these approaches i.e. either ethics or human rights.

Action taken by authors:

Thank you. First, we recognize the reviewer’s challenge regarding our recommendations to addressing the problem. We draw on previous discourses (see references 49, and 50). They are convincingly that, there is now broad agreement that harm reduction and human rights share common cause, each reflecting core principles of the other. Gruskin’s work (reference 50) for example expounds on the conceptual linkages of harm reduction approaches to human rights. In the current version of the manuscript, relevant sections have been reworded making clear that our recommendations are complementary, not either/or choice.

We have also expanded the discussion on harm reduction – 1. Introducing a paragraph on the pragmatic principle, and also explain the utility of its extrapolation from legally outlawed drug use to legally outlawed sex work. These details are provided in lines 285 – 348

Reviewer’s Comment.

4. Various pieces of legislation are cited in the paper but direct language is not provided. Are the authors sure that they are accurately portraying the content of these laws? For example, the authors mention criminalization of 'these groups' as well as 'same sex relationships and sex work'; I have never seen a law that criminalizes sex workers - legal barriers for sex workers are usually provisions linked to: living off the proceeds of sex work, loitering etc. For MSM, it is usually the original provision from British colonial law that criminalizes 'carnal knowledge against the order of nature'. The specificity of the is critical in any analysis of how it impacts on key populations' access to HIV services.
Action taken by authors:

These are relevant queries. In response to this and other comments from Reviewer 1, we have introduced/quoted relevant portions of relevant laws. We have also introduced data from recently implemented interventions, published works, and report to provide the needed context. The work of Duvall et al, Djomand et al, and Eba (References 14, 20, 32) which are cited in this version of the manuscript, provide background context. We have clarified that the interpretation and application of these laws (rightfully or wrongfully) contribute to the problem. It’s however, not within the remit of the paper to provide in-depth analysis of the law. We have discussed the implications of the current laws on service provision and uptake.

Reviewer’s Comment.

5. The manuscript discusses 'rights to health' but does not clarify the international legal sources of these rights. I would assume this including the right to the highest attainable standard of health as articulated in the International Covenant on Economic, Social and Cultural Rights but what other rights are included? It would be useful to have this spelled out.

Action taken by authors:

We agree with the reviewer. We felt our original text made clear this connection. We have worked the section. It is not presented under a new section; please see lines 91 – 123

Reviewer’s Comment.

6. I would suggest restructuring the paper to start with an overview of why law and human rights matter in relation to access to HIV services for key populations, then have an analysis of the international legal framework as it relates to access to HIV services for key populations, followed by analysis of the national legal framework in Ghana and where it converges and diverges from international law, and finally, as the discussion, proposed strategies for improving access to HIV services for key populations in Ghana.
Action taken by authors:

We agree with the reviewer. The requested restructuring has been done.

Specific comments

1. The manuscript title seems clear: this is about 'key populations' and rights but the scope of the manuscript does not match this. Furthermore, the title does not indicate that the paper is really about Ghana; instead the reader slowly discovers this over the course of the manuscript (as nothing is said about this in the 'roadmap' of the paper provided at the end of the background section either).

2. The background section of the abstract illustrates the movement between human rights and ethics without explanation, leaving the reader unsure what the focus of the paper will be.

Action taken by authors:

THANK YOU. WE HAVE REWORDED THE TITLE, AND ALSO PROVIDED CLARIFYING SENTENCES WHERE THE PAPER’S MANDATE IS STATED.

3. Lines 45-6: This seems like an over-statement. While there are emotive discussions around human rights, there is also still a lot of very rigorous work being done that is legally grounded and analytical.

Action taken by authors:

WE AGREE. WE HAVE CLARIFIED THIS IN THE MANUSCRIPT. THE ORIGINAL STATEMENT FOCUSED ON GHANA, AND NOT GLOBAL.
4. Lines 49-51: Suggest revising the definition of 'key populations'; also suggest using 'key populations' to start the sentence and having the older language of 'most at risk populations' in parentheses.

Action taken by authors:

WE AGREE, THIS HAS BEEN DONE AS SUGGESTED.

5. Lines 59-60: There is a wealth of literature on the link between rights, health policies and public health outcomes that the authors can draw on e.g. the Global Commission on HIV and the Law, the National Commitments and Policies Index (and resulting publications), the Human Rights Council, WHO and much NGO-led work that has been written up in the peer-reviewed and grey literatures.

6. 'Key populations' rights violations: Global picture': This section is under-referenced. There is extensive literature to draw on here as well as more up-to-date data than is used. E.g. Beyrer 2010 and 2011; Risher et al 2013; Golub and Garamel 2013; ILGA 2016.

Action taken by authors:

THANK YOU. WE HAVE INTRODUCED SOME OF THE SUGGESTED LITERATURE IN THE CURRENT VERSION OF THE MANUSCRIPT.

7. Line 83: Can you clarify the mechanism through which this report was submitted?
Action taken by authors:

WE STRUGGLED TO UNDERSTAND THIS COMMENT. COUNTRIES PERIODICALLY SUBMIT PROGRESS REPORTS TO THE UN, UNAIDS, WHO. THIS WAS ONE OF THEM. GAC/GHANA AIDS COMMISSION IS GHANA’S AUTHORITY MANDATED TO SUBMIT SUCH REPORTS ON HIV. WE HAVE THIS PROVIDES THE CLARIFICATION REQUESTED.

8. Lines 85-6: I do not understand the last sentence of this paragraph - could you rephrase to make this clearer?

Action taken by authors:

THE SENTENCE IS REWORDED

9. Line 88-89: What do you mean that 'consensual same-sex sexual activity is illegal in 76 to about 86 countries'? See the ILGA website for up-to-date, accurate data on this.

10. Lines 93-4: Suggest that 'a spreading cancer' be put in inverted commas.

Action taken by authors:

We have introduced inverted commas as suggested.

11. Lines 113-4: Suggest deleting the second sentence of the paragraph.

Action taken by authors:

WE HAVE DELETED THE SECOND SENTENCE
12. Line 119: Can you define 'roamers' and 'seaters'?

Action taken by authors:

WE AGREE. WE HAVE PROVIDED THE REQUESTED DEFINITIONS

13. Line 121: I would suggest that the absence of data on these populations is more than an ethics issue - it is also an issue of deep public health concern and a human rights issue.

Action taken by authors:

WE AGREE. THIS IS INTRODUCED INTO THE MANUSCRIPT AS SUGGESTED.

14. Lines 124-5: Has this happened? What does the Police Act say that would justify this action?

Action taken by authors:

WE HAVE PROVIDED EVIDENCE IN THE CURRENT VERSION OF THE MANUSCRIPT

15. Lines 127: What do you mean by the first sentence - that many of the laws are in line with international human rights law?

Action taken by authors:

THE SENTENCE HAS BEEN DELETED/REWORDED IN RESPONSE TO SUGGESTIONS FROM THE OTHER REVIEW.

16. Line 135: Suggest replacing 'level of compulsion' with 'legal force'.

WE AGREE. DONE
17. Line 141: What are 'rights to public health services'? Where is the legal grounding for this?

18. Lines 146-8: This overlooks incredibly important work emanating from the global south, particularly Brazil (and other parts of Latin America), Senegal, Kenya, Malawi...

19. Line 168: Could you define "rights based approach"? How does this differ to calling for the respect of 'key populations' rights to public health services' articulated above? In the summary you put a lot of emphasis on human rights approaches but it is not clear to me from the text around here what you mean by this or how you are proposing this approach be implemented to improve key populations' access to HIV services.

20. Line 175: Suggest rephrasing to "The right to health doctrine outlined above protects the rights of everyone, including key populations."

Action taken by authors:

THE SENTENCE NO LONGER EXISTS.

21. Lines 193-5: Are these documents the appropriate place to attempt to lay out a strategy towards decriminalization or amend the codes? It seems to me they are not but that is not to say that cannot be useful in promoting access to services for key populations.

22. Lines 212-3: Again, where is 'universal access to HIV prevention services' codified as a right?
23. Line 228: How can Ghana be 'particularly' a signatory to one document? Surely it is either a signatory or it is not.

Action taken by authors:

THE SENTENCE HAS BEEN REWORDED, THANKS.

25. Lines 235-7: Suggest rephrasing so that this is clearly about the content of General Comment 14 on the right to health in the ICESCR. It might be useful to add a footnote to explain what a General Comment is as well as a citation.

Action taken by authors:

THE SENTENCE HAS BEEN REPHRASED

26. Line 248: If you are going to keep the 'harm reduction' argument (which I think will require further justification as this is not a paper about drug use), why not also address 'pragmatism'?

27. Harm reduction section: much of what you put forward as core to harm reduction is also simply good public health practice. Admittedly this is not always what happens in the real world but, even in the absence of an explicit harm reduction approach, it should.

Action taken by authors:

WE HAVE INTRODUCED THE PRAGMATISM PRINCIPLE OF HARM REDUCTION IN THE REVISED MANUSCRIPT AND ALSO PROVIDED A DISCUSSION ON THE EXTRAPOLATION FROM DRUG USE TO PUBLIC HEALTH

28. Line 259: Is it not true that all countries are seeking to overcome HIV? If so, suggest rephrasing slightly.
29. Line 260: Authors surname is 'Jurgens'.

Action taken by authors:
THANKS DONE…

30. Lines 266-71: This epidemiological argument for why it is important to include key populations in national responses to HIV is indeed very different from the human rights argument: the former highlights disease risk while the latter focuses on equality and discrimination. Even as the proposed response might be similar it is interesting and useful to note the different drivers operating here.

31. Line 274: Human rights impose this as a legally binding obligation.

32. Line 279: Are you suggesting that the objectives underlying criminalization laws are legitimate? If not, I suggest rephrasing.

Action taken by authors:
THE SECTION NO LONGER EXIST IN RESPONSE TO OTHER COMMENTS.
33. Lines 281-2: This will also be a violation of human rights.

EXACTLY.

34. Is the recommendations section limited to Ghana? If so, it would be helpful for that to be explicit.

Action taken by authors:

YES, THE SECTION IS REVISED AS SUGGESTED

35. Line 290: are you suggesting that these 'abolitionist' and 'instrumentalist' approaches are mutually exclusive? Surely there would be synergies to be yielded in adopting both simultaneously.

Action taken by authors:

THE SECTION HAS BEEN REWORDED.

36. Lines 296-7: Is the motivation to 'impact positively on the health of the general population' or to reach key populations to benefit their own health? An instrumentalist approach surely allows for both of these interpretations.

37. Lines 297-301: I suggest restructuring this slightly so that it is explained to the reader straight away what the Drop In Centers are before any judgement is made on what this means in relation to Ghana's approach to the national HIV response.

Action taken by authors:
WE AGREE. WE HAVE PROVIDED THE NEEDED ELBORAATIONS.

38. Lines 305-7: These are a direct repetition of the preceding sentences.
THANKS. REPETITION ERROR IS FIXED.

39. Line 318: This implies that human rights are equated with confrontational challenges, which is not always the case even in countries where human rights are a sensitive topic.

WE HAVE REWORDED THE SENTENCE

40. There are various issues with language and grammar that I have not commented on as I trust this will be revised and copy edited.

Action taken by authors:
THANK YOU. WE HAVE CAREFULLY PROOFREAD THE MANUSCRIPT.