UNAIDS Reference Group on HIV and Human Rights
Eleventh Meeting
Recommendations
21-23 April 2010
UNDP Headquarters, 304 East 45th Street
Norway Room, 10th Floor, FF-1180
New York

1. Review of report of last meeting and general updates from the UNAIDS Secretariat and UNDP

The Reference Group recommends that:

a. The Acting Chair of the Reference Group writes to the incoming Director of the HIV Department at WHO, congratulating him on his appointment, introducing the Reference Group and its work, and welcoming an opportunity for the Reference Group to engage with the Director and his colleagues as part of ongoing dialogue with UNAIDS Cosponsors.

b. The UNAIDS Secretariat and UNDP convene the next meeting of the Reference Group in Geneva, and that it extends an invitation to the incoming Director of the HIV Department at WHO to participate in that meeting.

c. Jonathan Cohen, on behalf of the Reference Group, organise an informal meeting of Reference Group members participating in the International AIDS Conference in Vienna (18-23 July 2010), and invite dialogue with senior UN System staff working on HIV.

d. The UNAIDS Secretariat and UNDP produce a compilation of relevant Reference Group statements and other documents for distribution in the “Human Rights Networking Zone” of the International AIDS Conference.

e. UNDP and the UNAIDS Secretariat jointly develop a short overview of the implementation of Reference Group recommendations at regional and country level, for presentation at the next Reference Group meeting.

2. Removing punitive laws, policies, practices, stigma and discrimination that block effective responses to HIV

The Reference Group recommends that:

a. The UNAIDS Programme Coordinating Board thematic session on sexual and reproductive health incorporates a strong focus on human rights and legal issues across the thematic session, including an explicit recognition of the issue of forced sterilization and coerced abortion experienced by women living with HIV, as well as a stand-alone breakout group focusing on human rights and law.

b. The Acting Chair of the Reference Group writes to UNDP Administrator Helen Clark, expressing appreciation for the strengthening of UNDP’s HIV and human rights capacity and encouraging expanded capacity in regions and countries. The letter should also ask for the Administrator’s support to strengthen the human rights and HIV capacity of the UN Resident Coordinator System, including their capacity to
address HIV-related human rights violations as part of their core obligations under the UN Charter.
c. UNAIDS intensifies its work to promote coherence in the policies and strategies of Cosponsors and other UN System partners, towards greater impact for human rights, and the attainment of universal access to HIV prevention, treatment, care and support, as well as the MDGs.
d. UNDP and the UNAIDS Secretariat include in the Business Case on the “removal of punitive laws, policies, practices, stigma and discrimination” the issue of legal barriers to accessing health and other HIV-related services by internal and international migrants.
e. The UNAIDS Secretariat and UNDP intensify work with countries that have the most egregious punitive laws, policies, practices, stigma and discrimination that are negatively impacting their HIV responses, and secure from these countries greater political commitment and action for overcoming these and other barriers to attaining universal access.
f. UNAIDS intensify efforts to support countries and monitor progress under the 10 UNAIDS Outcome Framework Priority Areas, noting that human rights and legal issues are cross-cutting to all 10 areas. The Reference Group notes the urgency of this endeavour, with less than two years until the ambitious goals elaborated in the Outcome Framework Business Cases and Operational Plans are to be realized.
g. UNAIDS review how it is communicating the Outcome Framework to outside audiences, noting that some of the goals are unlikely to be fully achieved by 2015. The HIV and human rights movement will need to sustain commitment and action in these difficult areas over the longer term.
h. UNAIDS commission research and analysis that illustrates traditional and longstanding practices of acceptance of same sex sex between adults in all regions of the world, as well as the more recent spread of homophobia and the forces that have exacerbated that spread, including colonial rule and related legal frameworks.
i. The Acting Chair of the Reference Group writes to the UN High Commissioner for Human Rights, expressing appreciation for her Office’s ongoing engagement on critical HIV and human rights issues, and encouraging continued attention to issues of discrimination related to sexual orientation.
j. UNDP, in leading the new Global Commission on HIV and the Law, ensure full inclusion of people living with and affected by HIV, evidence-informed approaches, consultation with relevant UN agencies, and ongoing engagement with the Reference Group.

3. Overview of critical HIV and human rights issues in the work of UNICEF on HIV

The Reference Group recommends that:

a. The Acting Chair of the Reference Group writes to UNICEF, expressing appreciation for the comprehensive and succinct overview of its HIV and human rights work and challenges, as well as the opportunity to enter into a very useful dialogue at the
meeting. The letter should also express the commitment of the Reference Group to continue this dialogue at the next meeting and during the interval.

b. A discussion paper be drafted, with the support of the Reference Group Secretariat, on the engagement of children from key populations affected by HIV, both in the context of UNICEF’s global policy work and country-level advocacy and implementation activities.

4. Universal access to HIV prevention, treatment, care and support: assessing human rights progress for UNGASS+10 and the MDGs

A. On **UNGASS data collection, including in relation to the National Composite Policy Index (NCPI)**, the Reference Group recommends that:

a. The UNGASS reporting obligation of countries, including reporting of NCPI data, be extended until 2015.

b. UNAIDS produces an analysis of discrepancies between government reporting and the assessments produced by civil society and representatives of vulnerable groups, as well as discrepancies with other available information that could be used to independently validate the data that is reported.

c. To ensure the maximum utilization of all UNGASS data, including the NCPI, UNAIDS produce analysis that illustrates progress in relation to human rights, including the HIV legal and policy environment. Issues of concern should be brought to the notice of the Reference Group, Cosponsoring organisations of UNAIDS, civil society groups, the Office of the UN High Commissioner for Human Rights, and the UN Human Rights Council.

d. UNAIDS perform an audit of: (a) the data currently collected and (b) the processes of consultation undertaken in the UNGASS reporting process, in particular in relation to the NCPI; and on the basis of the findings of the audit, consider changes that would strengthen the data and the process. The Reference Group offers its assistance in this process of auditing and revision.

e. UNAIDS, in its analysis of new data submitted by countries this year, give urgent attention to:

   i. Disaggregation of the data;
   ii. Non-reporting or under-reporting of particular data; and
   iii. The possible need to validate data that suggest inaccuracies, with a view to ensuring the highest quality and representativeness.

f. UNAIDS officers involved in the collection of UNGASS data report on the above concerns to the Reference Group at its next meeting.

B. On **country reviews of universal access progress**, on the basis of the reports provided to it at its eleventh meeting in New York, the Reference Group:

a. Expresses serious concerns about the legitimacy and effectiveness of the proposed methodologies and processes of national consultations on the achievements of universal access, particularly with regard to an unrealistic timeframe, no apparent standards for selection of or support for civil society attending, no serious attention
to ensuring space for honest and open discussion of achievements and failures, and no promotion of structured dialogues in this regard or capturing or analysis of results of the consultations with a process for followup.

b. Recommends that genuine efforts be undertaken to ensure that the real experience of civil society and vulnerable groups is ensured in the process of consultation, as a precondition to its legitimacy and utility. It is further recommended that the findings and recommendations of an evaluation of universal access consultations that took place in 2005 and 2006 be reviewed and key lessons acted upon so that mistakes are not repeated.

c. Proposes that a number of steps be urgently considered to ensure that the national consultations are as effective as possible, including but not limited to:
   i. Assurance of the effective participation of relevant and independent vulnerable groups and representatives of civil society, including through protection against intimidation for such groups and representatives;
   ii. Provision of appropriate logistical and other support for such groups and representatives, to ensure that they can make meaningful contributions to the consultations in the very short time frame presently envisaged;
   iii. Conduct of regional and international consultations to consolidate and validate national findings;
   iv. Continual review of “lessons learned” as national consultations take place, using those lessons to refine the methodology and approach used in other country consultations; and
   v. Use of alternative mechanisms for the input of such groups and representatives where this is not in practice feasible at the national consultations.

d. Requests that a follow up report be given to the Reference Group upon the process and sequence of such consultations, with a view to ensuring that it is of maximum utility to the countries and groups that participated as well as to UNAIDS.

e. Asks the Acting Chair of the Reference Group to write to UNAIDS Executive Director to bring the substance of these concerns and recommendations immediately to his attention, having regard to the currently reported timeframe.

C. On intellectual property and access to medicines, the Reference Group:
   a. Expresses its deep concern about the long term funding of HIV treatment, an issue which is a central component of UNAIDS’ mandate to support countries towards universal access.
   b. Calls on UNAIDS to act with urgency in response to the anticipated crisis which the Reference Group perceives in the funding of medicines, having regards to:
      ▪ the commitment that governments have made to universal access to prevention, treatment, care and support, and the role of UNAIDS in supporting countries to attain universal access;
      ▪ the envisaged need for increased funding as increasing numbers of people living with HIV move on to second line therapies;
the recognized limitations of the Doha Agreement in moderating the
application of the TRIPS Agreement; and
the squeeze on funding in connection with the global financial crisis.
c. Recommends that the UNAIDS Executive Director and the UNDP Administrator,
   together with other UN System principals, express serious concern in public fora and
directly with heads of State, Ministers of Trade and Ministers of Health, about the
insistence of high-income countries on including “TRIPS plus” provisions in bilateral
trade agreements, as such measures undermine access to affordable HIV and other
medicines.
d. Calls particular attention to the vulnerability of children and their need for sustained
access to treatment, in particular second line and subsequent lines of therapy over
the course of their lifetime, and recommends that UNICEF play an increasingly active
role in advocacy and support to governments on issues of intellectual property and
access to medicines.

5. “AIDS + MDGs”
The Reference Group recommends that:
a. UNAIDS develops clear and bold advocacy in relation to the upcoming MDG Summit
(September 2010), underscoring that the response to AIDS, the realization of human
rights and the achievement of the MDGs are intrinsically related endeavors, and one
will not be successful without the others. Such advocacy should put the MDG
targets in the broader context of the Millennium Declaration and the human rights
commitments of governments, emphasising that the international community is
obliged to generate the necessary financing and programming towards honouring
those commitments, and meaningfully engage most-affected populations in all
processes and programmes. There is an urgent imperative to accelerate the pace of
achievement, including but beyond HIV.
b. UNAIDS articulate the successes of the international AIDS response in advancing
human rights, including but not limited to the right to the highest attainable
standard of health, while noting that there is still significant unmet need with
regards to prevention, treatment, care and support. UNAIDS should also advocate in
the context of the MDGs that the AIDS response illustrates how community
mobilization and meaningful participation of people most affected, together with
international political and financial commitment, are essential ingredients in making
development and human rights gains.
c. UNAIDS create stronger alliances with a broader spectrum of health, development
and human rights communities and movements, highlighting that health,
development and human rights are chronically underfunded, especially in the light of
global spending on war and recent expenditures to stabilize the financial sector,
among other areas, which vastly outstrips development spending.
d. The Executive Director of UNAIDS considers convening a high-level conference to
address the long term funding of the HIV response, bringing together both high-
income and low-income countries, major funding institutions, people living with HIV
and representatives of key populations, and the private sector, with a view to enhancing and better defining the criteria for agreed mutual accountability for the commitment to attaining universal access to HIV prevention, treatment, care and support. Such a conference could possibly be held in the lead up to the proposed review of implementation of the Declaration of Commitment on HIV/AIDS (“UNGASS+10” meeting) in September 2011.

e. The extensive UNDP capacity for supporting democratic governance be actively and strategically used for the roll out of HIV-related legal services, and other programmes to increase access to justice and reduce stigma and discrimination faced by people living with and affected by HIV. Such efforts are critical to advancing the UNAIDS Outcome Framework and supporting countries towards attaining the MDGs. The Reference Group underscores that programmes must be planned and implemented with the active engagement of most-affected populations.

f. The next meeting of the Reference Group includes an agenda item to review the status of HIV-related activities carried out in cooperation with the UNDP democratic governance group, and that the Reference Group and its sub-committee on programming receive relevant information in the interval between meetings.

g. UNDP (HIV and Democratic Governance Groups) and the UNAIDS Secretariat review the list of countries undergoing a review of their UN Development Assistance Framework in 2010-2011, with a view to identifying priority countries for training on HIV and human rights, using the HIV-focused module of the UN’s human rights-based approach training package.

6. The New UNAIDS Mission Statement and Strategic Plan

The Reference Group, endorsing the March 2010 stakeholder meeting (Bangkok, Thailand) call for an explicit human rights focus in both documents, recommends that:

a. UNAIDS invite the Reference Group to provide input into the Mission Statement and Strategic Plan.

b. The Mission Statement and Strategic Plan reflect and build upon the repeated statements of the UN Secretary-General, UNDP Administrator and UNAIDS Executive Director, affirming the need for a breakthrough prevention strategy, underpinned by greatly expanded human rights protections for women, men who have sex with men, people who use drugs, sex workers, and people living with HIV.

c. UNAIDS underscore in the Mission Statement and Strategic Plan that the achievement of both universal access and the MDGs relies on strategies based on human rights.

d. A time limited sub-committee of the Reference Group be established, comprising Jonathan Cohen, Gorik Ooms and Michaela Clayton, supported by Mandeep Dhaliwal and Susan Timberlake. It will elaborate a draft of a “vision statement” of UNAIDS in regard to human rights.