Background

UNAIDS (Secretariat and Cosponsors) is working to position the HIV response in a new global environment. Ten years after the United Nations Special Session on HIV/AIDS and the adoption of the Declaration of Commitment on HIV/AIDS, UNAIDS is preparing for the 2011 High Level Meeting on AIDS to review and renew future commitments for the AIDS response.

UNAIDS will be guided by the new UNAIDS 2011-2015 Strategy: Getting to Zero. According to Michel Sidibé, Executive Director of UNAIDS, the strategy “is about fundamentally transforming the global AIDS response.” It is based on three strategic directions: to revolutionize HIV prevention; to catalyse the next phase of treatment, care and support; and to advance human rights and gender equality.

Adopted by the UNAIDS Programme Committee Board in December 2010, the strategy will serve as reference in the lead up to the UN High Level Meeting on AIDS and will govern the actions of UNAIDS through 2015. The strategy will be underpinned by a new unified budget and accountability framework (UBAF). The framework will operationalize the strategy in terms of what UNAIDS can do, mobilize and allocate resources for its implementation, measure progress, strengthen accountability and report on results.

The UNAIDS strategy’s pillar on “advancing human rights and gender equality for the HIV response” has the following three main objectives, each with two “impact areas”:

- **Objective 1**: To support countries in protecting human rights in the context of HIV; impact areas: 1a. Key populations empowered to claim their rights; 1b. Guidance on protective social and legal environments in HIV context disseminated

- **Objective 2**: To advance country capacity to reduce stigma and discrimination; impact areas: 2a. People living with HIV mobilized as forces of change; 2b. Data collection with people at higher risk of HIV infection strengthened and put to use

- **Objective 3**: To ensure that national programmes address the needs of women and girls; impact areas: 3a. Programmes that support women and girls across the full range of their lives implemented; 3b. Programmes to counter gender-based violence implemented.

Goals for Strategic Direction 3 comprise the following:
• Countries with punitive laws and practices around HIV transmission, sex work, drug use or homosexuality that block effective responses reduced by half

• HIV-related restrictions on entry, stay and residence eliminated in half of the countries that have such restrictions

• HIV-specific needs of women and girls are addressed by at least half of all national HIV responses

• Zero tolerance for gender based violence.

The other two pillars ("revolutionizing HIV prevention" and "catalysing the next phase of treatment, care and support") also contain a number of objectives and impact areas that are particularly relevant to promotion and protection of human rights, including the objectives related to “Treatment 2.0” (which are discussed in detail in issue paper 3) and two of the prevention objectives:

• Prevention objective 1: To generate political commitment on how and why people are getting infected; prevention impact areas: 1a. Leaders positively incentivized to make the right decisions; 1b. Political and legal barriers mapped and addressed

• Prevention objective 3: To direct resources to epidemic hot spots; prevention impact areas: 3a. Strategies emphasize prevention programmes; 3b. Innovative and effective prevention approaches introduced and scaled up

Goals are also elaborated for both prevention and treatment objectives.

The Strategy also outlines the new Division of Labour (DoL) in the UNAIDS. This describes how the Secretariat will have responsibility for overall coordination, coherence and accountability. In particular, the Secretariat will have overall responsibility for ensuring the functioning and accountability of UNAIDS across all areas in the DoL on the following matters:

- Leadership and advocacy: “To influence the setting of a rights-based and gender-sensitive HIV political agenda for the Three Strategic Direction outlined in the UNAIDS Strategy”

- Coordination, coherence and partnerships: “Across all the areas outlined in the division of labour matrix”

- Mutual accountability: “To support mutual accountability of the Secretariat and Cosponsors to enhance programme efficiency and effectiveness and to optimally deliver…with measurable results”

See page 57 of strategy for greater details concerning this role.
Under the new Division of Labour, the cosponsors become convenors and/or agency partners for particular outcome areas (15 are listed). All of these outcome areas raise human rights issues and concerns. However, of particular note are the outcome areas addressing: people who use drugs; men who have sex with men, sex workers and transgender people; removing punitive laws, stigma and discrimination that block effective responses; meeting the HIV needs of women and girls and stopping sexual and gender-based violence.

See page 58 of Strategy for a detailed description of the various roles of the cosponsors.

In his recent “Letter to Partners”, Michel Sidibé says that “[o]ur current approaches have been stretched to their limits and are no longer robust enough to take us past the last mile. The AIDS response needs to transform. The AIDS response has to reach for new frontiers.” He suggests six new frontiers, each supporting the other, for moving the global AIDS response forward. One of them is “making the law work for the AIDS response, not against it.” According to Sidibé, “arbitrary detentions, archaic laws of colonial times and entrenched attitudes about sexual behaviour are hampering efforts to provide HIV prevention services for people.” He continues by saying: “At the very least, national laws must stop discrimination of people living with HIV, men who have sex with men, lesbians, people who inject drugs, sex workers and transgender people. Governments must reduce the inequities faced by women and children and enshrine the right to health. The UNDP Global Commission on HIV and the Law is holding public hearings in all regions of the world. The recommendations of this commission should provide the impetus for law reform.”

Some of the other “new frontiers” also contain important human rights elements. In particular, the need to “remove trade barriers for access to medicines and diagnostics” and the need to “invest efficiently for impact”, which emphasizes the importance of adequate programming for key populations (both of which are part of the “new frontier” to “reduce the upward trajectory of costs of the AIDS response”).

The new, increased focus on human rights in the UNAIDS Strategy (and letter to partners) highlights how the context for the work of the Reference Group on HIV and Human Rights has changed since its creation in 2002. For the first time in the response to the epidemic, UNAIDS has put human rights on the same level as prevention and treatment in its strategy, and the UNAIDS governing Board has endorsed this. (Human rights are also a key component of the HIV/AIDS strategy of the World Health Organization and the draft strategic plan of the Global Fund to Fight AIDS, Tuberculosis and Malaria.)

The inclusion of a strategic direction on “advancing human rights and gender equality” in the UNAIDS Strategy provides an unprecedented opportunity for the Reference Group to advise UNAIDS on how to translate that commitment into tangible advocacy and programmes at the country level.

At the same time, the challenges of implementing human rights approaches to HIV remain profound. Human rights violations against the most vulnerable and
marginalized in society still rage with impunity. Human rights defenders face a backlash against the decriminalization of sodomy, sex work and drug use, the advancement of women’s reproductive and sexual rights, and other politically sensitive human rights issues. Efforts to scale up HIV prevention, treatment, care and support services continue to neglect the importance of an enabling human rights environment, in part because of pressures to simplify programmes and reduce costs. The risk that “human rights” will become a slogan that appears everywhere in strategies but nowhere in reality has never been greater.

Key issues for consideration by the Reference Group

A key role of the Reference Group should be monitoring and advising UNAIDS on how to best address the human rights issues of its Strategy. As the Strategy is rolled out, this will be an ongoing role.

Overall question: What needs to happen in UNAIDS to ensure that the human rights challenges of the UNAIDS Strategy are translated into tangible strategic information, advocacy, policies, resource mobilization and programmes that will better ensure human rights realization and protection at country level in the context of HIV?

As the UBAF is the first attempt at operationalizing the Strategy and as it is presently open to public comment, the Reference Group should take the opportunity of this meeting to consider in detail the human rights challenges and aspects of the draft UBAF and provide comments to it. Under the UBAF, some general questions for consideration by the Reference Group are the following:

- **Changes in the donor landscape**: how can UNAIDS address the apparent financing and policy shift among donors, towards “high burden of disease” / “low income” countries, the neglect of key populations affected by HIV in many middle-income countries, and limited domestic commitment to investing in the health and human rights of key populations more generally?

- **Increased interest in “country ownership” and “mutual accountability for resources and results”**: how can such discussions be used as fora to generate increased ownership for human rights commitments in the context of the epidemic, and promote domestic and international investment in related programming?

- **Communities as drivers of accountability**: how can UNAIDS support community activism that promotes accountability, including sound use of resources and maximum benefit to people most affected by the epidemic?

The review of the UBAF might also focus on the more specific questions:

- Identified gaps and needs: is any major human rights consideration left out?
- The Joint Programme objectives: are these sufficient in human rights terms?
- The programmatic elements, the how of the Joint Programme efforts: Are these the right actions in human rights terms?
In addition, the Reference Group should consider what it takes to achieve the six "impact areas" under the human rights direction that are discussed in pp. 42-45 of the UNAIDS Strategy and summarized on p. 46. Questions include:

a. What is required in order to empower key populations to claim their rights, and what benchmarks should UNAIDS set for accomplishing this?

b. What is required in order to mobilize people with HIV as forces for change, and what benchmarks should UNAIDS set for accomplishing this?

Discussing these issues in detail may not be possible at this meeting. However, the Reference Group should consider how it can best assist UNAIDS and ensure that the commitment to advancing human rights will result in real, programmatic action at country level. One possibility would be to commission a paper on what it takes to achieve the six (or a selected number of the) impact areas under the human rights direction, possibly under the guidance of a sub-committee that could take this work forward.

**Potential general recommendations to UNAIDS concerning the Strategy and UBAF:**

- Ensure human rights strategic direction gets as much attention as the prevention and treatment strategic directions, including “branding” of human rights
- Ensure human rights and gender equality (and GIPA) are not marginalized in the human rights strategic direction, but remain as cross-cutting issues throughout the Strategy and the UBAF
- Ensure that the human rights commitment, funding, technical assistance and accountability is amplified across all of the action of the agencies in UNAIDS as the Strategy and UBAF are taken forward
- Address capacity issues that will enhance human rights action (UNAIDS Secretariat and cosponsor staff; national partners; civil society) (in this context, the Reference Group could refer back to the recommendations in the January 2009 "Recommendations Brief to Michel Sidibé", many of which have not been implemented and remain relevant)
- Reallocation of resources appropriately towards these ends
- Devise strategy to use Secretariat and cosponsor convening power and leadership on human rights more holistically and strategically, including more strategic engagement with other human rights and health movements

**Key resource materials**


Draft Unified Budget Accountability Framework

**This issue paper was prepared by the Reference Group Secretariat to facilitate discussion at the Reference Group’s March 2011 meeting.**

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