

Action on HIV/AIDS and HUMAN RIGHTS



May 2006

Human rights violations fuel the HIV/AIDS pandemic. This connection was explicitly recognized by the United Nations General Assembly Special Session (UNGASS) in its 2001 Declaration of Commitment on HIV/AIDS:

"The full realization of human rights and fundamental freedoms for all is an essential element in a global response to the HIV/AIDS pandemic, including in the areas of prevention, care, support and treatment... it reduces vulnerability to HIV/AIDS and prevents stigma and related discrimination against people living with or at risk of HIV/AIDS."

Twenty-five years into the epidemic, 14,000 new infections and 8,000 deaths occur every day. States are failing to meet targets set for prevention, treatment and care. At the UN General Assembly meeting in June 2006, Amnesty International (AI) will call on states to renew their commitment to address HIV/AIDS using a rights-based framework. AI will call on governments to design and implement responses to HIV/AIDS according to the guidance summarized in the UN International Guidelines on HIV/AIDS and Human Rights.

Governments must:

1 Fulfil the international commitment to the right to health

All people have the right to enjoy the highest attainable standard of physical and mental health. The right to health includes timely and appropriate access to health care services. It also includes access to the underlying determinants of health such as access to safe water, food, nutrition, housing, and health-related education and information, including on sexual and reproductive health.

Under international law, all UN member states, particularly those with the resources to assist other countries, are obliged to take joint and separate action to progressively achieve the full realization of the right to health.

In order to meet their responsibilities, member states should:

- + contribute sufficiently to international multi-lateral funds;

- + develop programmes for public education and dialogue in order to help overcome stigma, discrimination, misinformation and denial;

- + develop national plans of action that delineate institutional responsibilities for responding to HIV/AIDS, establish clear mechanisms for participation, and ensure accountability for implementing HIV/AIDS programmes;

- + enact policies and laws that prohibit discrimination and promote equal access to prevention, care and treatment;

- + develop the infrastructure that will facilitate prevention, treatment and care, including training for health care providers, hospitals and clinics, testing facilities, clean water supplies and sanitation.

2 Remove funding conditions that inhibit the prevention of HIV/AIDS

The Constitution of the World Health Organization and the Universal Declaration of Human Rights affirm that states have an obligation to respect, protect and fulfil rights related to health. States must not undermine or impede access to HIV/AIDS prevention, treatment, care and support either domestically or in other countries.

Governments must not set funding conditions that deny people access to life-saving information, commodities and services such as condoms and harm reduction measures. Nor may governments discriminate against individuals on the basis of age, marital status, occupation, sexual orientation or expressions, gender identity or expression, or disability.

3 Ensure equal access to treatment

HIV/AIDS disproportionately affects those people least able to claim their human rights – the poorest, the least educated, and the marginalized in society. Discrimination and stigma fuel the pandemic at all stages from prevention and treatment, to the care and support of those living with HIV/AIDS or those affected by the disease, such as orphans, widows and elderly care-givers.

Governments should ensure equal access to all HIV-related treatment, including antiretroviral medicines. This might include removing barriers such as costs related to accessing health services, including transportation and user fees, that deter poor people from accessing the health services they require.

4 Ensure access to information

Everyone has the right to freedom of expression; this right includes freedom to seek, receive and impart information. States have a positive duty to provide information on all aspects of HIV/AIDS including information on the prevention and treatment of the disease. States also have an obligation to correct misinformation when it stigmatizes people living with or at risk of HIV/AIDS or undermines accurate information regarding prevention, treatment and care.

Information should be accurate, accessible to the target audience, and expressly address how to prevent transmission. This includes the right to information about safer sexual practices; access to information on the use of condoms and other barrier methods; and health-related education and information on sexuality including sexual orientation,

sexual health, reproduction and reproductive health. Furthermore, governments should ensure that injecting drug users and their sexual partners have access to information on where and how to obtain clean needles and other harm reduction strategies.

In particular AI urges governments to ensure that adolescent girls and women have the knowledge and means to prevent HIV infection through active dissemination of basic health information on HIV/AIDS and other sexually transmitted infections; promotion of women's equality; and a commitment to effectively address violence against women. Information should enhance women's sexual autonomy, empower them to negotiate safer sex and increase their understanding of the human rights violations that put women at increased risk of HIV/AIDS.

5 Guarantee sexual and reproductive rights

People should be able to decide freely in matters related to their sexuality, free from discrimination, coercion or violence. Sexual health has an indispensable role to play in the struggle against intolerance, gender inequality and HIV/AIDS and states must protect and promote sexual health as an integral element of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Governments must review and implement legislation guaranteeing all individuals control over their sexual and reproductive lives and enjoyment of their sexual rights. This includes the right of all persons to freely decide to be sexually active or not; to freely engage in consensual sexual relations; to pursue a satisfying, safe and pleasurable sexual life; and to decide freely and responsibly the number, spacing and timing of any children.

6 Safeguard women's rights and stop violence against women

Governments must ensure that women can protect themselves from HIV infection by reducing the factors leading to women's increased risk of being infected.

Violence against women is a risk factor for HIV infection and the prospect of violence is heightened when women disclose an HIV-positive test result to their partners or husband. Economic inequalities and women's lack of sexual autonomy are also risk factors which must be addressed.

Governments must exercise due diligence to prevent, investigate and punish all forms of violence against women. States should support the development of female driven prevention methods and ensure that HIV/AIDS programming relating to women, including prevention of mother to child transmission programmes, are accessible to women. When women are infected with HIV/AIDS they must be provided with access to appropriate treatment, care and support services on a non-discriminatory basis.

7 Ensure participation of people living with HIV/AIDS

Everyone has the right to active, free and meaningful participation in public life and it is in governments' interests to ensure extensive and inclusive consultation in responding to HIV/AIDS in all their communities.

Governments are urged in particular to support actively the principle of greater

involvement of people living with HIV in the development and implementation of HIV/AIDS-related programmes, including in education, outreach, prevention and service provision. Participation of people living with HIV/AIDS in aspects of HIV policy design and implementation is crucial to successfully fighting the pandemic.

8 Share equally the benefits of scientific progress

Everyone has the right to enjoy the benefits of scientific progress and its applications, including equal access to treatment – such as antiretroviral medicines and treatment for opportunistic infections – regardless of where they live, their gender or economic status. This also includes the further development and distribution of a female driven prevention methodology such as a

microbicide, and access to the life-saving commodities that will prevent further transmission of HIV/AIDS.

The right to enjoy the benefits of scientific progress requires that HIV/AIDS prevention, treatment, care and support be based on sound analysis and evidence. Governments must ensure that prevention approaches are based on complete,

9 Affirm the right to privacy and confidentiality

The right to privacy, including confidentiality, of patient records and HIV status is essential to ensure that people come forward for HIV testing and treatment. This is particularly important because of the high levels of HIV/AIDS-related stigma and discrimination that prevail in countries around the world. Governments must ensure that all testing is based on fully informed consent, including confidential pre-test and post-test counselling that is implemented according to the

standards set out in the UN Guidelines on HIV/AIDS and Human Rights.

Governments must ensure that HIV testing is available to the whole population, including women who are not pregnant and men, and is linked to adequate provision of treatment, care and support. This should include specific consideration of the impact on women who may be at risk of violence when they disclose their HIV-positive status.

10 Ensure monitoring and evaluation for human rights and evidence-based solutions

Monitoring and evaluation of governments' commitments on HIV/AIDS and human rights in the prevention, treatment, care and support of those infected and affected by HIV/AIDS is key to stemming the pandemic. Adequate monitoring and evaluation of the human rights and public health situation relating to HIV/AIDS is vital to building responses to the pandemic on the basis of evidence.

States need to regularly report on and evaluate their progress in implementing and honouring the

commitments made and targets set in the fight against HIV/AIDS, and their human rights obligations.

Governments should ensure, including through the provision of adequate resources to civil society, that monitoring of all targets is inclusive, participatory and implemented through a process that is accountable to the communities most affected by HIV/AIDS.