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### **IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

#### **The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS)**

#### **Report of the Secretary-General\***

#### **Summary**

In its resolution 2005/84, the Commission on Human Rights recognized the need for intensified efforts to ensure universal respect for and observance of human rights and fundamental freedoms for all, so as to reduce vulnerability to human immunodeficiency virus and acquired immunodeficiency syndrome (HIV/AIDS) and to prevent HIV/AIDS-related discrimination and stigmatization, in particular in relation to women, children and vulnerable groups. States and other actors were invited to continue taking steps to ensure the respect, protection and fulfilment of HIV/AIDS-related human rights, as contained in the Guidelines on HIV/AIDS and Human Rights, as summarized in paragraph 12 of document E/CN.4/1997/37. This report provides an overview of actions taken by Governments, specialized agencies, international and non-governmental organizations to this end. It concludes that, while the various contributions show the wide range of challenges still facing the international community in dealing with the human rights aspects of HIV/AIDS, there are a growing and diverse number of initiatives which have been undertaken with positive results.

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\* In accordance with paragraph 8, section B, of General Assembly resolution 53/208, the present report has been submitted after the deadline so as to include as many contributions received as possible.

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## Introduction

1. In its resolution 2005/84, the Commission on Human Rights expressed its concern at the increasing number of people living with HIV, in particular the situation of women, girls, children in general and groups vulnerable to infection and discrimination. The Commission emphasized the need for intensified efforts to ensure universal respect for and observance of human rights and fundamental freedoms for all, so as to reduce vulnerability to HIV/AIDS, to prevent HIV/AIDS-related discrimination and stigma, and to reduce the impact of HIV/AIDS. To this end, the Commission invited States, United Nations bodies, programmes and specialized agencies and international and non-governmental organizations to continue to take all necessary steps to ensure the respect, protection and fulfilment of HIV/AIDS-related human rights, as contained in the International Guidelines on HIV/AIDS and Human Rights, summarized in paragraph 12 of document E/CN.4/1997/37, and called on States to implement in full the Declaration of Commitment on HIV/AIDS adopted at the twenty-sixth special session of the General Assembly on HIV/AIDS in 2001. The Commission requested the Secretary-General to solicit comments from Governments, United Nations bodies, programmes and specialized agencies and international and non-governmental organizations on the steps they have taken to promote and implement, where applicable, programmes to address the urgent HIV-related human rights of women, children and vulnerable groups, in the context of prevention, care and access to treatment, as described in the Guidelines, as summarized in paragraph 12 of document E/CN.4/1997/37 and resolution 2005/84, and to submit, in consultation with interested parties, a progress report to the Commission for consideration at its sixty-third session. In accordance with Human Rights Council decision 2/102 this report is being submitted to the fourth session of the Council.

2. Information was received from 15 Member States, 1 Observer State, 9 international organizations and 4 non-governmental organizations (NGOs). The replies received were voluminous and this report provides only a summary of the information received. The full texts of all replies are available at the Secretariat for consultation and will be made available on the website of the Office of the United Nations High Commissioner for Human Rights (OHCHR) for a limited period.

### I. CONTRIBUTIONS FROM STATES

3. The Government of the Bahamas provided information that its Ministry of Social Services and Community Development has maintained several programmes that aim at addressing the HIV-related human rights of women, children and vulnerable groups in the context of prevention, care and access to treatment. HIV-infected persons are helped to obtain medical attention and special assistance is provided to persons with financial difficulties and children infected with HIV, or orphaned as a result of HIV/AIDS.

4. The Government of Bulgaria stated that, with 677 cases of infection registered between 1986 and October 2006, the country has managed to keep a low HIV prevalence. Bulgaria currently ensures an integrated, human rights-based, balanced approach in its national HIV/AIDS response, which incorporates prevention, treatment, care and support through the

implementation of two major programmes: the National Action Plan for Prevention and Control of HIV/AIDS and Sexually Transmitted Diseases (2001-2007) and the Prevention and Control of HIV/AIDS programme funded by the Global Fund to Fight AIDS, Tuberculosis and Malaria (the Global Fund). The National Action Plan ensures a range of free services, such as HIV testing, universal provision of antiretroviral therapy to those in need (regardless of their social and health insurance status), and prophylaxis to prevent mother-to-child transmission. The Prevention and Control of HIV/AIDS programme has improved access to and coverage of services for HIV prevention among groups at risk, such as injecting drug users, sex workers, young Roma people with risk behaviour, men who have sex with men and prisoners. Specific services are accessible to these vulnerable groups, free of charge and without discrimination. The country has established a network of voluntary HIV counselling and testing centres providing free services on an anonymous basis.

5. The Government of Canada provided its 2005 Progress Report on the Implementation of the Declaration of Commitment prepared for the 2006 United Nations High-Level Meeting on HIV/AIDS. The report highlights the significant progress made with the launch of *Leading Together: Canada Takes Action on HIV/AIDS, 2005-2010* and of the Federal Initiative to Address HIV/AIDS in Canada, both explicitly addressing the protection of human rights. Canada's contribution provided details of the state of the disease in the country. Most-at-risk populations are men who have sex with men (representing 58 per cent of all infections and thus the most affected group), injecting drug users, aboriginal people, prisoners, women, people from countries where HIV is endemic and youth. For these groups, the Federal Initiative is developing population-specific approaches, and a major challenge will be to develop discrete approaches to address the epidemic for the most vulnerable populations, who are often marginalized and do not access traditional prevention, care or treatment services. Addressing the social, cultural and economic determinants of health, as well as stigma and discrimination, is also key to reducing their vulnerability. In addition to its domestic response, Canada has contributed over \$600 million to the global effort to address the epidemic since 2000. It has also passed legislation aimed at changing patent laws, to allow the manufacture of lower-cost versions of patented medicines in order to address HIV/AIDS in least developed and developing countries.

6. With regard to prevention, Canada promotes HIV/AIDS-related reproductive and sexual health education for young people. It also promotes different kinds of preventive health interventions for most-at-risk populations. Concerning access to care and support, special attention is paid to barriers for women, children and most-at-risk populations. The additional needs of orphans and other vulnerable children or youth are also addressed. However, there are significant inconsistencies in access to treatment, based on geography and subpopulations for certain vulnerable groups.

7. In its contribution, the Government of Ecuador outlined the current epidemiological situation of HIV and AIDS in the country (particularly in the most affected province, Guayas) and provides information on activities, treatment, testing and public awareness. The Government has given priority to developing a national policy and mechanisms for ensuring universal access to HIV treatment, and a policy was agreed in 2006. Problems remain in financing the purchase of antiretroviral drugs, however assistance has been provided by the Global Fund and by Venezuela (Bolivarian Republic of). The Government also provided information relating to the activities of an NGO working in Ecuador on HIV and AIDS, the

Corporación Kimirina. In collaboration with national and international partners, Kimirina has undertaken activities in HIV prevention, awareness-raising, improvement in the quality of service provision, coalition-building among people living with HIV and international assistance in Peru and Bolivia.

8. The Government of Estonia reported that injecting drug users (IDUs) and their sexual partners remain the most affected by the epidemic, with the proportion of youth and women among those with HIV growing. Around 13 per cent of persons in detention in Estonian prisons were living with HIV in 2004. Programmes supported by the Global Fund are mainly targeted at most-at-risk groups. A training and information campaign supported by the Government of the United States of America to diminish stigma and discrimination ran from 2003 to 2005. A new national HIV/AIDS strategy was developed for 2006-2015, together with an Action Plan for 2006-2009. The priority areas of the new strategy are prevention among IDUs, commercial sex workers, men who have sex with men (MSM), vulnerable youth and detainees, as well as treatment and care. Stigma and discrimination appears as one of the cross-cutting themes. In Estonia, HIV testing is neither systematically free of charge, nor anonymous, but voluntary, except in the case of foreigners applying for a temporary residence permit who are obliged to take an HIV test. The Government describes its activities in the field of prevention among IDUs and other vulnerable groups such as youth, sex workers, prisoners, MSM, pregnant women, patients with tuberculosis and professionals who might be exposed to transmission (police, rescue workers, prison staff). Addressing the major challenges in the near future, Estonia highlights the growing need of antiretroviral treatment, which is free of charge for all people who live with HIV, independently of health insurance.

9. The Government of Finland indicated a rise in HIV infections in 2006 compared to 2005, one factor being individuals becoming infected while abroad. This has prompted a decision to commence a prevention campaign aimed at travellers. All persons residing in Finland are entitled to social and health-care services on an equal basis and free of charge. No mother-to-child transmission has been reported in the country since 1997. Finland does not have specific HIV legislation, and protection is provided under laws, for example, guaranteeing that patients cannot be tested or treated without their consent and that information will be treated as confidential. The legislation also prevents discrimination against HIV/AIDS patients in working life. Sexual and reproductive health rights are also addressed as part of health education for children and young adults, with a focus on the right of girls and women to decide on their own sexuality. Furthermore, recommendations have been made to improve the access of all schoolchildren to local school health services. Sexual violence will be an important issue in the 2007 action plan on the promotion of sexual and reproductive health. Finally, Finland reports on the various programmes, services and guidelines especially designed for vulnerable groups such as drug users, men who have sex with men, victims of violence, child victims of sexual abuse and immigrants.

10. In its contribution, the Government of Germany described the current situation of the disease in the country. New infections in 2006 suggest an increasing HIV incidence among men who have sex with men, who represent the largest affected population group, followed by injecting drug users and immigrants from high prevalence regions. It appears that HIV is rarely detected among professional female commercial sex workers and, if detected, is related to

intravenous drug use. Mother-to-child transmission is low, with 80 per cent of pregnant women with HIV receiving prophylaxis. The Government's revised HIV strategy (2005) includes key elements such as prejudice-free education and prevention (through a target group-oriented approach), universal access to HIV testing, adequate treatment, care and support (including the strengthening of social care), respect for human rights, non-discrimination, coordination and cooperation with civil society, surveillance, research and continuous evaluation of achievements for further improvement. The Government also reported on certain barriers to treatment, including the situation of those not insured, migrants, and asylum-seekers.

11. In its contribution, the Government of Guatemala provided details of the current state of the disease in the country and government initiatives to respond to the challenge. The Government has developed a strategy to extend provision of antiretroviral therapy to all who require it, as well as providing services for prevention of mother-to-child transmission. Programmes are carried out in cooperation with civil society, the private sector and international partners, for example the Global Fund and the Joint United Nations Programme on HIV/AIDS (UNAIDS), and in particular in respect of vulnerable groups, such as commercial sex workers, injecting drug users and men who have sex with men. From 2006 the Government is developing a plan for the purchase of antiretroviral medicines, including through an international tender process. Government policy is based on a number of principles, including a focus on vulnerable groups; access to health services, social security and sexual education; confidentiality; participation of civil society and people living with HIV, in the planning, execution and evaluation of all programmes; equal access to preventive treatment and care services for all groups; transparency; decision-making based on proven science; and promoting the dignity of those who have been discriminated against or marginalized. HIV/AIDS is addressed in the Constitution, in the criminal code, and in a general AIDS law, which includes the promotion and protection of human rights of people living with HIV.

12. The Government of Japan reported that measures have been taken in accordance with new HIV/AIDS prevention guidelines, in effect since April 2006. The three main themes of these revised guidelines are: the promotion of policies responding to changes in the concept of HIV/AIDS, previously considered as an "irremediable special disease" and now as a "controllable general disease"; clarification of the division of roles between central and local government; and a focus on target groups (for example men who have sex with men, youth) and issues (for example women's control over their own reproductive health). Measures were also taken to guarantee provision of prevention and care services to prisoners, in accordance with Guideline 4 of the International Guidelines on HIV/AIDS and Human Rights. Promotional campaigns are organized by the human rights bodies of the Ministry of Justice, especially during the annual Human Rights Week, with an emphasis on the issue of non-discrimination. Within the framework of international cooperation, Japan underlines its participation in funding (US\$ 5.8 billion between 2000 and 2005, and a promise of US\$ 5 billion for the five years from 2005) as well as its active role in the fight against HIV/AIDS, especially in the context of the World Health Organization (WHO) and UNAIDS "3 by 5 initiative" which concluded in 2005.

13. The contribution of the Government of Mexico underlined respect for human rights as the basis of the Government's national policy on HIV and AIDS, including the active participation of all parts of society. In 2006, the public information campaign continued, with the

development of specific materials targeting vulnerable groups including men who have sex with men and their wives, commercial sex workers, transgender persons, prisoners, migrants and youth (including a new website [www.yquesexo.com](http://www.yquesexo.com)). The Ministry of Health has identified the need to expand cooperation with NGOs in responding to the challenge of HIV/AIDS. The Government provided detailed information (including statistics) on its efforts to respond to HIV/AIDS, as well as details of the programmes of individual ministries. The National Council on Prevention of Discrimination is currently undertaking three studies relating to discrimination and HIV, focused on persons in detention, stigma in health services and discrimination by insurance companies against people living with HIV.

14. The Government of New Zealand provided information on a number of initiatives relevant to the concerns expressed in resolution 2005/84. In September 2005 the New Zealand AIDS Foundation, with new funding from the Ministry of Health, established the African Health Promotion Programme. This new programme is an adaptation and expansion of the already-existing Refugee Health Education Programme that has been working with refugee communities for some years, with the aim of preventing the spread of HIV and building support for those living with the virus. The programme was established to provide HIV/AIDS education and safer sex promotion; to promote voluntary HIV counselling and testing; to provide service providers working with African clients cultural support and information around sexual and reproductive health; and to provide initiatives to reduce HIV/AIDS stigma within the African refugee communities living in New Zealand. The Government reports that in March 2006 progressive implementation of the Universal Routine-Offer Antenatal HIV Screening Programme commenced. The implementation of the programme nationwide is expected to be completed before the end of the 2007/08 financial year. To date there has been a high uptake in testing, indicating that the HIV screen is acceptable to women. New Zealand acknowledges the progress that has been made over the past three years in mounting an effective response to HIV/AIDS in the Pacific region, which is the primary area of focus of New Zealand's International Aid and Development Agency (NZAID) but stresses that there is much more that needs to be done particularly in mobilizing leadership across all levels and sectors of society. NZAID has allocated around NZ\$ 19 million over three years for programmes to combat HIV/AIDS in the Pacific region.

15. In its response, the Government of the Syrian Arab Republic referred to a number of activities undertaken by its Ministry of Social Affairs and Labour, as well as the Ministry of Health. These activities include a focus on promoting awareness of HIV and its implications, with a particular emphasis on youth (especially in schools), women and those in detention and the media. The workshops involving individuals from groups vulnerable to infection have focused on prevention as well as reproductive health. Efforts are being made to ensure that voluntary counselling and testing services are available across the country, as well as access to free treatment (including access to medicines to prevent mother-to-child transmission of HIV).

16. The Government of Thailand reported that, while references to human rights are not prominent in its 2002-2006 National AIDS Plan, implementation of the Plan has been carried out across the country as far as possible without discrimination. Prevention, treatment and care

services are focused on equal access for vulnerable groups. Referring to its policy of universal health coverage, the Government stresses that every citizen has the right to antiretroviral treatment and social welfare. Children affected by HIV and AIDS benefit from a continuous process in follow-up and social support, and a preventive mother-to-child transmission programme has been developed. The strategy of the next National AIDS Plan will include management, implementation, human rights protection, monitoring, evaluation and research, which will be incorporated into all relevant partner organizations at national, provincial and community levels. Laws, policies and practices that still discriminate against people with HIV, or that violate their rights, will be reviewed in the light of human rights guarantees.

17. The contribution of the Government of Turkey referred to the country's universal access to primary health care in respect of HIV and sexually transmitted diseases. The third National Strategic AIDS Action Plan, adopted in June 2006, addresses mother-to-child transmission; life skills-based education for youth; substance addiction; and increased access to HIV/AIDS health services by groups at risk. These groups, including sex workers, injecting drug users, men who have sex with men and individuals in detention, are the focus of an HIV/AIDS prevention and support programme which aims at addressing HIV/AIDS from a human rights perspective, including the establishment of a legal framework for addressing the disease. The Government also stressed the importance of protecting the right to privacy of blood donors in the context of screening for HIV.

18. The Government of the Bolivarian Republic of Venezuela indicated that respect for human rights lies at the heart of its initiatives in responding to HIV and AIDS. It stressed the importance it attaches to working with civil society and to fulfilling its commitment under the General Assembly Special Session on HIV/AIDS (UNGASS) Declaration of Commitment. The National Strategic Plan for HIV/AIDS deals with prevention, treatment and management of the disease. The larger part of Venezuela's expanding budget for HIV and AIDS is committed to the universal and free provision of antiretroviral therapy, which to date includes over 500 children. Large-scale prevention campaigns include specific themes focused on vulnerable groups, such as youth and pregnant women. One programme focused on adolescents, is implemented through the school system and involves awareness-raising among students and parents, as well as training of teachers. The first stage of this programme reached over 270,000 students. A publication on HIV and human rights has been widely distributed in the country.

19. In its contribution, the Observer for the Holy See stressed that it does not recognize in resolution 2005/84 of the Commission on Human Rights, any attempt to promote the legalization of abortion or the use of drugs; to decriminalize prostitution; or to promote recognition of marriage as any other union than between a man and a woman. The contribution set out details of programmes undertaken or supported by the Roman Catholic Church, in particular in support of: universal access to treatment, care and support; fighting stigma and discrimination; promoting social reintegration; addressing the particular burden of the HIV pandemic on women and girls, and youth. The contribution of the Holy See referred to sexual abstinence and fidelity within marriage as effective HIV prevention strategies.



## II. CONTRIBUTIONS FROM INTERNATIONAL ORGANIZATIONS

20. In its contribution, the Food and Agriculture Organization of the United Nations (FAO) drew attention to its work aimed at securing the rights of women, children and vulnerable groups in the context of HIV and AIDS. FAO recognizes that food security and poverty alleviation cannot be achieved without the full and equal participation of women and men and recognition of their basic needs and rights. Access to adequate food is the most basic of human rights. Food security means access to adequate quantities of safe, acceptable and nutritious food for all people at all times. Poverty, food insecurity and livelihood vulnerability fuel the HIV epidemic, and may further exacerbate inequalities in ownership rights and access to agricultural inputs and natural resources. HIV/AIDS is both a determining factor of food security as well as a consequence of food and nutrition insecurity. Migration and the adoption of risky livelihood strategies in times of food insecurity increases vulnerability, with women and children particularly exposed.

21. As around half of the adults living with HIV and AIDS worldwide are women, and because women and girls are disproportionately affected by the epidemic, FAO includes a gender perspective in all its work in this area. The Convention on the Elimination of All Forms of Discrimination against Women is currently the most effective mechanism available to parties, due to its commitment to remove obstacles to women's basic human rights, as well as working towards equal access to, ownership of, and control over productive resources and services. In particular, article 14 of the Convention addresses the problems faced by rural women and seeks to ensure that appropriate measures are in place to eliminate discrimination against women and to ensure gender equality in rural areas. The FAO has been actively seeking to promote gender equality and reduce discrimination against women by developing guidelines and practical tools for applying socio-economic and gender analysis, in collaboration with other actors such as other United Nations agencies and civil society organizations.

22. Children are particularly vulnerable to the impact of the HIV/AIDS epidemic. When parents fall sick and die as a result of HIV/AIDS, their children are often marginalized and vital agricultural knowledge and life skills are lost, leaving them vulnerable to hunger, malnutrition and illness. In response to this crisis, FAO provides support to orphans and vulnerable children in sub-Saharan Africa, to improve their agricultural and life skills for livelihood support and food security. The FAO also seeks to instil a sense of gender equality and self-esteem in the children by facilitating learning about HIV and AIDS, while they also acquire new skills for farming, income-generation and nutrition.

23. The Joint United Nations Programme on HIV/AIDS (UNAIDS) based its contribution on the findings of more than 100 country and regional consultations that were convened in late 2005 and early 2006, with the support of UNAIDS, to identify barriers to moving towards universal access to HIV prevention, treatment, care and support. These country and regional consultations consistently reported that legal, social and cultural barriers are undermining access to interventions for those most at risk of HIV infection and most affected by AIDS. Violence against women, drug users, sex workers and men who have sex with men remains widespread. The consultations expressed significant concern that HIV-related human rights are not high enough among the priorities of national Governments, donors or human rights organizations.

24. Many regional and country consultations identified homophobia, gender inequalities and discrimination against people in vulnerable groups as major barriers. UNAIDS confirmed that the low status of women in many societies fuels the transmission of HIV and worsens its impact. The Africa regional consultation emphasized that scaling up towards universal access would not be possible on the continent without a central focus on the needs of women and girls. The Middle East and North Africa consultation reported that gender inequality, discriminatory laws, and stigma and discrimination were constraining AIDS programmes. During the country consultation in Pakistan, participants reported that gender discrimination was blocking access to health services. The Asia and Pacific consultation called attention to the fact that marriage and women's own fidelity are not enough to protect them against HIV infection. Women and girls do not have widespread access to HIV-protective methods they can easily afford, initiate and control. Female condoms are not yet widely accessible, and far greater urgency is required in the development of new prevention technologies such as microbicides.

25. Many consultations stressed that the development and enforcement of supportive laws and protection of human rights - including the rights of women and children - must remain priorities. The Asia and Pacific consultation called on Governments in the region to review legislation that is inconsistent with national AIDS-control policies. The need for new laws that protect people living with HIV and members of vulnerable groups, or the strengthening and enforcement of existing legislation, was noted in the country consultations in Bosnia and Herzegovina, the Dominican Republic, Ghana, the Democratic Republic of the Congo, Haiti, Madagascar, Nigeria, the Russian Federation, Senegal, Sierra Leone, Swaziland and the United Nations administered province of Kosovo.

26. UNAIDS reaffirmed the position that increasing the number of people who know their HIV status is critical for reaching more people in need of treatment, preventing mother-to-child transmission and providing intensive prevention services, especially for discordant couples. As such, access to testing is a human rights imperative. Civil society participants in national, regional and global consultations emphasized that HIV testing must be informed and voluntary. Insufficient access to confidential HIV testing was cited in consultations in Albania, Bangladesh, Botswana, Cambodia, Ethiopia, Gabon, Papua New Guinea, Moldova, Romania, Somalia, Suriname, The former Yugoslav Republic of Macedonia, Trinidad and Tobago and the United Nations administered province of Kosovo. Some high-burden countries reported that they now routinely offer HIV testing to patients in all clinical and community-based health-service settings.

27. Numerous consultations identified user fees for health and education as an obstacle restricting access, especially for people living below the poverty line. Even small user fees can impose a significant financial burden on individuals and families and undermine adherence to HIV-treatment regimens and the use of prevention commodities. Countries such as Botswana, Brazil, Ethiopia, Senegal, Thailand, the United Republic of Tanzania and Zambia have all adjusted health-financing policies to eliminate user fees for HIV treatment at the point of service delivery. The country consultation in China applauded the Government's new "Four Frees and One Care" policy, which calls for free antiretroviral therapy for rural residents or people with financial difficulties living in urban areas; free voluntary counselling and testing; free services to prevent mother-to-child transmission and HIV testing of newborn babies; free schooling for children orphaned by AIDS; and care and economic assistance for affected households.

28. UNAIDS outlined a number of specific recommendations arising from the consultations, which were identified as the major requirements for overcoming obstacles to moving towards universal access, and recommended specific actions to help meet those requirements. Among the recommendations was the following:

In order to protect and promote the AIDS-related human rights of people living with HIV, women and children, and people in vulnerable groups, and ensure that they are centrally involved in all aspects of the response:

- (a) National Governments and international donors should prioritize funding for social mobilization campaigns in local languages, to protect and promote AIDS-related rights and eliminate HIV-associated stigma and discrimination;
- (b) National Governments should, where needed, establish and enforce legislation and policies to eliminate AIDS-associated stigma and discrimination against people living with HIV, injecting drug users, sex workers, men who have sex with men, and other vulnerable populations;
- (c) National Governments and international donors should increase funding for networks and organizations of people living with HIV to provide HIV prevention and treatment literacy campaigns in local languages, aimed at increasing awareness and improving the delivery of HIV prevention and treatment;
- (d) Countries should promote, through global and national campaigns, the idea that each person should know his or her HIV status and have access to AIDS information, counselling and related services, in a social and legal environment that is supportive and safe for confidential testing and voluntary disclosure of HIV status;
- (e) Countries should promote equitable access to AIDS interventions by reviewing their health system policies to reduce or eliminate user fees for AIDS-related prevention, treatment, care and support.

29. The Office of the United Nations High Commissioner for Human Rights (OHCHR) provided information on its various activities in the area of HIV/AIDS related to resolution 2005/84. OHCHR drew attention to the printing and distribution in 2006 of a consolidated version of the International Guidelines on HIV/AIDS and Human Rights. The consolidated version, which includes revised Guideline 6 on prevention, treatment, care and support, was launched on the tenth anniversary of the original drafting of the Guidelines and just prior to the XVI International AIDS Conference (AIDS 2006). OHCHR continues to promote respect for human rights in responding to the challenge of HIV and AIDS. It does this through mainstreaming knowledge of HIV and related issues across the international human rights mechanisms, including briefings provided to treaty bodies on countries presenting periodic reports. Conversely, the Office works to mainstream knowledge of human rights through actors working in the area of HIV and AIDS, particularly United Nations partners. A number of joint activities are undertaken with UNAIDS, and increasingly, OHCHR supports member States and

United Nations partners with projects at the national and subnational country level, aimed in particular at strengthening human rights protection for individuals and groups vulnerable to infection and to discrimination.

30. In its contribution, the United Nations Department of Economic and Social Affairs referred to its work on programmes relating to HIV and the specific groups of women, children, youth, older persons, families and indigenous peoples. In respect of women, the Department outlined developments in the work of two bodies it services: the Committee on the Elimination of All Forms of Discrimination against Women and the Commission on the Status of Women. The Commission decided at its fiftieth session in 2006 to consider the theme: "The equal sharing of responsibilities between women and men, including caregiving, in the context of HIV/AIDS" at its fifty-third session in 2009. The Division for the Advancement of Women within the Department will be responsible for the preparations for the fifty-third session, which will include the organization of an expert group meeting on the topic in 2008 and the preparation of the report of the expert group meeting to the Commission.

31. The Department also referred to the impact of HIV/AIDS on older persons. The Madrid International Plan of Action on Ageing (2002) calls for improvement in the assessment of the impact of HIV/AIDS on the health of older persons, both those infected and also those who act as caregivers for infected family members and/or survivors. The reliance on comparative data for the 15-49 age group has contributed to myths and misconceptions about older people's sexuality and susceptibility to HIV infection. However, a significant improvement could be noted in this area, as UNAIDS committed itself to disaggregate prevalence data for people over 50. The 2006 Report on the Global AIDS Epidemic provided such data for two countries.

32. HIV/AIDS takes a profound toll on families. The United Nations Programme on the Family, within the Department of Economic and Social Affairs, in accordance with the focus on families, family resilience and family policy of the tenth anniversary of the International Year of the Family (2004), has given particular emphasis to the area of HIV/AIDS and the family. In particular, the Programme organized two regional policy workshops on HIV/AIDS and family well-being for South and South-East Asia (2005) and for Africa (2004). The purpose of the two workshops was to bring together relevant actors to examine the impact of HIV/AIDS on families in the region; to consider how families and communities are coping with the disease; and to contribute to the development of a strategic policy framework to assist Governments to strengthen the capacity of families and family networks to cope. The Department also published a study in 2005 on the impact of HIV/AIDS on families, entitled *AIDS and the Family: Policy Options for a Crisis in Family Capital*.

33. The Department also reported on the activities of the United Nations Permanent Forum on Indigenous Issues, which it services. Particular attention is drawn to the priority placed by the Forum on HIV data collection and disaggregation.

34. Information provided by the Secretariat of the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) focused on population groups that live on the margins of society and others perceived as high-risk groups (on the basis of behaviour, race,

class, ethnicity, sexual orientation, age, gender, geography or social characteristics). ESCAP recognized that discrimination prevents equitable access to HIV-related goods and services for prevention and care, including the drugs necessary for HIV/AIDS care, and the development of vaccines to respond to the specific needs of all populations everywhere.

35. ESCAP's work in promoting HIV-related human rights of affected and vulnerable groups is threefold: (a) regional cooperation for a more effective response to the HIV/AIDS epidemic; (b) prevention programmes for vulnerable or at-risk groups; and (c) policy advocacy. Vulnerable groups around which specific activities have been undertaken include young people (especially girls), truck drivers and their families, women, and youth. Thematic focuses include drug use, sexual and reproductive health, and HIV-prevention awareness. One example is the project launched in May 2005 entitled Strengthening Life Skills for Positive Youth Behaviour. This project builds on the experiences of earlier projects addressing HIV/AIDS and substance abuse issues in Cambodia, China, the Philippines and Sri Lanka. The target group of this project is primarily hard to reach out-of-school youth. The projects seek to provide increased access to information, skills, services and treatment on sexual health and HIV/AIDS care issues, enabling them to make informed decisions on sexual health and HIV/AIDS. There are very few existing programmes that can be accessed by these population groups, especially young people, without fear, stigma and shame. Even fewer are designed as in-depth efforts to change behaviour, challenging gender imbalances, which are the root cause of women's vulnerability.

36. The United Nations Economic and Social Commission for Western Asia (ESCWA) reported that social inequities in the Western Asian region contribute strongly to HIV vulnerability. In particular, poverty, limited access to prevention information and services, sex discrimination, illiteracy, rising population mobility and conflict are increasingly fuelling the spread of the disease. ESCWA advocates social equity with and through its programmes and policies designed to help Member States respond to HIV and AIDS. This includes promoting equal access to information, health care and education. To this end, the Commission is currently formulating a rights-based regional framework for social policy intervention.

37. A contribution received from the United Nations Educational, Scientific and Cultural Organization (UNESCO) underlined the Organization's commitment, set out in its strategy for responding to HIV and AIDS, to addressing the challenge of HIV/AIDS from a human rights perspective. The contribution outlined UNESCO's work in relation to HIV and women, youth, injecting drug users (IDU), men who have sex with men (MSM) and migrants, as well as the issue of racism. UNESCO is of the opinion that working with key populations, including IDU, MSM, sex workers, women and other vulnerable populations, is essential in order to have an effective response to HIV and AIDS. It encourages United Nations bodies and agencies to give specific attention to these and other groups and individuals, such as displaced people, communities in conflict, and post-conflict countries.

38. In respect of women, UNESCO provided the example of its Moscow office which, in collaboration with the United Nations Population Fund (UNFPA) and Community of People Living with HIV/AIDS, completed a survey to analyse public opinion towards the reproductive

rights of women living with HIV and AIDS in selected regions of the Russian Federation. The Youth Initiative on HIV/AIDS and Human Rights, launched by UNESCO and the UNAIDS Secretariat, aims to empower young people (student organizations, youth NGOs, peer educators) to take action in their communities against the spread of HIV and the stigma and discrimination related to it. The initiative employs a participatory approach and brings together training and action, focusing on youth, human rights, HIV and AIDS. Working on the intersection between HIV and racism, UNESCO's integrated strategy to combat racism, discrimination, xenophobia and related intolerance also promotes action to counter HIV-related stigma and discrimination which build upon and reinforce other existing forms of discrimination related to sexuality, gender, race and poverty. In respect of IDU, UNESCO believes that unless we address the educational, sociocultural and economic needs of people who are vulnerable to drug use, then prevention and treatment programmes have limited impact on the reduction of risk behaviours. UNESCO supports a number of programmes on school health and drug-misuse awareness, as well as programmes for out-of-school youth, utilizing non-formal education to overcome vulnerability to HIV infection and reduce the harm related to drug misuse. Similarly, MSM are one of the most affected groups in the global HIV epidemic, and in several countries HIV and sexually transmitted infection (STI) rates among MSM continue to rise. UNESCO has actively worked on MSM and HIV and AIDS in South-East Asia, where interventions have included telephone hotlines; peer education projects; Internet-based programmes; a project for male bar-based sex workers; a project encouraging the use of condoms in male saunas; the creation of national workshops on MSM; and a regional training workshop for young MSM peer educators.

39. The World Food Programme (WFP) raised the issue of the link between human rights, HIV/AIDS and food security. WFP noted evidence that poor households that are affected by HIV and AIDS are more likely to have difficulty maintaining their food security. The consequent vulnerability to malnutrition exacerbates the negative effects of HIV and AIDS, leading to a further deterioration in nutritional status. Family members may be forced to adopt high-risk behaviours just to put food on the table. WFP stressed the need for the Human Rights Council to include in its consideration of human rights and HIV/AIDS a recognition that adequate food and good nutrition are among the most immediate and critical needs of people living with HIV.

40. The World Trade Organization (WTO) reported that it does not have any specific activity or programme to deal with HIV-related human rights of women, children and vulnerable groups. WTO drew attention to paragraph 6 of the Doha Declaration on the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement and Public Health, which allows for compulsory licences to be issued in certain circumstances. In light of the difficulties presented by this scheme for countries with insufficient or no manufacturing capacity in the pharmaceutical sector, and following the subsequent decision of the WTO General Council on implementation of that provision, the General Council adopted a Protocol amending the TRIPS Agreement in December 2005, which has been submitted to members of the Organization for acceptance by 1 December 2007.

### III. CONTRIBUTIONS FROM NON-GOVERNMENTAL ORGANIZATIONS

41. In its contribution, the Canadian HIV/AIDS Legal Network raised a number of specific issues. The first is comprehensive HIV/AIDS services in prison in Canada. The Network notes that it is well-documented that there is extensive use of illicit drugs in prisons in Canada and other countries. Studies have shown that HIV prevalence among incarcerated persons in Canada is many times higher than in the non-incarcerated population. The Network draws attention to the fact that there has been no provision of sterile syringes in Canadian prisons at federal or provincial level, despite a 2004 call by the federal Minister of Health to the federal corrections authorities to launch pilot sterile syringe programmes and for guidelines to be developed for those pilot programmes. A number of European countries, including Spain, Germany, Switzerland and Moldova, as well as Belarus, Kyrgyzstan, and the Islamic Republic of Iran, have prison needle-exchange programmes that have been shown to lower the risk of HIV and hepatitis C transmission in prison, without encouraging initiation of drug use or posing a threat to prison guards. The Network notes that in countries where these programmes are well-established, prison guards themselves appreciate that they are protected by these programmes, since it is less likely, with controlled exchange of syringes, that they will be pierced by contaminated injection equipment during pat-downs or searches of cells. Sterile syringe programmes are available to Canadians outside prisons and the Network calls on the Government to respect and fulfil the right of prisoners to the same essential HIV-prevention service. The Network also raised the issue of government funding and support to mechanisms and organizations which have supported the human rights of vulnerable populations in the face of the epidemic, in particular women, men who have sex with men and transgender persons. The Network also raised issues relating to the human rights of aboriginal peoples in Canada, who are disproportionately affected by HIV/AIDS. In 2005, they represented about 3.3 per cent of the Canadian population but over 7.5 per cent of new HIV infections. About half of new HIV infections among aboriginal persons in Canada are among women. Aboriginal populations in Canada face discrimination of many kinds and social and economic marginalization, all of which are barriers to effective responses to HIV/AIDS in aboriginal communities. The Network draws attention to a governmental pledge to spend Can\$ 5.1 billion over five years on aboriginal communities, to strengthen housing, health, education and other basic services, among other things. According to the Network, the Government of Canada has not as yet allocated the pledged funds.

42. The Center for Women's Global Leadership contributed a detailed report drawing on the experience of a number of NGOs.<sup>1</sup> The report addresses the issue of gender-based violence and provides an analysis and a number of specific proposals around five propositions:

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<sup>1</sup> Action Aid International (South Africa), Action Canada for Population and Development/ACPD (Canada), Center for Health and Gender Equity/CHANGE (US), Center for Reproductive Rights (US), Fundación para Estudio e Investigación de la Mujer/FEIM (Argentina), Gestos-Soropositividade, Comunicação e Gênero (Brazil), International AIDS Women's Caucus, International Women's Health Coalition/IWHC (US), Latin American and Caribbean Women's Health Network/LACWHN.

(a) It is important to understand the intersection of HIV/AIDS and gender-based violence. Gender-based violence is rooted in gender inequality and has a lethal dynamic by itself and in combination with HIV/AIDS;

(b) Differences in race, ethnicity, language, sexuality, age, and many other social factors have a significant and differential impact on the effect of both gender-based violence and HIV/AIDS on the lives of women and girls in various communities;

(c) There is a need to recognize a number of the key obstacles and challenges to comprehensively addressing the intersection of gender-based violence and HIV/AIDS, and the barrier this presents to effective prevention, services and advocacy;

(d) There is a need to emphasize the importance of a comprehensive gender and human rights-sensitive response to both HIV/AIDS and gender-based violence. The contribution provides some of the key elements of such an approach. The potentially heightened risk of violence against women and girls engendered by strategies such as “provider initiated” testing practices that are not fully gender-sensitive and human rights-based underscores the urgency of globalizing such a comprehensive approach;

(e) A number of promising practices exist in several countries in addressing HIV and gender-based violence.

43. Among the proposals made by the Center were that the Human Rights Council, in its universal periodic reviews of the human rights records of Member States, should:

(a) Ascertain whether Governments have eliminated discriminatory laws and policies that restrict women’s rights and the rights of people affected by HIV/AIDS and passed and implemented laws promoting the human rights of all;

(b) Track whether Governments have passed and implemented laws and policies that promote and protect the human rights of women, HIV-positive people in general and women specifically, those affected by HIV/AIDS, and activists;

(c) Pay particular attention to Governments’ efforts to address and reduce stigma and discrimination against survivors of gender-based violence and people living with HIV.

44. The contribution of Plan International centred on the rights of children in the face of the epidemic, and focused on the child’s right to express views and be heard, as provided for in article 12 of the Convention on the Rights of the Child. The organization stressed that, while preventing HIV infection is in everybody’s interest, children will ultimately be those most affected by the epidemic in their communities. Furthermore, their attitudes and behaviour in relation to sex, gender, and drugs will shape the future of these local epidemics. Children are therefore the key actors and primary interest group for HIV prevention, just as people living with HIV are the key actors and primary interest group for HIV treatment and care. Attention is drawn to paragraph 117 of the International Guidelines on HIV/AIDS and Human Rights, which state that “the rights of children to be actors in their own development and to express opinions and have them taken into account in making decisions about their lives should empower children to be involved in the design and implementation of HIV-related programmes for children”. The



consultations undertaken by Plan International with children's groups in the 65 countries where it works have elicited two major findings. First, many HIV-prevention programmes for children and adolescents are conceived and formulated without the meaningful involvement of children. Child participation in these programmes often takes the form of co-option after the objectives have been set and the programme has been designed. Second, children and adolescents, when given the tools, methodologies, and latitude of action, have the capacity to identify the issues that place them at risk for HIV infection, and to contribute significantly to the formulation of appropriate responses. The organization suggested that the Human Rights Council reaffirm that children and adolescents, as the main interest group for HIV prevention, be consulted at all stages of the development, implementation, and evaluation of programmes and policies for HIV prevention that target young people.

45. HIV-Sweden, the Swedish Association for HIV-Positive People reported on its work with people living with HIV in Sweden, in particular its awareness-raising activities. Among the key issues for the Association are: the right to participation of people living with HIV; supporting syringe-exchange programmes in the country; advocating improvements in the care and treatment of HIV-positive asylum-seekers and undocumented immigrants; support to people living with HIV, who are being prosecuted for spreading the virus; working to oppose travel and residence restrictions for people living with HIV; promoting the right of all to found a family, in particular through promoting increased access to methods that substantially reduce the risks of transfer of HIV for couples where only the man is HIV-positive; and working to overcome repressive features of the Swedish Communicable Disease Act, including the duty of notification and compulsory isolation.

#### IV. CONCLUSIONS

46. **The contributions received from various actors illustrate not only the wide range of challenges facing the international community in dealing with the human rights aspects of HIV/AIDS, but also the diversity of the initiatives which have been undertaken with positive results. All contributors stressed that respect for human rights is central to overcoming the disease and its effects.**

47. **Among the conclusions put forward in the contributions are the following. First, those vulnerable to HIV infection or to human rights violations related to the disease include women, children, youth, commercial sex workers, men who have sex with men, injecting drug users, migrants, and indigenous peoples. There is an urgent need to address the human rights situation of women, in particular violence against women, their sexual and reproductive health and their economic independence. Similarly the contributions indicated that the rights of children remain widely violated in the area of HIV and AIDS, both for children living with the disease (for example in access to treatment and drugs able to be ingested by children) and for those otherwise affected by the disease, above all those orphaned by HIV/AIDS.**

48. **In dealing with the human rights of groups vulnerable to infection and human rights violations, contributions underlined the need for (and current lack of) statistical data on the impact of the disease, particularly on vulnerable groups, and stressed that this constrains the ability of Governments to protect the rights of individuals. A related point**

**was made with regard to the participation of people living with, or affected by, HIV/AIDS in the construction, implementation and monitoring of initiatives, which is an important factor for the success of these initiatives. A number of contributions highlighted the provision of HIV-testing services as being central to ensuring that people with HIV learn their status and receive treatment. They concluded that, while testing is to be encouraged, it should be carried out in accordance with human rights guarantees of genuine informed consent (including voluntariness) and confidentiality. Finally, the contributions reaffirmed the point made in resolution 2005/84 that, even after decades of awareness-raising initiatives aimed at changing attitudes, HIV-related stigma and discrimination remains one of the greatest obstacles to an effective response to the disease.**

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