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Human rights and HIV - keep the promise

Respect, protect, and fulfil the rights of all affected by HIV/AIDS

As the world today marks World Aids Day, the HIV/AIDS pandemic continues to escalate and challenges the international community to respond effectively. UNAIDS' latest estimates suggest that five million people became newly infected with HIV in past year, three million died due to HIV-associated illnesses, and 40 million people are estimated to be living with HIV, of whom a growing percentage are women.

The theme of World Aids Day 2005 is "Keep the promise": a call to governments and the international community to honour their commitments to fight HIV/AIDS. These commitments are grounded in human rights obligations. Fulfilling them is not an optional choice but a binding duty.

Human rights are integral to the fight against HIV/AIDS. An open and supportive rights-based approach to HIV/AIDS is essential to ensure that everyone enjoys full access to means of prevention, voluntary counselling and testing, and long-term sustainable treatment, care and support, and can live free from fear, violence and discrimination. Without such an approach, increasing numbers of people will be deprived of the possibility to live a secure and fulfilling life, consistent with the right to health and other human rights. This goal can be achieved through the commitment of maximum available resources including those available through international cooperation and assistance to which all members of the United Nations are committed. Political pledges regarding international cooperation on HIV/AIDS, such as those contained in the Millennium Development Goals, provide additional benchmarks for assessing governments' compliance with their human rights obligations, and should be seen and implemented in the light of these.

In 2001, at a special session of the UN General Assembly dedicated to HIV/AIDS (UNGASS), the international community agreed to a Declaration of Commitment that committed them to achieve specific goals on HIV/AIDS by 2005. The Declaration included specific promises such as reducing HIV prevalence among young men and women in the most affected countries, ensuring the implementation of locally sensitive prevention programs, and reducing the number of children becoming infected by 20 percent. It also included specific promises on human rights goals including the enactment, strengthening or enforcing of laws to eliminate all forms of discrimination.

Nearly five years on from UNGASS, the reality of people living with and affected by HIV/AIDS shows that these goals are far from being met. Their rights are challenged and denied in the workplace, the community and within the health sector as the following overview of human rights abuses in the context of the pandemic shows.

Lack of access to information. Adequate information is vital in ensuring the reduction of stigma, thereby aiding prevention which depends on clear, scientifically valid and non-judgmental information. It also has a vital role in empowering people living with HIV to make informed choices about their health and to access and adhere to the best available treatment. Information and understanding are key tools in fighting and the discrimination which arises from stigma. Information can be restricted by governments which appear to see open discussion as a threat to the values they support; by donors who restrict funding to, and thus impede the work of, organizations that provide sexual health information including on condom use; by religious or cultural groups which seek to prevent the discussion of subjects they find objectionable; or by unofficial groups which harass human rights defenders who attempt to provide information about HIV/AIDS prevention.

Unequal access to treatment. Fewer than 15% of those needing antiretroviral treatment in the developing world are receiving it. People living with HIV/AIDS need preventive measures and medical care for opportunistic infections. This need is also not being met. Many people living with HIV/AIDS find that they are treated differently from other patients and face breaches of confidentiality, being openly shunned, or refused treatment. Often there are inadequate mechanisms to redress cases of such discrimination. Health services and staff in heavily affected countries are overburdened and unable to cope with the challenges posed by the HIV epidemic, without sustained new investment in human resources and facilities. Those without economic resources are among the most vulnerable, being unable to pay for treatment or for the transport to reach centres providing treatment.

Workplace discrimination. People affected by HIV/AIDS may face discrimination in the workplace including refusal of employment and, if already employed, dismissal. In some cases people have to undergo an HIV test or show evidence of negative HIV status before gaining employment, or they are tested without their consent by a potential employer. The poverty associated with lack of work is a major driver of the pandemic and blocks people's ability to pay costs, such as travel and food, associated with treatment – even where treatment itself is available for free. Carers or advocates of the rights of people living with HIV/AIDS may themselves be subjected to discrimination.

Other forms of discrimination and stigma. People living with HIV/AIDS face exclusion from many areas of life as a result of their status – travel, housing, education and participation in civil society. Such discrimination also affects their families. Means to seek legal redress for such discrimination are often weak or non-existent. Discrimination on the basis of sexual orientation is widespread and is a strong barrier to access to treatment, to means of prevention, and capacity to advocate for equal rights for lesbian, gay, bisexual and transgender men and women. In many countries, drug users and sex workers are denied information and the means to protect themselves against HIV. Such policies expose drug users and sex workers to increased risk of infection and help drive the epidemic.

Abuse of children's rights. Children acquire the virus through, for example, mother-to-child transmission, injections using unclean needles or sexual contact, including sexual abuse. They need access to age-appropriate information, appropriate counselling, testing and treatment, and support and care, particularly where parents are also living with the virus or have died. In many settings children affected by HIV/AIDS face discrimination in schools and nurseries, sometimes being denied their right to education and excluded from schools.

Discrimination and violence against women. Women are particularly affected by HIV/AIDS. Most new HIV infections are now occurring in women, as biological and social factors put them at increased risk of HIV. Women also carry a particular burden as caregivers, mothers and as persons living with HIV/AIDS. Women tend to have less access and control over means of prevention, such as condoms, and to information, due to gender-based violence, coercion and discrimination. In addition, they can face violence when disclosing their status to their partner. In many countries women and men do not have access to information and health services relating to their sexual and reproductive health, putting them at risk of infections such as HIV/AIDS and increasing the likelihood of unintended pregnancies. The practice of early marriage of girls and violence in the family or community place women and girls at

higher risk of exposure to the virus.

While some inroads have been made and specific governments have moved towards implementing the measures set out within the UNGASS Declaration of Commitment, overall the governments of the world are failing to keep the promises made in 2001 – to respect, protect and fulfil the rights of all people living with and affected by HIV/AIDS.

At the UNGASS review in 2006, governments must recommit themselves to fight HIV/AIDS and guarantee the full human rights of all people, including those living with and affected by the virus. And they must move from commitment to action, from promises to practice.