



The Digital Health and Rights Project Submission to the Call for Input: Health as an Enabler of Dignity – HRC62 Report

Introduction

The Digital Health and Rights Project (DHRP)¹ consortium brings together international social scientists, human rights lawyers, health advocates, and networks of people living with HIV, to conduct research and advocate for rights-based digital governance in Colombia, Ghana, Kenya, Vietnam, and globally.

DHRP welcomes that the UN Special Rapporteur on the highest attainable standard of physical and mental health (UNSR on the right to health) has devoted her upcoming thematic report to the Human Rights Council, in June 2026, to the theme of “Health as an enabler of dignity”.²

This submission draws on findings from research conducted by DHRP outlined in their report titled ‘Paying the Costs of Connection: Human rights of young adults in Colombia, Kenya, Ghana and Vietnam’.³ As well as the work of organisations who are members of the consortium.

Laws or policies that either facilitate or serve as a barrier to adopting or implementing policies, programs, and practices, to remove or reduce stigmatisation, discrimination or criminalisation in relation to health or health-related practices or behaviours

Ghana: Promotion of Proper Human Sexual Rights and Family Values Bill

In Ghana, same-sex sexual activity is prohibited under Section 104 of Ghana’s Criminal Offences Act, 1960 (Act 29)⁴, which criminalises acts described as “unnatural carnal knowledge.” This provision carries a maximum penalty of up to three years imprisonment. It remains in force and continues to be invoked to criminalise same-sex sexual relations and, by extension, same-sex relationships and marriage in Ghana.

¹ See: <https://digitalhealthandrights.com/digital-health-and-rights-project/>

² See: <https://www.ohchr.org/en/calls-for-input/2026/call-input-health-enabler-dignity-hrc62-report>

³ Digital Health and Rights Project, ‘Paying the Costs of Connection Human rights of young adults in the digital age in Colombia, Ghana, Kenya and Vietnam’, May 2025. Available at: <https://digitalhealthandrights.com/wp-content/uploads/2025/05/DHRP-UOW-report-April-2025-digital-final.pdf>

⁴ See: <https://ir.parliament.gh/bitstream/handle/123456789/2434/ACT%2029.pdf?sequence=1&isAllowed=y>

On 28 February 2024, Ghana's Parliament passed the Promotion of Proper Human Sexual Rights and Family Values Bill⁵ which threatens the safety, dignity, and health of LGBTQ+ people. It was not signed by the president at the time and was reintroduced February 2025 and still awaits to be officially signed. However, the speaker of parliament, Alban Bagbin, has said he is determined to see it into law.⁶ The bill will criminalise those who identify as LGBTQ+, as well as targeting same-sex intimacy, undergoing sex-reassignment surgery, funding or sponsoring LGBTQ+ rights organisations and promoting the rights of sexual and gender minorities.

These measures extend beyond the criminalisation of identity and relationships and shape the practical conditions under which LGBTQ+ individuals and organisations can access essential services and communicate. The bill will have a detrimental impact on access to healthcare for the LGBTQ+ community. There are concerns that it could lead to a surge in HIV infections further compounded by impact of US foreign aid cuts and its impact on global HIV prevention (in further detail below). The bill could also affect organisations working to fight HIV, as many use social media to reach the groups most at risk such as men who have sex with men and transgender people. Participants of DHRP's research focus groups who identified as sexual minorities in Ghana said access to Internet was the only means for them to safely access health information and avoid potentially being identified by healthcare workers as sexual minorities.⁷

If this bill comes into law, it will only further stigmatisation, discrimination and criminalisation of LGBTQ+ persons and directly impact their dignity and access to healthcare.

Global Foreign Aid Cuts

Across 2025 several States took decisions to cut or announce cuts to foreign aid, in particular the US, UK, as well as European countries, that will directly impact the global HIV response. It is estimated that external health assistance over 2025 will have been between 30% and 40% lower than it was in 2023.⁸ The US cancelled more than 80% of programs led by the U.S. Agency for International Development (USAID) and have subsequently shut down the organisation.⁹ This included funding for surveillance systems that helped track the spread of the virus, education campaigns and clinics offering tests and treatment.

⁵ See: <https://www.accessnow.org/wp-content/uploads/2024/03/Anti-LGBTQ-Bill-Human-Sexual-Rights-and-Family-Values-Bill-2024.pdf>

⁶ Enrique Anarte Lazo, 'Q&A: Ghana's anti-LGBTQ+ bill will drive HIV cases, activist says', 4 October 2025. Available at: <https://www.context.news/socioeconomic-inclusion/q-and-a-ghanas-anti-lgbtq-bill-will-drive-hiv-cases-activist-says>

⁷ Digital Health and Rights Project, 'Paying the Costs of Connection Human rights of young adults in the digital age in Colombia, Ghana, Kenya and Vietnam', May 2025, p.26. Available at: <https://digitalhealthandrights.com/wp-content/uploads/2025/05/2025-DHRP-Paying-the-costs-report.pdf>

⁸ Kat Lay, 'Aid cuts have shaken HIV/Aids care to its core – and will mean millions more infections ahead', The Guardian, 1 December 2025. Available at: <https://www.theguardian.com/global-development/2025/dec/01/global-health-hiv-aids-funding-cuts-infections-prevention>

⁹ Enrique Anarte Lazo, 'What's the impact of Trump's aid cuts on global HIV prevention?', Context, 17 July 2025. Available at: <https://www.context.news/socioeconomic-inclusion/whats-the-impact-of-trumps-aid-cuts-on-global-hiv-prevention>

In July 2025, UNAIDS reported there will be 3.3 million more new HIV infections by 2030 than expected.¹⁰ Many of the gains in HIV response and prevention in recent years have come via the recognition that some groups of people are at higher risk of infection – known as “key populations”. They include men who have sex with men, people who inject drugs, sex workers, transgender people, and prison inmates. In each case, offering services specifically designed around those groups’ needs have been particularly effective – for example, LGBTQ+ friendly walk-in clinics offer access to care for people who prefer to stay away from public clinics due to the stigma around HIV.¹¹ Many of those clinics and other outreach services have now closed, along with community-led organisations, previously reliant on donor funding.¹² We believe these cuts will be a barrier to adopting or implementing policies, programs, and practices, to remove or reduce stigmatisation and discrimination regarding the HIV response.

Legislative or regulatory measures (policies, programs or practices) that seek to strengthen health autonomy or privacy, or address power imbalances within the health system & how these provisions intersect with principles of human dignity

Kenya: Digital Health Act 2023

Kenya, like many other countries, has seen an uptake in the use and implementation of digital health technologies from patient administration and hospital billing functions, to management of clinical services to outpatients and wider electronic health (e-health) and mobile(m-health) initiatives.¹³ The digitisation of healthcare in Kenya holds the potential to substantially enhance health outcomes by tackling issues such as unequal access to healthcare services, the exorbitant costs associated with healthcare access, and patients’ ability to access their medical records, prescriptions, and medical information, among other challenges.¹⁴

However, these were initially deployed in an ineffective and fragmented regulatory and legislative framework with no specific legislation pertaining to digital health. As well as reports of weak enforcement of the existing Data Protection Act 2019,¹⁵ was raising serious concerns over the protection of patient’s health data.¹⁶ As a result, civil society organisations in Kenya called for the need to effectively regulate the digital health sector to ensure people and their data are protected.

¹⁰ UNAIDS, ‘Overcoming Disruption: Transforming the AIDS response’. Available at: https://www.unaids.org/sites/default/files/2025-11/2025-WAD-report_en.pdf

¹¹ Ibid. at 8.

¹² Ibid.

¹³ Privacy International, Kenya Legal & Ethical Issues Network on HIV and AIDS (KELIN), ICJ-Kenya, Haki Na Sheria Initiative & STOPAIDS, ‘Joint stakeholder report regarding the 49th Universal Periodic Review – Kenya’, October 2024. Available at: https://privacyinternational.org/sites/default/files/2025-02/Joint%20Stakeholder%20Submission_The%20Right%20to%20Privacy%20in%20Kenya_UPR%2049th%20Session_October%202024.pdf

¹⁴ Kenya Legal & Ethical Issues Network on HIV and AIDS (KELIN), ‘Patient Empowerment, Innovation, Interoperability and Privacy: The Core of the Digital Health Bill 2023’, 2 October 2023. Available at: <https://www.kelinkenya.org/patient-empowerment-innovation-interoperability-and-privacy-the-core-of-the-digital-health-bill-2023/>

¹⁵ See: <https://www.kentrade.go.ke/wp-content/uploads/2022/09/Data-Protection-Act-1.pdf>

¹⁶ Ibid. at 15.

The enactment of the Digital Health Act 2023 (Act 15),¹⁷ aims to address this fragmentation by providing a framework for the provision of digital health services, establishing a comprehensive integrated digital health information system, and instituting a Digital Health Agency (DHA).¹⁸ The Act operates together with other statutory laws (The Social Health Insurance Act of 2023, Facilities Improvement Financing Act of 2023 and the Primary Healthcare Act 2023) to promote Universal Health Coverage. The Act improves on earlier regulation by making provision for community engagement, accessibility, and inclusion for vulnerable communities.¹⁹

Nonetheless, apart from funding for the DHA, it fails to provide a clear pathway for the funding of other initiatives mentioned in the Act. Additionally, while the Act seeks to address issues around data protection and privacy, the Act does not adequately address wider issues with government surveillance of diverse populations and civil society groups in Kenya.²⁰ This was echoed in Kenya's recent Universal Periodic Review during which States urged the Kenyan government to ensure enforcement of the Data Protection Act 2019 and recommended revisions to surveillance laws in line with international human rights standards.²¹

Kenya–United States Cooperation Framework on Health

It is important to highlight that we have observed recent measures by the Kenyan government that put at risk health autonomy and privacy and have the potential to create a power imbalance within the health system with the potential to impact individual's dignity.

On the 4 December 2025, the Kenyan government signed a five year health cooperation deal with the US aimed at targeting the prevention and treatment of HIV/AIDS, malaria, and tuberculosis, maternal care, polio eradication and infectious disease outbreak response and preparedness.²² While the Kenya-US agreement is framed as beneficial to both governments in detecting, preventing, and responding to emerging and existing infectious disease threats, the extensive data sharing obligations raise fundamental human rights questions on data protection, privacy, consent, accountability, and state responsibility with regard to the realisation of the right to health.²³

Underlying these concerns are fears that trust in confidentiality, informed consent, and accountability in the use of health data directly affects individuals' willingness to seek care, particularly for stigmatised conditions such as HIV and TB, and therefore impacts the most marginalised. Data sharing, especially around surveillance, always raises concerns that health data could be used to discriminate against marginalised groups and exclude them from gaining

¹⁷ See: https://www.kenyalaw.org/ki/fileadmin/pdfdownloads/Acts/2023/TheDigitalHealthAct_2023.pdf

¹⁸ Digital Health and Rights Project, The University of Warwick & KELIN, 'Digitalisation, Health, and Participation: A Brief on Kenya'. Available at: https://warwick.ac.uk/fac/cross_fac/cim/research/digital-health-rights/publications/dhrp_-_kenya_final_version.pdf

¹⁹ Ibid.

²⁰ Ibid. at 13.

²¹ A/HRC/60/10, 'Report of the Working Group on the Universal Periodic Review: Kenya', 25 June 2025, para 28. Available at: <https://docs.un.org/en/A/HRC/60/10>

²² Wycliffe Muia, 'Kenya signs landmark health deal with US despite data fears', BBC, 5 December 2025. Available at: <https://www.bbc.co.uk/news/articles/c0r9vg5vv4no>

²³ Allan Maleche, Sharifah Sekalala, & Timothy Wafula, 'Health Data Protection and Governance under the Kenya–US Health Agreement', Health and Human Rights, 17 December 2025. Available at:

<https://www.hhrjournal.org/2025/12/17/health-data-protection-and-governance-under-the-kenya-us-health-agreement/>

access to health care. These serious concerns about data sharing led to the High Court of Kenya on the 19 December 2025 issuing conservatory orders restraining the Government of Kenya from implementing, operationalising, or executing the framework.²⁴ Concerningly similar language committing to share data on the health of citizens is also present in the summary of the US-Nigeria MoU²⁵ and may be included in other MoUs by the US with developing countries²⁶.

Good-practice examples of how the advancement of the right to health in one or more of its dimensions (autonomy, prevention, healthcare and privacy) has been used to address conditions that create health-related harms or to promote health with dignity

HIV Index Testing

Rights-based HIV testing and treatment policies now emphasise voluntary, informed consent and the right to refuse or stop treatment without losing access to care, practices which affirm the inherent dignity of people.²⁷ This counters earlier practices of mandatory testing and coerced disclosure, which drove people away from services and increased fear and stigma. Community-led treatment literacy and peer support (e.g. networks of people living with HIV explaining options, side-effects and “U=U”) enable people to decide if, when and how to start or change ART, strengthening agency and adherence while reducing anxiety, shame and internalised stigma. Strong confidentiality norms around HIV testing and medical records developed through litigation, policy reform and professional guidelines have become a core good practice that protects people from forced outing, violence and job loss, and encourages earlier testing and disclosure to trusted providers. National HIV strategies now routinely recognise that people living with HIV have the same rights to privacy and sensitive handling of health information as everyone else, and that breaches of confidentiality are rights violations, not mere ‘errors’. However, issues persist with upholding privacy and dignity when providing healthcare within the HIV sector.

In Viet Nam, a rights-based online HIV self-testing platform ensures confidentiality and privacy by letting people confidentially order self-test kits and prevention tools and choose how and where

²⁴ Kenya Legal & Ethical Issues Network on HIV and AIDS (KELIN), ‘High Court Issues Conservatory Orders on Kenya–US Health Cooperation Framework as Civil Society Calls for Rights-Based Governance’, 19 December 2025. Available at: <https://www.kelinkenya.org/high-court-issues-conservatory-orders-on-kenya-us-health-cooperation-framework-as-civil-society-calls-for-rights-based-governance/>

²⁵ Nigeria Health Watch, ‘Nigeria–US Health MoU: What It Means for Financing, Sovereignty, and Accountability’, 4 Jan 2026. Available at <https://nigeriahealthwatch.medium.com/nigeria-us-health-mou-what-it-means-for-financing-sovereignty-and-accountability-e16f42405188>

²⁶ Health Policy Watch, ‘Africa is Stuck Between Global Pathogen-Sharing Talks and Conflicting US Bilateral Agreements’, 01 Dec 2025. Available at <https://healthpolicy-watch.news/africa-stuck-between-global-pathogen-sharing-talks-and-conflicting-us-bilateral-agreements/>

²⁷ UNAIDS, ‘Rights-based monitoring and evaluation of national HIV responses’, 2019. Available at: https://www.unaids.org/sites/default/files/media_asset/JC2968_rights-based-monitoring-evaluation-national-HIV-responses_en.pdf

to receive them, including via discreet delivery or community pick-up.²⁸ The platform then offers optional linkage to PrEP, ART and counselling through community-friendly services, so users retain control over if and when they seek further care. This digital model advances the right to health by enhancing autonomy, privacy and stigma-free access to prevention and treatment, especially for key populations who face discrimination in traditional health settings.

In 2023, Kenya Legal & Ethical Issues Network on HIV and AIDS (KELIN) carried out a study on the impact of HIV index testing on access to sexual and reproductive (S&R) health services among young women and girls in four sub-counties in Kisumu County.²⁹ Study participants indicated that health care providers lacked training in data privacy and data security issues, and a need for more robust privacy and confidentiality protections of services, for example through encryption. These comments followed instances where there had been involuntary disclosure of service users' HIV status during partner notification processes, as well as incidences where healthcare workers had breached confidentiality either involuntarily or voluntarily. As well as general concerns regarding who had access to their electronic medical record systems. The study highlighted concerns around HIV Index testing, including documented practices of disclosure infractions undermining efforts to ensure safe and secure access to S&R health. A key recommendation of the study was to raise awareness about privacy and data protection responsibilities of healthcare providers, including their obligations under the Data Protection Act 2019³⁰ as well as the need to develop further regulation and guidance to protect people and their data in a healthcare context.³¹

How marginalised communities and disproportionately affected individuals are meaningfully included and consulted in the design, implementation, and evaluation of health policies and programs that impact them

People - and their rights - should be the central concern for the design of healthcare policy. Decisions in healthcare affect people deeply and personally, and so people must be involved and able to engage in the process.³² The right to meaningful participation is a core component of international human rights law. The meaningful participation of marginalised communities and disproportionately affected individuals is critical to achieve a rights-based approach to health that upholds dignity. However, unfortunately we are still seeing health policies and programs not sufficiently practicing meaningful participation, especially of communities that are historically marginalised.

²⁸ World Health Organisation (WHO), 'Viet Nam offers HIV self-testing online to boost equitable access to health care', 27 November 2024. Available at: <https://www.who.int/westernpacific/newsroom/feature-stories/item/viet-nam-offers-hiv-self-testing-online-to-boost-equitable-access-to-health-care>

²⁹ Kenya Legal & Ethical Issues Network on HIV and AIDS (KELIN), 'Impact of HIV Index Testing on Access to Sexual and Reproductive Health (SRH) for Young Women and Girls in Kenya', 2023. Available at: <https://www.kelinkenya.org/wp-content/uploads/2023/04/HIV-Index-Testing-Research.pdf>

³⁰ Ibid. at

³¹ Ibid.

³² Privacy International, 'A Rights Based Approach to Digital Health', 3 October 2025. Available at: <https://privacyinternational.org/long-read/5688/rights-based-approach-digital-health>

The University of Warwick and DHRP conducted research that examined 20 national digital health strategies through the lenses of gender, equity, rights, and inclusion entitled “Towards People-centred Digital Health Strategies: Gender, Equity, Rights and Inclusion”.³³ They found that there was a notable lack of focus on gender inequalities and the inclusion of diverse populations. Many strategies lacked a rights and equity perspective in their vision and objectives, and there was often insufficient collaboration with civil society and relevant government departments.

To provide examples of best practice and meaningful inclusion of communities in health policies and programs, STOPAIDS has produced a set of ‘Principles for the Meaningful Involvement of Civil Society and Communities in Global Health Governance’.³⁴ These aim to ensure the expertise and lived experience of civil society and communities are recognised and respected and that their inclusion in decision making processes is formalised to ensure more effective and representative governance structures.

How equitable access to health education and information have contributed to reducing inequalities and strengthening the health system

Digital technologies are improving access to health education and information, reducing stigma, and increasing autonomy. Particularly these advances have improved access to education and information in low- and middle-income countries (LMIC). However, historically marginalised populations experience inequitable access to technology, resulting in digital divides and exacerbating existing societal inequalities.

DHRP’s research highlighted diverse gaps in literacy, digital literacy (ability to navigate and share information online), or digital health literacy (ability to access, understand, and judge reliability of information to make health decisions) as factors blocking their access to reliable health information and services.³⁵

In Vietnam, participants said they had access to a vast quantity of health information through their phones but described challenges with digital health literacy: they were unsure how to judge the reliability of information about health, and how to use it to make informed decisions.³⁶ In Hanoi, a 25-year-old man participating in a mixed group of men who have sex with men and transgender people explained why he had written down “education” as a barrier: “If I accidentally visit or look up the web, there are many mixed opinions that people will say this and that [is a] symptom of that disease”.³⁷

³³ Digital Health and Rights Project, ‘Towards People-Centered Digital Health Strategies: Gender, Equity, Rights and Inclusion’, 2024. Available at: https://warwick.ac.uk/fac/cross_fac/cim/research/digital-health-rights/publications/dhrp_2024_-_gender_equality_rights_and_inclusion_in_digital_health_strategies.pdf

³⁴ See: <https://governance-principles.org/#bc15e926-eeac-4818-b556-6c2198ca1fac>

³⁵ Digital Health and Rights Project, ‘Paying the Costs of Connection Human rights of young adults in the digital age in Colombia, Ghana, Kenya and Vietnam’, May 2025, pg. 24-25. Available at: <https://digitalhealthandrights.com/wp-content/uploads/2025/05/2025-DHRP-Paying-the-costs-report.pdf>

³⁶ Ibid.

³⁷ Ibid.

Overall DHRP participants described a range of challenges: while lack of basic literacy is a barrier for some, easier online access creates new challenges for those who need to develop more sophisticated digital health literacy skills to cope with information overload, or health misinformation. These challenges with navigating and judging reliability of online health information may lead some to make harmful choices about their health. Participants highlighted the importance of having access to digital literacy and digital empowerment³⁸ activities to build digital resilience and tackle other issues, such as improving equitable and safe access to online health information and services.

³⁸ 'Digital Empowerment' refers to the process of enabling individuals and communities to effectively use digital technologies to enhance their knowledge, access opportunities, exercise rights, and participate fully in society and the economy.