ISSUE PAPER FOR DISCUSSION PURPOSES ONLY:

The role of UNAIDS in responding to HIV-related human rights violations

Defining the Issue
1. In the course of their day-to-day work, UNAIDS Secretariat staff may be faced with failures of governments to respect, protect, or fulfil human rights obligations, and/or human rights violations committed against groups or individuals by public or by private actors. Staff may witness such violations, be informed of them by others, or be asked to respond in some way. While UNAIDS Geneva responds to requests for assistance from country staff as situations arise, there is need for more support to staff, outlining staff responsibilities and considerations, and the specific steps that they should consider taking under various circumstances.

Responding strategically to diverse human rights issues
2. Unlike some other UN organisations with specific mandates to extend protection to populations of concern to them – e.g. UNICEF under the Convention on the Rights of the Child, and UNHCR under the 1951 Convention relating to the Status of Refugees – UNAIDS does not have a direct protection mandate. As a member of the UN System, however, UNAIDS is generally responsible for the promotion of human rights, and its staff have an obligation to be guided by human rights in all their actions. Thus, there is a professional obligation to respond to human rights violations appropriately and where possible. On the other hand, there is no obligation for staff to risk their own security or well-being, or that of others, to do so. Staff are also obligated to follow UN security guidelines and procedures.

3. Human rights violations in the context of HIV may comprise policies or practices (by commission or omission) at a national or community level that do not support, or are contrary to, a rights-based response to HIV, or they may take the form of action targeted against certain groups, organizations or individuals that puts those in immediate danger or risk. In both situations, UNAIDS staff have the opportunity, and the responsibility, to take appropriate action, where possible. Such action may take various forms:
   - promoting a rights-based approach or policy;

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1 See Charter of the United Nations, art.55: “With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:
a. higher standards of living, full employment, and conditions of economic and social progress and development;
b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”

2 Standards of Conduct for the International Civil Service, para.3: “The values that are enshrined in the United Nations organizations must also be those that guide international civil servants in all their actions: fundamental human rights, social justice, the dignity and worth of the human person and respect for the equal rights of men and women and of nations great and small.” Available on-line: http://icsc.un.org/resources/pdfs/general/standardsE.pdf
- working with governments and civil society to overturn bad policy, law or practice;
- advocating on behalf of those affected based on human rights principles and law;
- referring individual cases to institutions that are better placed to advocate on behalf of individuals; or in rare cases,
- providing assistance directly to individuals who have suffered or are threatened with human rights abuse.

4. The draft document *Responding to human rights violations at country level: Guidance Note for UNAIDS Secretariat staff* is intended to help create clarity about how staff can appropriately respond to human rights violations, taking into account the mandate of the Programme, the broad professional responsibilities of staff, opportunities for referral to key partners, and the safety and security of staff and the people with whom they work. The document has not yet been cleared by UNAIDS senior management nor has it been shared with other UNAIDS staff, particularly in country and regional offices, for their input. Thus, it should be considered a very initial draft. Attempts were made to keep the document relatively short and simple. It is presumed that this document, if finalized and authorized by UNAIDS senior management in this format, will be supplemented by human rights training that goes into greater detail on human rights issues.

**Questions for discussion**

a) Does the draft guidance adequately clarify the role of UNAIDS staff in responding to human rights violations?

b) Is the proposed role appropriate vis-à-vis the needs and expectations of communities, and the mandate of the United Nations?

c) What forms of further support are needed to ensure that staff are able to identify and act on allegations of human rights violations?

**Supporting documents**

- *Responding to human rights violations at country level: Guidance Note for UNAIDS Secretariat staff* (draft).

**Additional resources**
