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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Belgium,* Bosnia and Herzegovina,* Brazil, Bulgaria, Chile,* Colombia,* Croatia,* Cyprus,* Czechia, Ecuador,* Georgia,* Greece,* Ireland,* Latvia,* Malta,* Monaco,* Montenegro,* Mozambique,* Namibia, North Macedonia,* Paraguay,* Peru,* Portugal,* Slovakia,* Slovenia* and Thailand*: draft resolution

47/... Human rights in the context of HIV and AIDS

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights, and all relevant international human rights treaties,

Reaffirming also that all human beings are born free and equal in dignity and rights, and recognizing that these rights derive from the inherent dignity of the human person,

Reaffirming further that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing,

Recalling Human Rights Council resolutions 12/27 of 2 October 2009, 30/8 of 1 October 2015, 32/15 of 1 July 2016, 35/23 of 23 June 2017, 36/13 of 28 September 2017 and 38/8 of 5 July 2018, and other relevant resolutions of the Council and the Commission on Human Rights,

Reaffirming the Political Declarations on HIV and AIDS adopted by the General Assembly on 2 June 2006, 10 June 2011, 8 June 2016 and 9 June 2021, and the Declaration of Commitment on HIV/AIDS adopted by the Assembly on 27 June 2001,

Recalling the International Guidelines on HIV/AIDS and Human Rights, annexed to Commission on Human Rights resolution 1997/33 of 11 April 1997, which provide guidance on ensuring respect for and the protection and fulfilment of all human rights in the context of HIV,

Recalling also resolution 60/2 on women, the girl child and HIV and AIDS, adopted by the Commission on the Status of Women on 24 March 2016 and reaffirmed in its resolution 64/2, adopted on 9 March 2020,

Recalling further the 2017 Social Forum, on the promotion and protection of human rights in the context of the HIV epidemic and other communicable diseases and epidemics,

* State not a member of the Human Rights Council.



and the report thereon,¹ and welcoming the 2019 consultation on human rights in the response to HIV, held in accordance with Human Rights Council resolution 38/8, and the report thereon,²

Recognizing the leading role of the Joint United Nations Programme on HIV/AIDS and all of its co-sponsor organizations, such as the World Health Organization, in the global effort to end AIDS by 2030,

Reaffirming General Assembly resolution 70/1 of 25 September 2015, entitled “Transforming our world: the 2030 Agenda for Sustainable Development”, in which the Assembly adopted the outcome document of the United Nations summit for the adoption of the post-2015 development agenda and pledged that no one would be left behind,

Welcoming the Sustainable Development Goals, including Goal 3 on ensuring healthy lives and promoting well-being for all at all ages, and its specific and interlinked targets, particularly target 3.3, which envisages ending by 2030 the epidemics of AIDS, tuberculosis, malaria and neglected tropical diseases and combating hepatitis, waterborne diseases and other communicable diseases, as well as all other health-related Goals,

Recognizing that the 2030 Agenda for Sustainable Development is guided by the purposes and principles of the Charter of the United Nations, including full respect for international law, and is grounded in the Universal Declaration of Human Rights, international human rights treaties, the United Nations Millennium Declaration, the 2005 World Summit Outcome, the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action, and is informed by other instruments, such as the Declaration on the Right to Development,

Recognizing also that the implementation of the 2030 Agenda must be consistent with a State’s obligations under international human rights law, including ensuring respect for and the protection and fulfilment of all human rights and fundamental freedoms for all,

Reaffirming that the availability, accessibility, acceptability, affordability and quality of combination HIV prevention and HIV testing, diagnosis, treatment, care, support, health and social services, including sexual and reproductive health-care services, information and education, delivered without stigma, violence or discrimination, are essential elements in achieving the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Recognizing that universal health coverage anchored in respect for and the protection and fulfilment of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is essential in the response to HIV and AIDS,

Reaffirming that the full realization of all human rights and fundamental freedoms for all is an essential element in the global response to the HIV epidemic, including in the areas of prevention, testing, diagnosis, treatment, care and support, and that such a response reduces a person’s vulnerability to HIV,

Recognizing that the coronavirus disease (COVID-19) pandemic is one of the greatest global challenges in world history, and noting with deep concern its impact on health, including on the response to AIDS, especially on access to medicines, treatment and diagnostics for HIV/AIDS, and the loss of life, the effect on mental health and well-being, and the negative impact on global humanitarian needs and on the enjoyment of human rights across all spheres of society, including the impact on livelihoods, food security and nutrition and education, the exacerbation of poverty and hunger, disruption to economies, trade, societies and environments, and the exacerbation of economic and social inequalities within and among countries, which is reversing hard-won development gains and hampering progress towards achieving the 2030 Agenda and all its Goals and targets,

Recognizing also that addressing the holistic needs and rights of persons living with, at risk of or affected by HIV throughout the course of their life will require close collaboration with efforts to eradicate poverty in all its forms and dimensions, including extreme poverty,

¹ A/HRC/37/74.

² A/HRC/41/27.

to end hunger everywhere, to improve food and nutrition security and access to free, non-discriminatory primary and secondary education, to promote healthy lives and well-being, to provide access to HIV-sensitive social protection for all, including for children, to reduce inequalities within and among countries, to achieve gender equality and the empowerment of all women and girls, to provide for decent work and economic empowerment and to promote healthy cities, stable housing and just and inclusive societies for all,

Welcoming the report of the Secretary-General on addressing inequalities and getting back on track to end AIDS by 2030,³ and the report of the Joint United Nations Programme on HIV/AIDS entitled *End Inequalities. End AIDS. Global AIDS strategy 2021–2026*,

Mindful of the importance of national, regional and international legal environments ensuring universal access to HIV-related prevention, diagnosis, treatment, care and support, especially for key populations,

Recognizing that combination HIV prevention includes the promotion and distribution of condoms, pre-exposure prophylaxis, post-exposure prophylaxis, voluntary medical male circumcision, harm reduction, in accordance with national legislation, sexual and reproductive health-care services, including screening for and treatment of sexually transmitted infections, enabling legal and policy environments and full access to comprehensive information and education,

Welcoming the recent reduction in the rate of new HIV infections and AIDS-related deaths achieved in some regions, while noting with continued concern that progress against the HIV epidemic is uneven across regions, countries and populations, that in some parts of the world new HIV infections are increasing and access to HIV-related prevention, diagnosis, treatment, care and support remains limited, and that those most in need of HIV services continue to be left behind,

Noting with grave concern that, in spite of such progress in the response to the HIV epidemic, approximately 37.6 million people are living with HIV globally, 16 per cent of people living with HIV are unaware of their HIV status, and an estimated 10.1 million people living with HIV still do not have access to treatment, owing in part to inequalities, multiple and intersecting forms of discrimination and structural barriers,

Concerned that, despite the availability of the knowledge and tools necessary to prevent every new HIV infection and each AIDS-related death, the international community failed to meet the 2020 targets set out in the Political Declaration on HIV and AIDS adopted by the General Assembly in 2016 and that inequalities in multiple forms and dimensions contributed to that failure, and noting that these inequalities, while different in different national contexts, can include those based on HIV status, gender, race, ethnicity, disability, age, income level, education, occupation, geographic disparities, migratory status and incarceration and often overlap to compound each other,

Recognizing that women, adolescents and girls are more vulnerable to HIV infection and that they bear a disproportionate burden of the impact of the HIV and AIDS epidemic, including care and support for those living with or affected by HIV and AIDS, and that this burden negatively affects girls by depriving them of their childhood and diminishing their opportunities to receive an education, often resulting in their having to head households and increasing their vulnerability to the worst forms of child labour and to sexual exploitation,

Concerned at the continuing high prevalence of HIV among key populations, who are more likely to be exposed to HIV or to transmit it,

Noting that, depending on the epidemiological and social context of a particular country, other populations may be at elevated risk of HIV, including women and adolescent girls and their male partners, young people, children, persons with disabilities, ethnic and racial minorities, indigenous peoples, local communities, people living in poverty, migrants, refugees, internally displaced persons and people in humanitarian emergencies and conflict and post-conflict situations,

³ A/75/836.

Concerned that stigma, multiple and intersecting forms of discrimination, violence and abuse against all persons living with, presumed to be living with, at risk of or affected by HIV, including key populations, and restrictive and discriminatory laws and practices that target those persons can hinder access to HIV services and increase risks of infection with HIV, perpetuating the global AIDS epidemic,

Recognizing the critical role and space of civil society, including communities, affected populations and community-led and community-based organizations, and the active involvement of persons living with, at risk of or affected by HIV and other relevant civil society, academic and private sector stakeholders, as a catalyst for rights-based and evidence-informed responses to HIV, and recognizing the long-standing contribution of these groups to the global response to AIDS,

Recognizing also the need to tackle health inequities and inequalities within and among countries through political commitment, international cooperation and policies, including those that address the social, economic and environmental determinants of health,

Reaffirming the right to use, to the fullest extent, the provisions contained in the World Trade Organization Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS Agreement), which provides flexibilities for the protection of public health and promotes access to medicines for all, in particular for developing countries, and in the Doha Declaration on the TRIPS Agreement and Public Health, which recognizes that intellectual property protection is important for the development of new medicines and also recognizes the concerns about its effects on prices,

1. *Affirms* that respect for and the protection and fulfilment of human rights in the context of HIV, including universal access to HIV-related prevention, diagnosis, treatment, care and support, are an essential element in achieving the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and in ending AIDS;

2. *Urges* States to take all the steps necessary to meet the commitments made in the Political Declaration on HIV and AIDS: Ending Inequalities and Getting on Track to End AIDS by 2030, adopted by the General Assembly in its resolution 75/284 of 8 June 2021;

3. *Also urges* States to end all inequalities and human rights violations and abuses faced by persons living with, at risk of or affected by HIV, and by communities, and to end the inequalities within and among countries that are barriers to ending AIDS;

4. *Calls upon* all States and relevant United Nations funds, programmes and specialized agencies, and international and regional intergovernmental and non-governmental organizations, to continue to take all steps necessary to ensure respect for and the protection and fulfilment of all human rights and to prevent and eliminate stigma, discrimination, violence and abuse in the context of HIV as an essential part of efforts to achieve the goal of universal access to HIV prevention, diagnosis, treatment, care and support;

5. *Urges* States to accelerate the integration of HIV services into universal health coverage and resilient health and social protection systems, and to ensure full and unimpeded access for all persons living with, presumed to be living with, at risk of or affected by HIV, including key populations, to HIV prevention, diagnosis, treatment, care and support, in a public health environment free from discrimination, harassment or persecution against those seeking HIV-related services, while respecting and protecting their right to privacy, confidentiality and free and informed consent;

6. *Also urges* States to put in place societal enablers, including enabling laws, policies, public education campaigns and anti-stigma training for health-care workers and law enforcement officers that dispel the stigma and discrimination that still surrounds HIV;

7. *Further urges* States to bring their laws, policies and practices, including their strategies for implementing the HIV- and other health-related Sustainable Development Goals, fully into compliance with their obligations under international human rights law, and to review or repeal those that are discriminatory or that adversely affect the successful, effective and equitable delivery of, and access to, HIV prevention, diagnosis, treatment, care

and support programmes for all persons living with, presumed to be living with, at risk of or affected by HIV, including key populations;

8. *Urges* States to tackle discriminatory attitudes and policies towards persons living with, presumed to be living with, at risk of or affected by HIV, including those co-infected by tuberculosis, including by leveraging the potential of “Undetectable = Untransmissible (U = U)”⁴, and to ensure their access to prevention, diagnosis, treatment, care and support services;

9. *Calls upon* States to end impunity for human rights violations and abuses against persons living with, at risk of or affected by HIV by meaningfully engaging and ensuring access to justice for them, providing legal literacy programmes, increasing their access to legal support and representation, and expanding sensitization training for judges, law enforcement officers, health-care workers, social workers and other duty bearers;

10. *Welcomes and encourages* regional efforts to set ambitious targets and design and implement strategies to accelerate the response to end AIDS;

11. *Calls upon* States, in the context of HIV prevention, diagnosis, treatment, care and support, to provide human rights education and training for health-care workers, the police, law enforcement officers and prison staff, and other relevant professions, with a special focus on non-discrimination, free and informed consent and respect for the will and preferences of all, confidentiality and privacy, and non-harassment, so as to allow outreach and other service activities and to exchange best practices in this regard;

12. *Stresses* that the lack of respect for and of protection and fulfilment of all the human rights of all women and girls and their sexual and reproductive health and reproductive rights in accordance with the Programme of Action of the International Conference on Population and Development, the Beijing Declaration and Platform for Action and the outcome documents of their review conferences, and of their enjoyment of the right to the highest attainable standard of physical and mental health, aggravates the impact of the epidemic among them and increases their vulnerability;

13. *Urges* States to eliminate all forms of sexual and gender-based violence, including intimate partner violence, by adopting and enforcing laws, changing gender stereotypes and negative social norms, perceptions and practices, and providing tailored services that address multiple and intersecting forms of discrimination and violence faced by women living with, at risk of or affected by HIV;

14. *Calls upon* States to address the inequities and vulnerabilities faced by children affected by or living with HIV, providing those children and their families with social protection, support and rehabilitation, including social and psychological rehabilitation and care, paediatric services and medicines, free from stigma and discrimination, and intensifying efforts to eliminate vertical transmission and to develop and provide early diagnosis tools, child-friendly medicine combinations and new treatments for children, particularly for infants living in resource-limited settings, and building, where needed, and supporting social security systems that protect them;

15. *Urges* States to address the specific needs of adolescents and young people, especially girls and young women, in the response to HIV as a key element in efforts to achieve an AIDS-free generation, to develop accessible, available and affordable primary health-care services of high quality, including sexual and reproductive health services, as well as education programmes on sexual and reproductive health, including those related to sexually transmitted infections, and to strengthen efforts in this regard, including by removing obstacles, such as age of consent laws, to access for adolescents and young people to HIV-related and sexual and reproductive health services and by ensuring the active involvement of adolescents and young people living with or affected by HIV in the response;

16. *Calls upon* States to accelerate efforts to scale up scientifically accurate, age-appropriate education on sexual and reproductive health, relevant to cultural contexts, that provides adolescent girls and boys and young women and men, in and out of school,

⁴ General Assembly resolution 75/284, annex, para. 39.

consistent with their evolving capacities, with information on sexual and reproductive health, sexuality and comprehensive HIV prevention, gender equality and women's empowerment, human rights, and physical, psychological and pubertal development, to enable them to build self-esteem and risk reduction skills and to empower them in their decision-making, communication and development of respectful relationships, in order to enable them to protect themselves from HIV infection;

17. *Recalls* that the multiple or aggravated forms of discrimination, stigma, violence and abuse often faced by persons living with, presumed to be living with or affected by HIV and by members of key populations have negative consequences for their enjoyment of the highest attainable standard of mental health;

18. *Emphasizes* the need to take into account the human rights and public health dimensions of the world drug problem, in accordance with the operational recommendations of the outcome document of the thirtieth special session of the General Assembly;

19. *Encourages* the exchange, among countries and regions, of information, research, evidence, best practices and experiences, and subregional, regional, interregional and global cooperation and coordination, with a view to implementing measures and meeting commitments relating to the global response to HIV and AIDS, in particular the commitments contained in the Political Declaration on HIV and AIDS adopted by the General Assembly in 2021, with developed countries and those in a position to do so taking the lead to facilitate the voluntary transfer of financial resources and technology on mutually agreed terms and promote capacity-building where necessary;

20. *Calls upon* States to take all the measures necessary to prevent, diagnose and treat HIV and its co-infections and comorbidities, and to ensure access to safe, effective and affordable medicines, health technologies, diagnosis and treatment for all, without discrimination, in the context of epidemics such as those of HIV and AIDS, which is fundamental to the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

21. *Recognizes* the need to scale up national, regional and international efforts, including by increasing investments, funding, official development assistance, and technology transfer on mutually agreed terms, to reduce the rate of new HIV infections and AIDS-related deaths, and to maintain and expand the provision of treatment to persons living with HIV, in order to avoid the epidemic rebounding in some countries, which may not reach the ambitious, time-bound targets and commitments already set, including the Joint United Nations Programme on HIV/AIDS 95-95-95 targets on testing, treatment and viral suppression and 10-10-10 targets on societal enablers, including protection of human rights, reduction of stigma and discrimination and law reform, by 2025, and the target of ending the AIDS epidemic by 2030;

22. *Urges* States to break the cycles of HIV transmission by ensuring that all people receive adequate HIV prevention, diagnosis, treatment, care and support throughout their life cycles, including specialized care for HIV and other chronic conditions linked to ageing, response to drug-resistant strains of HIV, and resistance to antiretrovirals as well as antimicrobial resistance, and, in this context, to establish effective systems for monitoring, preventing and responding to the emergence of drug-resistant strains of HIV and antimicrobial resistance;

23. *Also urges* States to address the multiple and intersecting forms of discrimination and the specific health-care needs experienced by migrant and mobile populations, and by refugees and crisis-affected populations, in the context of HIV and to eliminate stigma, discrimination and violence, as well as to review policies related to restrictions on entry on the basis of HIV status with a view to eliminating such restrictions and the return of people on the basis of their HIV status, and to support their access to HIV prevention, diagnosis, treatment, care and support;

24. *Further urges* States to ensure access to and the use of the full range of HIV interventions, including by tailoring combination HIV prevention and HIV diagnosis, treatment, care and outreach services to meet the diverse needs of key populations and all persons living with HIV, including in prisons and other custodial settings;

25. *Urges* States to accelerate efforts to collect, use and share granular data, as applicable, that are disaggregated by income, sex, mode of transmission, age, race, ethnicity, migratory status, disability, marital status, geographic location and other characteristics relevant in national contexts in a manner that fully respects confidentiality and the human rights of persons living with, at risk of or affected by HIV and other beneficiaries, and strengthen national capacity to collect, use and analyse such data, including through technical, financial and capacity-building support for developing countries, including least developed countries, landlocked developing countries and small island developing States, to further strengthen the capacity of national statistical authorities and bureaux;

26. *Encourages* States, United Nations agencies, funds and programmes, international, regional and non-governmental organizations, national human rights institutions and other relevant stakeholders to ensure the meaningful participation of persons living with or affected by HIV and of key populations both in decision-making processes relating to, and in the planning, implementation and monitoring of, policies and programmes on HIV;

27. *Urges* States to commit to the greater involvement of persons living with HIV and AIDS and to empower communities of persons living with, at risk of or affected by HIV, including women, adolescents and young people and including community-led organizations, to play their critical leadership roles in the HIV response by ensuring that relevant global, regional, national and subnational networks and other affected communities are included in HIV response decision-making, planning, implementing and monitoring and are provided with sufficient technical and financial support;

28. *Urges* the international community to continue to assist developing countries in promoting the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including through access to medicines, in particular essential medicines, vaccines and other prevention technologies, diagnostics and medical devices that are affordable, safe, efficacious and of quality, and through financial and technical support and training of personnel, while recognizing that the primary responsibility for respecting, protecting and fulfilling all human rights rests with States, and to recognize the fundamental importance of the voluntary transfer of environmentally sound technologies and financial resources on favourable terms, including on concessional and preferential terms, as mutually agreed;

29. *Urges* States to fulfil their commitment to ensuring global accessibility, availability and affordability of safe, effective and quality-assured medicines, including generics, vaccines, diagnostics and other health technologies to prevent, diagnose and treat HIV infection and its co-infections and comorbidities, by urgently removing, where feasible, all barriers, including those related to regulations, policies and practices that hamper access to health technologies and objectives, and promoting the utilization of all available tools to reduce prices of health technologies and costs associated with lifelong chronic care and to promote fair and equitable allocation of health products among and within countries to advance efforts to safeguard the full realization of the right to the enjoyment of the highest attainable standard of physical and mental health;

30. *Calls upon* the Joint United Nations Programme on HIV/AIDS and its co-sponsor organizations to support countries in addressing the legal, social, economic, political and structural drivers of the AIDS epidemic, including through the promotion of all human rights and of gender equality and the empowerment of all women and girls;

31. *Requests* the United Nations High Commissioner for Human Rights to prepare a report, in consultation with Governments, civil society, community-led organizations and other stakeholders, describing the action being taken and recommending action to be intensified or initiated to meet the innovative targets on societal enablers, as recognized in the Political Declaration on HIV and AIDS adopted by the General Assembly in 2021, and to address the remaining gaps, and to present the report to the Human Rights Council at its fiftieth session;

32. *Also requests* the High Commissioner to invite contributions to the report by Member States and all other stakeholders, including relevant United Nations bodies, agencies, funds and programmes, the special procedures, in particular the Special Rapporteur

on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the treaty bodies, regional human rights and health organizations and bodies, national human rights institutions and civil society, including persons living with, presumed to be living with, at risk of or affected by HIV.
