Defining the Issue

1. On paper, the place of human rights in the response to HIV is well established. In the Declaration of Commitment on HIV/AIDS (2001), governments recognised that “the full realization of all human rights and fundamental freedoms for all is an essential element in the global response to the HIV/AIDS pandemic”, and committed themselves to
   a. enacting, strengthening or enforcing “legislation, regulations and other measures to eliminate all forms of discrimination” against people living with HIV and members of vulnerable groups, and to ensuring their access to “education, inheritance, employment, health care, social and health services, prevention, support and treatment, information and legal protection while respecting their privacy and confidentiality”
   b. promoting women’s full enjoyment of human rights, and to reducing their vulnerability to HIV “through the elimination of all forms of discrimination, as well as all forms of violence against women and girls”.1

2. In the Political Declaration on HIV/AIDS (2006), governments committed to a massive scaling up of HIV programmes with the aim of achieving as close as possible to universal access to HIV prevention, treatment, care and support by 2010. In particular, they committed to “overcoming legal, regulatory or other barriers that block access to effective HIV prevention, treatment, care and support, medicines, commodities and services”.2 Human rights are at the core of the concept of universal access – itself a framework for equity and accountability; and ensuring access to HIV prevention, treatment, care and support for everyone – regardless of their sex, age, ethnic origin, economic, social or legal status, or sexual or drug-taking behaviour – entails addressing inequalities, discrimination and lack of human rights protections that hinder access of individuals and groups to these services.

3. This paper outlines a plan to:
   a. Map some key programmes to support human rights in the context of national HIV responses that are currently being implemented in different parts of the world
   b. Identify and outline the programmatic elements of these programmes as well as define quality standards and costing

---

c. develop guidance to national AIDS coordinating authorities, Country Coordinating Mechanisms (CCMs), and donors on funding and implementing these programmes.

The work under this plan focuses on some key “stand-alone” programmes to support human rights rather than on integration of human rights principles into other HIV programmes.

Supporting human rights in national AIDS responses: principles and programmes

4. To be effective and rights-based, HIV responses should address human rights concerns in three ways. First, human rights principles of participation and inclusion, non-discrimination, and accountability should guide the planning, implementation and monitoring and evaluation of all HIV programmes. Second, a human rights approach calls for a particular emphasis on ensuring that the most marginalised and most at risk populations benefit from the national HIV response. Thirdly, specific programmes to support human rights should be part of an effective HIV response regardless of the epidemic type, although the formulation, scale and coverage would differ according to the nature of the epidemic and cultural considerations. Such programmes include:

a. Legal support for people living with HIV and members of vulnerable and marginalised groups (women, care-givers, survivors of sexual violence, orphans and vulnerable children, people who use drugs, sex workers, men who have sex with men) in various forms, e.g. legal aid, community paralegals, and community dispute resolution working with traditional leaders.

b. Legal audits and law reform programmes that examine existing relevant laws, as well as the nature of their enforcement and the need for law reform, and the impact these laws have on the quality of the response to the epidemic, in particular the access and uptake of HIV services and commodities by women, people living with HIV and populations at risk; to be followed by reform of law and/or enforcement as necessary.

c. “Know your rights/laws” campaigns that empower those affected by HIV to know their rights and laws in the context of the epidemic and draw them down into concrete demands in terms of gender equality, non-discrimination on basis of HIV and other social status, elimination of violence against women, and protection of the rights of the child.

d. Human rights training for key professionals (including health-care professionals, police, judges, and prison workers) that focus (as relevant) on informed consent, confidentiality, non-discrimination and non-violence.

e. Stigma and discrimination reduction programmes which actively seek to reduce stigma and discrimination based on HIV and related social status.

f. Programmes that address the intersection between violence against women/girls and HIV.

g. Programmes to transform harmful and inequitable gender norms that increase vulnerability to infection and impact for men, women and young people.
h. Programmes to ensure the equal rights of women and girls in the context of marriage and family law and access to economic opportunities.

Existence of programmes to support human rights in national responses: reporting by countries and UNAIDS Country Coordinators

5. It appears that some kind of efforts to promote and protect human rights is increasingly included in national HIV responses. Almost all countries (118; 99%) that reported on human rights developments, using the National Composite Policy Index (NCPI) within their UNGASS Progress Report 2008, indicated a stable or improving rating for their legal and policy frameworks addressing the promotion and protection of human rights in their HIV efforts. The overwhelming majority of countries (117; 94%) also reported that their HIV policy or strategy explicitly mentions the promotion and protection of human rights. Eighty-seven countries (64%) reported that they have amended policies and legislation to be consistent with their National AIDS Control policies.

6. A 2007 survey of UNAIDS Country Coordinators (UCCs), which, like the NCPI data, has not been independently verified, supports the NCPI findings. The UCCs reported that campaigns against stigma and discrimination were included in 88% of national strategies or action plans of 73 countries surveyed. Similarly, training for health care workers on confidentiality, informed consent, non-discrimination and gender issues was included in 89% of the plans. Training on HIV for judges and/or lawyers was included in 42% of the plans, while training for law enforcement on HIV-related rights, gender and populations at risk was incorporated in 53% of the plans. UCCs reported that legal aid services for people living with or vulnerable to HIV were mentioned in 47% of the plans.

7. Programmes addressing women’s rights in the context of HIV appear to be less integrated into national strategies and action plans. The same survey found that only 25% of the countries surveyed had included legal aid services or programmes to enforce/protect women’s property rights in the context of HIV in their strategies, and only 36% of the plans included programmes to transform harmful gender norms to reduce gender-based vulnerability to infection. Programmes to address violence against women and programmes to address women’s economic empowerment (e.g. access to credit, land, training) were included in 48% and 46% of the plans respectively.

8. It should be noted that, while these programmes may be mentioned in a plan, they may not be budgeted or implemented or, where they are, may only reach a very small portion of those in need. For example, the same survey indicates that for most of the programmes mentioned above, 60-70% are being implemented; in the case of legal aid programmes, however, the figure falls to 7.7%.

9. A similar survey of UNAIDS country offices showed that 72.5% of 40 countries who had submitted a Round 7 proposal to the Global Fund, had included campaigns against stigma and discrimination in the proposal. Training for health care workers on human rights, ethics and non-discrimination was reportedly included in 52.5% of the proposals, training for lawyers or judges in 10% of the
proposals, and training for law enforcement in 27.5% of the proposals. Again, women's rights issues appear to be less frequently covered in the proposals. Only 18% of the proposals included legal aid services to protect/enforce property rights, 25% included violence against women programmes, and 25% included programmes to address women’s economic empowerment.

10. These surveys, although not independently verified, give some indication that countries are increasingly including some programmatic elements to support human rights in their national HIV responses. However, there is a need to further explore content, scale, quality and impact of these programmes. More specifically, there is a need to reach consensus about which programmes are most important depending on the nature of the epidemic and the cultural, social and legal context, continue building the evidence-base for these programmes and how they are best implemented, and strategise about how demand for such programming can be stimulated and financial resources mobilised for them. As part of these efforts, there is a need to define quality standards for HIV-related human rights programmes, in terms of essential components, costing them, and identifying how they can most effectively be scaled up.

Programming to support human rights: goals and objectives
11. The ultimate goal of work initiated this year by the UNAIDS Secretariat is to ensure that support for human rights forms an essential programmatic component of national HIV responses. The objectives are as follows:
   a. To map whether human rights issues (including stigma and discrimination, gender inequality and marginalisation of key populations) are identified as obstacles to universal access or to effective national responses to HIV in selected documents setting out the national response to HIV (2008 Country Progress Reports, Universal Access Country Consultation Reports and national HIV/AIDS action frameworks (commonly referred to as National Strategic Plans)).
   b. To map to support HIV-related human rights in selected documents setting out the national HIV response (national HIV/AIDS action frameworks, associated annual action plans, budgets and successful Global Fund proposals for Rounds 6 and 7), and to assess what stage in the programming continuum these programmes can be traced to in the selected source documents (“mapping”). The “mapping” will also identify which programmes (if any) are specifically targeted to men or women, as well as to particular populations (such as people living with HIV, men who have sex with men, women, people who use drugs, children, sex workers).
   c. To describe and cost essential programmatic components of these programmes.
   d. To define quality standards for these programmes.
   e. To produce guidance on planning, costing, budgeting, implementing, monitoring and evaluation of these programmes.
Outputs and activities

Mapping where programmes to support human rights have been included in national responses

12. Data from Universal Access Country Consultation Reports, UNGASS 2008 Country Progress Reports (including data from the National Composite Policy Index), national strategic and action plans, and approved Global Fund HIV and HIV/TB proposals (Rounds 6 and 7) are being reviewed to map where countries have identified human rights issues as obstacles to universal access or effective national responses, and then to map where programmes to support human rights are referred to in strategic plans, action/operational plans and funding proposals. The mapping will also record the extent to which there is information included in these documents regarding the planning, implementation, and monitoring and evaluation of these programmes.

Programmatic interrogation

13. Following the mapping exercise, a more in-depth analysis of the programmatic elements of such programmes will be carried out. This analysis will consider such elements as:
- the components of these interventions, implementation plans, modality and facility of service delivery, scale/coverage, unit costs, and indicators for monitoring and evaluation
- the scale at which these programmes are being implemented;
- what quality standards, if any, are being used;
- whether the impact of these programmes is being evaluated; and
- what strategies, if any, have been used for scaling up promising programmes.

Identification/development of quality standards for programmes to support human rights and development of strategies to scale up these programmes

14. This will include:
- expert group meeting to identify and/or develop quality standards for programmes to support human rights in the context of HIV;
- costing of programmatic components of these programmes;
- development of strategies to scale up these programmes

Production of guidance

15. Following the production of draft guidance, it is anticipated that an international consultation will be convened to assist the finalisation of the guidance, to build consensus on what programmes to support human rights should be part of all national HIV responses, to further define quality standards, and identify what actions and funding are required to scale up human rights programmes within national HIV responses.

Development of strategy to roll out guidance to UNAIDS staff, National AIDS Coordinating Authorities, CCMs, donors

---

3 This part of the work will be done in close collaboration with the Prevention and Care team in the UNAIDS Secretariat.
Timeline of work

<table>
<thead>
<tr>
<th>Date</th>
<th>Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 2008</td>
<td>Identification and recruitment of consultant to do the mapping</td>
</tr>
<tr>
<td>June 2008 - Jan 2009</td>
<td>Mapping exercise</td>
</tr>
<tr>
<td>January - Mar 2009</td>
<td>Development of methodology for programmatic interrogation</td>
</tr>
<tr>
<td></td>
<td>Recruitment of consultants</td>
</tr>
<tr>
<td>Apr - June 2009</td>
<td>Case studies on programmatic elements, scale and quality of implementation</td>
</tr>
<tr>
<td>To be determined</td>
<td>Expert group meeting to define quality standards and identify strategies to scale up programmes</td>
</tr>
<tr>
<td></td>
<td>Costing of programmatic components</td>
</tr>
<tr>
<td></td>
<td>Production of draft guidance</td>
</tr>
<tr>
<td>Nov 2009</td>
<td>International consultation</td>
</tr>
<tr>
<td>Early 2010</td>
<td>Finalisation of guidance</td>
</tr>
<tr>
<td></td>
<td>Development of strategy for rolling it out</td>
</tr>
</tbody>
</table>

Questions for discussion

a) Do Reference Group members agree that, to be effective and rights-based, HIV responses should address human rights concerns in the three ways explained on page 2 (human rights principles should guide planning, implementation and monitoring and evaluation of all intervention; specific human rights programmes should be part of national responses; there must be particular emphasis on the most marginalised and most at risk in national responses)? Is anything missing from this list?

b) Are any essential programmes missing from the list of specific programmes to support human rights that should be part of an effective HIV response regardless of the epidemic type? How do we reach consensus about which programmes are most important depending on the nature of the epidemic and the cultural, social and legal context? How do we best communicate this? How do we best continue building the evidence-based for these programmes?

c) How would the Reference Group advise the UNAIDS Secretariat to identify and engage the expertise of people implementing programmes outlined in this paper? Does a specific advisory group need to be convened vis-à-vis this work, and if so, what organisations and individuals would the Reference Group recommend be included?

d) How can country-level demand for programming to support human rights be stimulated?

e) How can necessary financial resources be mobilised?

f) How would the Reference Group advise the incoming Executive Director of UNAIDS to better support programming for human rights in national AIDS responses?

Supporting documents

- Rights-based Responses to HIV