

AIDS-RELATED HIGHLIGHTS OF THE UN COMMISSION ON HUMAN RIGHTS, SIXTY-FIRST SESSION

Geneva, May 2005

The UN Commission on Human Rights concluded its sixty-first session on 22 April 2005. The following overview of the Commission and its work this year highlights HIV-related issues, possible advocacy points, as well as specific instances where the Commission called upon UNAIDS to take action.

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Overview

1. The [UN Commission on Human Rights](#) meets annually in Geneva for six weeks and includes the participation of over 3,000 delegates from member and observer States and from non-governmental organizations. It is assisted in this work by the Sub-Commission on the Promotion and Protection of Human Rights, a number of working groups and a network of individual experts, representatives and rapporteurs mandated to report to it on specific issues. This year, the Commission adopted 85 resolutions, 15 decisions and four Chairperson's statements.
2. UNAIDS made interventions during the Commission under three agenda items (*see appendix for copies of the statements*):
 - Agenda item 10 (economic, social and cultural rights): right to health, access to medications
 - Agenda item 12 (women and gender): *inter alia*, violence against women and HIV
 - Agenda item 14 (specific groups and individuals): human rights in the context of HIV/AIDS
3. UNAIDS participated in two parallel events addressing:
 - protection of human rights in the context of HIV/AIDS (12 April), hosted by the Polish government, with the Office of the High Commissioner for Human Rights, APN+ (sponsored by UNAIDS) and Human Rights Watch, and
 - national human rights institutions and HIV-related human rights issues (13 April), hosted by the Australian government, with representatives of national human rights institutions, APN+, AIDS and Rights Alliance for Southern Africa and AIDS Law Project (sponsored by UNAIDS and OHCHR)

UNAIDS was also represented at a parallel event addressing access to medicines and, through the Global Coalition on Women and AIDS, at an event addressing violence against women.
4. UNAIDS provided technical assistance regarding resolutions of relevance to HIV and AIDS.

Resolutions of direct relevance to HIV and AIDS

5. [Resolution 2005/84](#) (**The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS)**); *see appendix for full text*) was adopted by the Commission by consensus following several rounds of consultations and bilateral negotiations led by the Government of Poland. The resolution adopted at the sixty-first session brings a focus on the situation of women and children, and it requests the Secretary-General to solicit comments from Governments, United Nations organs, programmes and specialized agencies and international and non-governmental organizations on the steps they have taken to promote and implement programmes to address the HIV-related human rights of women, children and vulnerable groups in the context of prevention, care and access to treatment. The Commission has requested that a progress report be submitted to it at its sixty-third session.
6. Prior to the adoption of the resolution, there was discussion amongst some

delegations concerning the [International Guidelines on HIV/AIDS and Human Rights](#) and their status in the context of the resolution. Although every resolution on HIV and AIDS adopted since the publication of the Guidelines has made reference to them, some perceived the language in one of the proposed preambular paragraphs as representing a formal endorsement of the specific recommendations of the Guidelines vis-à-vis implementation. In the explanation of position delivered by the United States, the delegate stated that the Government would be joining consensus on the resolution this year, “but with the explicit understanding that the Resolution as amended refers only to the basic Guidelines on HIV/AIDS and Human Rights as opposed to the broader elaboration and commentary”.

7. The compromise language found in the resolution as adopted by the Commission draws attention to the 12 core guidelines, “as summarized in paragraph 12 of document [E/CN.4/1997/37](#)”. While some delegations expressed concern that the new language could be perceived as rolling back the international consensus on what is required in the response to HIV and AIDS, others have noted that an element of political endorsement has been added to Guidelines, recognizing them as not only technical recommendations to Governments produced through a process of expert consultation, but also as a framework articulating the elements of a comprehensive response.
8. [Resolution 2005/41 \(Elimination of Violence against Women; see appendix for full text\)](#) builds on the work of the [Special Rapporteur on violence against women, Yakin Ertürk](#) and draws attention to the linkages between violence against women and increased vulnerability to HIV and AIDS. Among other things, the resolution “urges Governments to effectively promote and protect women’s and girls’ human rights, including reproductive rights and sexual health, in the context of HIV/AIDS to lessen their vulnerability to HIV infection and to the impact of AIDS, as included in the summary of the [Guidelines on HIV/AIDS and Human Rights](#)” and furthermore urges Governments “to cooperate with United Nations bodies, programmes and specialized agencies, and international and non-governmental organizations in this regard.”
9. In the informal negotiations of the resolution on violence against women, as well as the resolutions on **HIV and AIDS** (resolution 2005/84) and the **right of everyone to the enjoyment of the highest attainable standard of physical and mental health** ([resolution 2005/24](#)), there was considerable discussion of provisions addressing sexual and reproductive rights, similar to what was observed during the forty-ninth session of the [Commission on the Status of Women](#) in March 2005. Several delegations made interventions signaling their position on in this area.
10. [Resolution 2005/23 \(Access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria; see appendix for full text\)](#) this year includes a call upon States “to conduct an impact assessment of the effects of international trade agreements with regard to public health and to the progressive realization of the right of everyone to the highest attainable standard of health”. This particular provision was challenged by some Governments during the informal negotiations of the resolution. The main sponsor of the resolution, the Government of Brazil, however, maintained this language throughout the negotiations and saw the resolution through to adoption by consensus. UNAIDS staff are encouraged to refer civil society partners to the text of this resolution for inclusion in their advocacy materials,

and also remind Governments of this call to assess human rights and public health impacts when they negotiate trade agreements.

11. [Resolution 2005/25](#) (**Women's equal ownership, access to and control over land and the equal rights to own property and to adequate housing**; see *appendix for relevant excerpts*) builds upon past resolutions addressing women and housing ([E/CN.4/RES/2002/49](#); [E/CN.4/RES/2003/22](#)) and this year introduces elements which focus on the linkages between equal access to housing and vulnerability to HIV. Paragraph 12 of the resolution invites the Secretary-General to encourage all organizations and bodies of the United Nations system, individually and collectively, and including UNAIDS, to undertake further initiatives that promote women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing, and allocate further resources for studying, documenting and addressing the impact of complex emergency situations and the HIV/AIDS pandemic, particularly with respect to women's equal rights to own land, property and adequate housing.
12. The resolution requests the Special Rapporteur on Adequate Housing, Miloon Kothari, to submit his final report on women and adequate housing to the Commission at its sixty-second session (2006). It also requests the Special Rapporteur on Adequate Housing to cooperate with the Special Rapporteur on Violence against Women in the elaboration of model provisions to protect women's rights in housing and domestic violence legislation. During the Commission, the UNAIDS Advocacy Advisor from the Global Coalition on Women and AIDS and the UNAIDS Law and Human Rights Programme Officer met with the Special Rapporteur on Adequate Housing and discussed the possibility of future collaboration in the context of the Special Rapporteur's mandate.

Reports to the Commission addressing HIV and AIDS

"Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women, Intersections of Violence Against Women and HIV/AIDS"

Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Yakin Ertürk ([E/CN.4/2005/72](#))

13. In her second report to the Commission in her capacity as the Special Rapporteur on Violence against Women, Yakin Ertürk focused almost entirely on the intersections between violence against women and HIV from a human rights perspective. The Report examines how the various types of violence to which women are subjected, from the domicile to the transnational arena, increase the risks of transmission of HIV; the ways in which stigma, discrimination, and gender-based violence are experienced by women living with HIV, as well as the obstacles to women's access to medical care and justice. Throughout the Report, emphasis is placed on the intersectionality of violence against women and HIV as well as the multiplicity of types of discrimination experienced by women living with HIV, particularly by migrant, refugee, minority, and other marginalized groups of women.

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

Report of the Secretary-General ([E/CN.4/2005/79](#))

14. In its [resolution 2003/47](#), the Commission on Human Rights recognized the need for intensified efforts to ensure universal respect for and observance of human rights for all so as to reduce vulnerability to HIV/AIDS and to prevent HIV/AIDS-related discrimination and stigmatization. The Commission invited States and other actors to take all necessary steps to ensure the respect, protection and fulfilment of HIV-related human rights as contained in the [Guidelines on HIV/AIDS and Human Rights \(E/CN.4/1997/37, annex I\)](#). The Commission requested the Secretary-General to solicit comments from Governments, United Nations organs, programmes and specialized agencies and international and non-governmental organizations on the steps they have taken to promote and implement the Guidelines and this resolution. Information was received from the Governments of Azerbaijan, Finland, Greece, Lebanon, Mauritius, Mexico, Norway and Poland. Contributions were received from the Department of Economic and Social Affairs of the Secretariat, the International Labour Organization (ILO), UNAIDS, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations High Commissioner for Refugees (UNHCR), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Health Organization (WHO). The report compiles these contributions.

Access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria

Report of the Secretary-General ([E/CN.4/2005/38](#))

15. In its [resolution 2004/26](#), the Commission on Human Rights recognized that access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria is a fundamental element for achieving progressively the full realization of the right of everyone to the enjoyment of the highest available standard of physical and mental health. The report includes summaries of replies received from the Governments of Cuba, Finland, Greece, Lebanon, Mauritius, Mexico, Namibia and Poland, and as well as from ILO, UNAIDS, OHCHR and WHO.

Report submitted by the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health, Paul Hunt

Addendum, Mission to Peru ([E/CN.4/2005/51/Add.3](#))

16. In the report of his mission to Peru, Special Rapporteur Paul Hunt addresses a range of issues including the impact of poverty and discrimination on health. He notes in particular that some diseases, including HIV/AIDS, have given rise to multiple forms of discrimination against those affected, which further impedes the enjoyment of the right to health and other human rights. The Special Rapporteur welcomes the development of a comprehensive national policy on HIV/AIDS in Peru and urges that strategies for implementing the policy explicitly address gender inequalities, stigma and discrimination; provide comprehensive sexual and reproductive health information, education and services to young people; and ensure access to voluntary testing, counselling and treatment for sexually transmitted infections, including HIV.

17. In the report of his mission, the Special Rapporteur drew attention to the dynamic campaign led by the Government of Romania in recent years to provide treatment and care for people living with HIV and AIDS. Together with United Nations agencies, development partners, people living with HIV and civil society groups, the Government has established legal, policy and programme frameworks for HIV/AIDS treatment and care, including universal coverage for antiretroviral (ARV) treatment. It was reported that all those determined to be 'in need' according to international guidelines have access to HIV treatment in Romania.
18. While noting that Romania's approach to HIV and AIDS treatment and care is in many regards a model, during the Special Rapporteur's mission he met people expressing concerns regarding the urgent need to address HIV prevention. The Special Rapporteur urges that legislation, regulations and other measures to eliminate all forms of discrimination against people living with HIV/AIDS and members of vulnerable groups be implemented.

Report of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action on its third session ([E/CN.4/2005/20](#))

19. The Working Group held its third session in Geneva from 11 to 22 October 2004. Several experts were invited to participate in the three panels on the themes under consideration. On the theme "racism and health", this included: Mr. Paul Hunt, Special Rapporteur on the Right of Everyone to the Highest Attainable Standard of Physical and Mental Health; Ms. Helena Nygren-Krug, Health and Human Rights Adviser, World Health Organization (WHO); Ms. Cristina Torres Parodi, Regional Adviser in Health Policy Development, Pan American Health Organization (PAHO); Mr. Manuel Carballo, Director, Centre for Migration and Health (United Kingdom); Dr. Benedetto Saraceno, Director, Department of Mental Health and Substance Abuse – Mental Health and Discrimination (WHO); Dr. Federico Montero, Medical Officer, Discrimination and Right to Health (WHO); Dr. Nora Groce, Professor of Global Health (Yale University); and Dr. Ximena Avellaneda, Grupo de Estudios sobre la Mujer Rosario Castellanos (Rosario Castellanos Study Group on Women) - Health and Indigenous Peoples. UNAIDS was represented on the panel by Miriam Maluwa, Law and Human Rights Advisor.
20. Ms Maluwa described the complex linkages that exist between discrimination, poverty and HIV and AIDS. Women belonging to minority groups were particularly vulnerable to HIV infection as they faced dual discrimination, once by virtue of their gender and second, based on their ethnicity. She reiterated the need for disaggregated data to demonstrate the trends of HIV epidemics in marginalized communities. She called for strengthening of local and national programmes to counter intolerance against people with AIDS, capitalizing on existing knowledge, and for strong commitment by Governments to promoting access to HIV prevention measures without discrimination.

Statements by UNAIDS

21. UNAIDS made interventions during the Commission under three agenda

items (see appendix for copies of the statements). The statement delivered under agenda item 10, addressing economic, social and cultural rights, focused on the realization of the **right to health** as well as **access to medications**. The statement delivered under agenda item 12, addressing women and gender, welcomed the report of the Special Rapporteur on violence against women and expressed gratitude for her work to highlight the **linkages between violence and vulnerability to HIV infection and the impact of AIDS**. It also drew attention to the work of the Global Coalition on Women and AIDS, noting the importance of the realization of human rights in the creation of an environment in which women and girls are able to take control of their own lives in a world with AIDS. The statement delivered under agenda item 14 illustrated the exceptional threat of the AIDS epidemic and why it demands a sustained international response as a matter of urgency.

Parallel events hosted by UNAIDS

Human rights violations and remedies in the HIV and AIDS epidemic

Organised by the **Permanent Mission of Poland**, the **Office of the High Commissioner for Human Rights** and **UNAIDS**, including the participation of the UN High Commissioner for Human Rights, Louise Arbour, UNAIDS Director of Country and Regional Support, Michel Sidibe, and panelists from APN+ and Human Rights Watch.

Tuesday, 12 April 2005, 13.00 – 15.00 (Palais des Nations, Room XXVII)

22. **UN High Commissioner for Human Rights, Louise Arbour**, opened the session by illustrating how addressing human rights violations is key in the fight against HIV and AIDS. (See appendix for a copy of her remarks.) She stressed that, in HIV and AIDS as in many other areas, the human rights movement is faced with the challenge of more effectively implementing the norms and standards set out in covenants, conventions and other commitments of States. **Michel Sidibe**, UNAIDS Director of Country and Regional Support, stated that the response to HIV and AIDS has to address the underlying inequities driving the epidemic and acknowledge how human rights are interconnected and interdependent. This demands a focus on the realization of economic, social and cultural rights and the right to development in the response to the epidemic. **Noel Quinto**, representative from APN+, stressed the importance of taking practical steps to ensure that the provisions of anti-discrimination laws are enforced in ways that make a difference in the lives of people living with HIV and AIDS. He gave a brief overview of the results of a major [study illustrating AIDS-related discrimination](#) in India, the Philippines, Thailand and Indonesia, and he highlighted the value of using of a peer approach to understanding the epidemic and the experiences of positive people. **Jonathan Cohen** from Human Rights Watch discussed “abstinence only” programmes from a human rights perspective, stating that when people do not receive complete information – such as information on the use of condoms to reduce the risk of HIV transmission – there has been a violation of the right to education, and right to freedom of opinion and expression, and the right to health, among other rights.

National Institutions and HIV/AIDS: prevention and protection on the ground

Organised by the **Permanent Mission of Australia**, the **Office of the High Commissioner for Human Rights** and **UNAIDS**, including the participation of the Deputy High Commissioner for Human Rights, Mehr Khan Williams, UNAIDS Senior Law and Human Rights Advisor Susan Timberlake, and representatives from APN+, ARASA and AIDS Law Project, and the national human rights institutions of Malawi and India.

Wednesday, 13 April 2005, 13.00 – 15.00 (Palais des Nations, Room XXIII)

23. National human rights institutions (NHRIs) are in a position to encourage governments to establish effective national HIV and AIDS policies and programmes, lobby for legal reform, monitor governmental actions, raise awareness around HIV/AIDS issues, and deal with specific instances of concern. **Deputy High Commissioner for Human Rights, Mehr Khan Williams**, opened the event by drawing attention to examples of how political will to bring about real change can yield results. She noted that sustained commitment to prevention, treatment and care can slow the rate of infection, as it has in Thailand. Making this happen requires broad social mobilization and the participation of many actors, and national human rights institutions have an opportunity to play a catalyzing role. **Susan Timberlake**, UNAIDS Senior Law and Human Rights Advisor, outlined a number of practical steps that national human rights institutions can take to combat stigma and denial, promote the full participation of people living with HIV and AIDS, and protect HIV-related human rights. Among other things, she urged that National Human Rights Institutions become involved in the Three Ones and be regular interlocutors with UNAIDS UCCs. (*See appendix for a copy of her remarks and advice for national institutions looking to enhance their response to the epidemic.*) **Honourable Dr Justice A.S. Anand**, former Chief Justice of India and present Chairperson of the National Human Rights Commission of India, stated that HIV and AIDS presents a challenge of a much greater scale than the public health challenges of years gone by. Because silence and fear are associated with the modes of transmission, human rights must be central in the response and efforts to address them. Awareness and education about the virus and its transmission must be a priority if human rights violations are to be avoided. Affordable drugs are key if scaled up treatment exercises are to bear fruit, and they must be seen as a matter of right.
24. **Emiliana Tembo**, Executive Secretary of the Malawi Human Rights Commission, gave an overview of the HIV and AIDS situation in Malawi, including its impact. In addressing the challenges, Tembo stated that stigma and discrimination will be there so long as there remains a fear of being labeled as promiscuous when one is HIV positive. Specific cultural practices also present challenges, particularly in rural areas. Tembo pointed out that many communities want to hold on to these practices, but more and more they are understanding their role in the transmission of HIV. In both these areas, wide engagement and ongoing dialogue is needed. **Noel Quinto**, representative of APN+, noted that having legislation is an important first step in responding to human rights violations in the context of HIV and AIDS. An effective response takes more than just good laws on the books, however. Quinto encouraged the national human rights commission in the Philippines to become more engaged in the response, through work with the National AIDS Council, by promoting the involvement of people living with HIV and AIDS, and by taking on activities to strengthen information dissemination and public education. In her remarks, **Liesl Gerntholz**, AIDS Law Project, pointed out that, because they are between government and civil society, national human rights institutions have a status at the national level often not enjoyed by other actors. This affords them a comparative advantage in ensuring a human rights-based response to HIV/AIDS at the national level, for example in authoritative monitoring of a government's response to the epidemic.
25. In addition to the two above sessions, UNAIDS was represented by Béchir N'Daw at an event on international trade and access to medicines hosted on 29 March by the NGO "3D - Trade, Human Rights, Equitable Economy". A

report of the meeting produced by 3D can be accessed [via their web site](#). Through the [Global Coalition on Women and AIDS](#), UNAIDS was represented at a parallel event cohosted by WHO addressing the linkages between violence against women and HIV and AIDS. The Special Rapporteur on violence against women participated on the panel, as well as representatives from Amnesty International, the World YWCA and the Center for Women's Global Leadership.

Other areas of interest

26. The sixty-first session of the Commission included informal discussion of the reform of the **Commission on Human Rights** and the report of the Secretary-General "[In Larger Freedom: towards development, security and human rights for all](#)". The report makes reference to the strengths of the Commission, in particular its ability to draw public attention to human rights issues and debates and its unique system of independent and expert special procedures to observe and analyse human rights compliance by theme and by country. It notes the Commission's close engagement with hundreds of civil society organizations and how that provides an opportunity for working with civil society that does not exist elsewhere. The report, however, draws attention to the declining professionalism and credibility of the Commission and recommends that it be replaced with a smaller standing Human Rights Council. In his [address to the Commission](#), the Secretary-General stated that "the Commission's declining credibility has cast a shadow on the reputation of the United Nations system as a whole" and stressed that "piecemeal reforms will not be enough." As part of a move from an era of standard setting to an era of implementation, the Secretary-General stated that the main task of a reformed Commission would be to evaluate the fulfilment by all states of all their human rights obligations, giving concrete expression to the principle that human rights are universal and indivisible. "Equal attention will have to be given to civil, political, economic, social and cultural rights, as well as the right to development. And it should be equipped to give technical assistance to States, and policy advice to states and UN bodies alike." The Commission agreed to convene an open-ended working group in June to formally consider the recommendations of the Secretary-General.
27. [Resolution 2005/69](#) (**Human rights and transnational corporations and other business enterprises**) establishes a new special procedures mandate (Special Representative of the Secretary-General) on the issue of human rights and transnational corporations for an initial period of two years. The Commission has directed the Special Representative, among other things, to "develop materials and methodologies for undertaking human rights impact assessments of the activities of transnational corporations and other business enterprises" and to "compile a compendium of best practices of States and transnational corporations and other business enterprises." The work that takes place under this mandate is particularly relevant in the context of access to medicines, and the role that pharmaceutical companies might play in the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, among other rights.
28. [Resolution 2005/22](#) (**Question of the realization in all countries of economic, social and cultural rights**) welcomes the [report of the open-ended working group](#) mandated to address the elaboration of an Optional Protocol to the International Covenant on Economic, Social and Cultural

Rights. In recent years, Member States have been examining options for the elaboration of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. Depending on the shape it is given, an Optional Protocol could give rise to a legal mechanism that would allow individuals to bring individual claims regarding violations of their economic, social and cultural rights to an international forum, in cases where national recourse has been found lacking. When the working group met in January 2005, it mandated the Chairperson to develop an elements paper which presents an analysis of the options for an optional protocol. This paper will be considered during the meeting of the working group in 2006.

For more information, please contact Susan Timberlake, Senior Law and Human Rights Advisor, UNAIDS, Geneva, timberlakes@unaid.org, or Jason Sigurdson, Law and Human Rights Programme Officer, UNAIDS, Geneva, sigurdsonj@unaid.org. Further information can also be found on the law and human rights section of the UNAIDS website, http://www.unaids.org/en/in+focus/hiv_aids_human_rights.asp.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Sixty-first session of the United Nations Commission on Human Rights Agenda Item 10

Geneva, 30 March 2005 - **Chairperson, distinguished delegates**, UNAIDS, the Joint United Nations Programme on HIV/AIDS, continues to lead and support the global response to the epidemic, aimed at preventing transmission of HIV and providing care, treatment and support. In this regard, effective measures should be taken to reduce the vulnerability of individuals and communities to HIV/AIDS, stigma and discrimination, through the realisation of human rights, such as the right to health.

The global impact of HIV and AIDS is devastating for all aspects of human life and development, and is especially severe in countries that lack sufficient resources for treatment, care and support. The tragedies we, as an international community, are facing will have dramatic long-term consequences, and they demand that we take concrete action now. Leadership at every level, a commitment to resource mobilisation and a willingness to include all sectors of society have proven to be critical to success in addressing HIV and AIDS.

The world can no longer ignore the AIDS epidemic. Over 40 million people are estimated to be living with HIV and more than 3 million people, including children, died of AIDS last year. Within the next five years, every sixth or seventh child in the hardest hit countries in Africa will be an orphan, largely because of AIDS. The epidemic is growing rapidly in other regions: from Africa to Eastern Europe, from China and India to the Caribbean and Central America.

When countries demonstrate serious commitment to promoting and protecting the right to the enjoyment of the highest attainable standard of physical and mental health, tackling HIV and AIDS, as well as other epidemics, becomes possible. The present situation demands concrete steps to implement the plans of actions regarding HIV/AIDS that already exist.

Millions of people living with HIV in poor countries urgently need antiretroviral treatment – few of them are receiving it. Without accelerated prevention and treatment, the AIDS epidemic will continue destroying communities, health care systems and economies, placing a shadow upon the future of entire countries.

Two keys for success:

- equity in access to medications must be a critical component of programmes. The efforts of UNAIDS, including our co-sponsors, in accelerating access to care, have helped address the equity question at global level: the North/South divide in drug affordability. In addition, it is crucial to provide appropriate assistance to governments in addressing the equity issue at national level.
- AIDS must be placed at the heart of all development strategies, in all concerned sectors, as a matter of urgency.

Prevention and treatment are two critical cornerstones of the global response to AIDS. UNAIDS encourages the use of effective measures to ensure that appropriate information, education and support are provided at all levels of society, particularly among young people and to those vulnerable to HIV transmission such as women and girls, men who have sex with men, commercial sex workers, injecting drug users, people in detention, and migrants.

Voluntary counselling and testing programmes must be established and reinforced at all levels in order to respond effectively to HIV and AIDS. Although greater focus is given to HIV and AIDS, UNAIDS encourages all governments and the international community to address other pandemics, such as malaria and tuberculosis, with a view to ensure access to treatment and care for all in need. UNAIDS also encourages research and development for affordable and quality treatments, as well as safe vaccines and microbicides, as part of efforts to tackle all pandemics.

UNAIDS urges that the implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) take into account the flexibilities and safeguards therein and be viewed in the context of public health and other social interests, promoting access to HIV medicines and the realization of human rights, including the right to health and right to life.

The UNAIDS Secretariat has placed a focus, among other areas, on the equitable availability and affordability of HIV medicines and technologies. It is crucial that HIV-related human rights issues continue to be integrated in the work of Special Rapporteurs and through other human rights mechanisms. The Special Rapporteur on the right to freedom of opinion, for example, has stressed that this right is *sine qua non* in effective education and information campaigns to prevent HIV transmission.

Chairperson, distinguished delegates,

UNAIDS places great value on building and reinforcing partnerships in the area of human rights and HIV and AIDS at national, regional and international levels. UNAIDS recognises and commends the critical role and positive contributions of civil society actors – in particular people living with HIV – in responding to the epidemic. UNAIDS strongly believes that they must be involved in the design and implementation of programmes that stand to affect them most.

UNAIDS looks forward to continuing its collaboration with Governments, the Office of the High Commissioner for Human Rights, Special Rapporteurs and independent experts of the Commission, and other partners in responding to HIV and AIDS.

INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER PERSPECTIVE

Sixty-first session of the United Nations Commission on Human Rights Agenda Item 12

Geneva, 6 April 2005 - **Chairperson, distinguished delegates**, UNAIDS thanks the Commission for the opportunity to address it under Agenda Item 12. UNAIDS also wishes to express its gratitude to the Special Rapporteur on Violence against Women, Yakin Ertürk, who has described so forcefully the many ways that violence against women and girls – both inside and outside marriage – increases their vulnerability to HIV infection and to the impact of AIDS.

The increasing feminization of the epidemic is one case where women's attainment of "equality" is to be denounced. Today, nearly half of all people living with HIV worldwide – almost 20 million – are female. Increasingly, they are young and poor. In sub-Saharan Africa, the worst affected region of all, 57% people infected with HIV are women and girls – among young women the rate is a staggering 76%. Tragically, the number of women being infected is on the rise in every region of the globe.

Why is this happening? Largely because the human rights of women and girls are not protected. Gender inequality – and the poverty that so often goes with it – traps women into a cycle of vulnerability to HIV and AIDS.

More than 20 years into the epidemic, the vast majority of the world's young women and girls still do not know how to protect themselves against HIV infection and cannot get the sexual and reproductive health information they need. Even when they do have information, they are not always in a position to use it.

Persistent violations of women's rights to employment, access to credit, equal ownership of property, social assistance, and political participation make it impossible for them to attain any level of independent economic and social security. As a result, millions of girls and women are forced to enter into marriage or other forms of sexual relationship to escape from poverty. To put it simply, they are obliged to trade sex for food, clothing, and security.

Once in a relationship, women are often poorly placed to insist that their partner be faithful, use a condom, or get tested for HIV. In many situations, were they to try, they would risk disapproval, rejection or violence. And, paradoxically, although women are told they will be safe if they abstain from sex until they marry and then remain faithful to their husbands, the approach only works if their husbands have followed the same principles.

Fears of disapproval, rejection or violence stop women from getting tested for HIV, discourage them from revealing the results if tested, and deter them from seeking treatment

for themselves. Fear of being abused or abandoned may deter a pregnant woman from taking steps to prevent transmission of HIV to her child.

When a man falls ill with AIDS, the primary burden of caring for him falls on women. When he dies, his widow and children will, in many cases, be turned out of the family home – in violation of their property and inheritance rights – and plunged into new depths of vulnerability.

On a more optimistic note, surveys for the January 2005 “3 by 5” Progress Report on access to HIV treatment suggest that overall women are getting fair access to treatment. It will be important, however, to ensure that fair access is sustained while working towards the larger goal of universal access to treatment for all in need.

There is nothing new about violations of women’s rights. In the context of AIDS, however, the issue takes on even more alarming proportions. The violations fuel the epidemic; the epidemic exacerbates the impact of the violations.

We know what needs to be done to stop these violations. International human rights law and agreements in the form of platforms for action provide us with clear guidance. The challenge now is to summon the necessary political and social will to protect and promote human rights in concrete terms.

UNAIDS launched the Global Coalition on Women and AIDS last year. The Global Coalition on Women and AIDS is an alliance of civil society groups, governments, UN agencies and concerned citizens from all walks of life who have come together to stimulate changes that will make the AIDS response work better for women.

The Coalition has one objective: to create an environment in which women and girls are able to take control of their own lives in a world with AIDS. Key to achieving that objective is an improvement in women’s ability to realise their rights – the right to equal access to treatment and care; the right to a life free from violence; the right to access, own and inherit property; the right to obtain an education.

On behalf of UNAIDS I now ask the Commission, the Special Rapporteurs and Representatives, the governments and non-governmental organizations gathered here to put women and girls at the heart of their human rights work and join us in taking urgent steps to address the violations that result in millions of women and girls becoming needlessly infected with HIV. Today, seven thousand women and girls will become infected with HIV. This should not, and need not, happen.

SPECIFIC GROUPS AND INDIVIDUALS

Sixty-first session of the United Nations Commission on Human Rights Agenda Item 14

Geneva, 12 April 2005 - **Chairperson, distinguished delegates**, UNAIDS thanks you for the opportunity to address the Commission on the protection of human rights in the context of AIDS. As UNAIDS Executive Director, Dr Peter Piot, has made clear, AIDS poses such an exceptional threat to humanity that it demands fundamental changes on many fronts. One the most important fronts is human rights.

The AIDS epidemic is exceptional for three reasons, all of which profoundly implicate human rights. First, there is no plateau in sight. This is true even though HIV – which is not easily contagious – has, in 25 years, spread across the world to infect some 65 million people. An estimated 40 million people live with HIV today, including some 20 million women and 2 million children, and the number of people living with HIV is rising in every region of the world.

Since 1996, this disease has been treatable, but the rights to life and health have not prevented millions of deaths from AIDS. Last year 3 million people died, including 510,000 children. In 2004, the number of people in developing countries receiving anti-retroviral treatment rose to some 700,000 people, but 5.8 million people, including 500,000 children, are still urgently in need of treatment to save their lives.

Secondly, AIDS is exceptional because it sets off a chain of devastation in hard hit countries that is debilitating agriculture, education, health, commerce, government and entire communities. Fourteen million children have been orphaned by AIDS. Some of the greatest gains against the epidemic have come from people living with HIV who have demanded from governments the protection of their rights, but AIDS is capable of making rights holders less able to claim their rights, and duty bearers less able to protect them. Lack of human rights protection contributes to AIDS, and in turn AIDS contributes to lack of human rights protection, including the right to development which it threatens profoundly.

Thirdly, AIDS is exceptional because at the heart of its spread are issues that still cause discomfort, denial, stigma, discrimination and sometimes violence. These are: (1) sex, including uninformed, irresponsible and predatory sex, as well as sexual violence that continue with impunity; (2) discrimination and harmful traditions practised against women; (3) behaviour that is deemed illegal or immoral and the marginalization of those involved – drug use, sex out of marriage and men having sex with men; (4) controversy around sex education in schools and sexual and reproductive health services for minors; and (5) the continued neglect of the poor.

UNAIDS asks the Commission on Human Rights to lead States through the difficult human rights challenges raised by these issues. How to ensure that people who engage in an

activity that has been made illegal do not forfeit their rights to health, non-discrimination, and freedom from violence? How to protect the rights of minors to HIV-related information, education and means of prevention (condoms, testing, services) to address the fact that they, particularly girls, are experiencing the highest rates of infection? How to ensure that the routine offer of HIV testing does not become routine and involuntary testing, violating the rights to privacy and physical integrity? How to ensure the rights of prisoners to comprehensive HIV prevention and treatment, including access to prevention tools, substitution therapy, and antiretroviral treatment? How to ensure that States can use the flexibilities in multilateral trade rules to promote access to affordable antiretrovirals and other essential medicines, including for importation and local production of generic medicines so that the poor realize their right to health?

In the UN Declaration of Commitment on HIV/AIDS, States committed themselves to protect human rights in the context of HIV/AIDS, but there is urgent need for the actual programmatic implementation of those rights. UNAIDS asks the Commission on Human Rights to push forcefully to protect the rights to health, education, information, privacy and non-discrimination in the form of the widespread distribution of HIV education, information and testing services, and male and female condoms; campaigns and laws against sexual violence and gender inequality inside and outside marriage; the economic empowerment of women; the end of HIV-related discrimination in health, employment and travel; and equitable access to HIV treatment for all, including women and children.

UNAIDS joins you in advocating that human rights must be enjoyed by all people and all groups and must be protected, respected and fulfilled in ways that empower them all to avoid infection, and if infected, to remain alive and productive. This is both right, and necessary to stop the exceptional threat of AIDS. UNAIDS thanks the Commission, the Special Rapporteurs and Representatives for your work in helping to protect human rights in a world with AIDS. We ask that you push for their implementation with ever greater urgency. Thank you.

**Statement by
The International Council of AIDS Service
Organizations
(APN+)**

61st Session
of the United Nations Commission
on Human Rights

**Agenda Item 14:
Specific groups, individuals**

Geneva, April 2005

Distinguished delegates and those assembled here, I thank you on behalf of the International Council of AIDS Service Organizations, Asia-Pacific Network of People Living with HIV/AIDS, to be able to address you today under Agenda Item 14.

Amidst the ignorance and fear associated with HIV, people diagnosed with HIV, as well as those perceived to be positive, continue to be stigmatized and discriminated against. For HIV positive people, human rights violations are a common experience. An environment where human rights are upheld can mean the difference between life and death for us.

The Asia-Pacific Network of People Living with HIV/AIDS (APN+) has documented human rights violations in four countries: Thailand, India, Indonesia and the Philippines. Because HIV positive people were the interviewers, the positive people interviewed were more willing to talk about their experiences.

Many of the human rights violations experienced by positive people took place in health care facilities. It is ironic that the people who should provide care and treatment to us are the very same people who violate our human rights. These violations include stigma and discrimination, as well as breaches of confidentiality about our HIV status. Data from the study show that 33 percent, or one-third, of those interviewed experienced breaches of confidentiality. There were also cases of positive people being denied treatment, or treatment was delayed. The quality of care provided to positive people is also deeply affected by discrimination. Furthermore, many positive people are coerced or misled into joining clinical trials and are neither informed about the drug being tested nor about its possible adverse effects.

Mandatory testing for HIV is another violation which has serious implications for people's health and their ability to function in society. Overseas workers, sex workers, and people in the military are often tested mandatorily. Data from the APN+ study showed that people coerced into HIV testing are more likely to experience discrimination and stigma than people who undergo testing voluntarily. Women are more likely to experience violence.

Many positive people are fit to work but cannot, because employers fire, or do not hire, them because of their HIV status. Overseas workers are very affected by this. For example, despite a comprehensive HIV law in the Philippines which prohibits mandatory testing, Filipino workers who wish to work overseas are required by receiving countries to undergo HIV testing. Thus, they have to waive their right to non-mandatory testing, and even if they are fit to work, they cannot work overseas because of this requirement.

Over 20 million people have died of AIDS, with 40 million infected today. Access to treatment is a vital component of our rights to health and to life. Treatment and care for people living with HIV involves not just the procurement of antiretrovirals, but also the necessary support to ensure adherence to treatment. Medications for opportunistic infections are also vital, as well as palliative care.

We call for access to health care which is non-discriminatory. Non-discriminatory, high quality health care will save lives and will contribute towards prevention of transmission. Based on the results of our studies and our experiences, HIV positive people call the protection of our rights. We ask governments and the Commission to:

- Uphold the right to health of HIV positive people by guaranteeing access to medication such as antiretrovirals, including through the procurement of affordable, generic drugs,
- Improve access of positive people to non-discriminatory health care services through policies and laws which mandate non-discrimination for positive people,
- Uphold our right to work by prohibiting mandatory HIV testing as a requirement for work, whether in our own country or in other countries,
- Uphold confidentiality and our right to privacy through policies protecting against the involuntary disclosure of HIV status,
- Develop redress mechanisms for human rights violations. Despite the many human rights violations experienced by positive people, very few are able to seek redress. Preventing human rights violations is one goal. Providing justice is another.

- Implement in full the Declaration of Commitment adopted at the UN General Assembly Special Session on HIV/AIDS and truthfully report on its implementation by September 2006,
- Implement policies and programmes that increase access to prevention including voluntary counseling and testing, condoms, STD treatments, prevention of mother to child transmission and harm reduction, aimed primarily at marginalized populations, including the poor, sex workers, injecting drug users, youth, women, men who have sex with men, people in prisons and other disenfranchised people.

Thank you.

CHECK AGAINST DELIVERY

61st session of the Commission on Human Rights

INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER PERSPECTIVE

VIOLENCE AGAINST WOMEN

Item 12(a)

Statement by Dr Yakin Ertürk
Special Rapporteur on violence against women, its causes and consequences
5 April 2005

Mr. Chairperson, distinguished delegates, representatives of the UN and NGO community,

It is with great pleasure that I address the 61st session of the Commission on Human Rights. As you know, this March at the 49th session of the Commission on the Status of Women, the international community marked ten years since the Fourth World Conference on Women, held in Beijing in 1995, and issued a declaration reaffirming commitment to the Beijing Platform for Action and the Beijing+5 outcome document. This renewed commitment is critical for moving forward with effective strategies to more fully guarantee women's human rights and achieve gender equality.

Mr. Chairperson,

The tsunami in south Asia was one of the greatest tragedies in recent history, compounded further by the recent earthquake in the same region. I would like to express my solidarity with the survivors and offer them my deepest condolences. In the tsunami's aftermath, I was alarmed to receive reports of trafficking and violence against women. I would like to recall the agreed conclusions on women and natural disasters adopted by the CSW at its 46th session, which urged that all emergency humanitarian interventions include a gender-sensitive and human rights approach, ensure victims' access to justice and, as communities recover from natural disasters, involve women in all aspects of reconstruction.

In 2004, I participated in numerous activities related to my mandate in various parts of the world, including two regional consultations: the Asia Pacific Regional Consultation from 27-28 July in Jakarta and the Africa Regional Consultation from 25-26 September in Khartoum. Both consultations resulted in a fruitful dialogue with women's rights advocates and experts, I encourage civil society groups in other regions to organize similar meetings.

As time is limited, I will present some of the main findings contained in my report to the Commission this year (E/CN.4/2005/72, Add 1-5).

In the Commission resolution on violence against women from its 60th session (2004/46), violence against women was recognized as both a cause and a consequence of HIV/AIDS. This year, my report focuses on the intersection of HIV/AIDS and violence against women. The number of women living with HIV is increasing in every region of the world. Women's vulnerability to this pandemic is largely rooted in pervasive gender inequality and discrimination, which often manifests in multiple forms of violence.

As victims of violence, women are susceptible to HIV infection, which in turn increases the risk of further violence against them. Rape and sexual assault take away women's control over when, with whom and how they have sex. Unequal power relations, combined with the threat of violence, frequently prevent women from negotiating safe sex and protecting themselves from HIV. Trafficking victims, women in the sex industry, and those living in or fleeing from conflict areas, are extremely vulnerable to violence, increasing their likelihood of contracting the virus. Harmful practices such as female genital mutilation also heighten women's vulnerability to HIV. Most striking however, is that even in marriages and long term relationships, safe sex may not be possible. Male infidelity, refusal to use condoms and marital rape are highlighted throughout the literature as major risk factors for married women.

Research also shows that women living with HIV are stigmatized more directly and more severely. They experience rejection and abandonment by family and community members. In some cases, they

even shoulder the blame for the HIV status of others, regardless of the veracity of such claims. HIV-positive pregnant women may have their babies taken away from them or be forcibly sterilized. Furthermore, the overwhelming majority of women living with HIV do not have access to adequate treatment options. Men not only have priority in treatment, but they also exercise power to make decisions regarding their wives' treatment. Multiple forms of discrimination, based on race, ethnicity, class, and sexual orientation, intersect to exacerbate the effect of HIV on women.

Programmes for the prevention and treatment of the pandemic cannot succeed without challenging the unequal power structures governing relationships between women and men. A gender sensitive response must be adopted. The work of the Global Coalition on Women and AIDS is an important step in this direction. My report elaborates recommendations under five broad categories: ending violence against women; addressing the gender dimensions of HIV/AIDS and associated stigma; ensuring women's equal access to healthcare; empowering women for their full enjoyment of all human rights; and promoting a global coalition against HIV/AIDS.

Addendum 1 of my report contains a summary of communications sent to and received from governments regarding individual cases. The communications procedure has been an invaluable mechanism in establishing a dialogue with governments to protect women from violence. In several of the cases detailed in the report, positive results have been achieved. Unfortunately, the lack of systematic follow-up on individual cases prevents effective utilization of this procedure. Given the crucial protection function of the communications procedure, a follow-up system of continued dialogue with the government should be institutionalized.

Mr. Chairperson,

In 2004, I conducted country missions to El Salvador, Guatemala and the Occupied Palestinian Territories. I would like to thank the governments and the authority concerned for their cooperation with regard to my visits.

From 2 to 8 February 2004, I visited El Salvador. While many positive initiatives have been undertaken in El Salvador to address violence against women, in particular by bringing national law in line with international human rights obligations, failure by the authorities to adequately investigate, prosecute and punish acts of gender-based violence has resulted in impunity, leading to lack of faith in the justice system. Impunity for crimes, socio-economic disparities and machista values continue to foster a generalized state of violence. In my report, I expressed concern about the murder of women, domestic violence, and commercial sexual exploitation. I also reported with concern about violence and sexual harassment against women working in maquila plants and women domestic workers. I urged the Government of El Salvador to ensure that the legal and institutional framework for protecting women's human rights is strengthened. I also called on the Government to exercise due diligence to prevent all instances of violence against women and to fully investigate and prosecute the perpetrators.

From 9 to 14 February 2004, I visited Guatemala. Significantly, the Peace Accords signed in 1996 include provisions on the rights of women, including indigenous women. However, the testimonies I heard revealed that many of these commitments have not yet been translated into action. Guatemalan women, particularly single heads of households, are extremely vulnerable to violence. The situation of indigenous women, who experience multiple layers of oppression and discrimination, is especially concerning. I am troubled by the increasing number of women being murdered, high rates of domestic violence, violence against women in the workplace, incidents of trafficking and violence against women in custody. In this regard, I called on the Government to end impunity for violence against women, ensure that victims of violence receive support, including compensation, and allocate the necessary resources to abide by its international legal obligations to eliminate violence against women, among other recommendations. I recently learned that the Women's Commission submitted its report to the Congress; I urge the Congress to approve this report and to use it as a fundamental basis for enacting legal and policy reform. I am pleased to note that the Government of Guatemala and the Office for the High Commissioner for Human Rights have signed a Memorandum of Understanding for the establishment of an OHCHR office in Guatemala. I strongly support this development and urge the speedy adoption of this agreement.

Mr. Chairperson,

From 13 to 18 June 2004, I visited the Occupied Palestinian Territories. The direct and indirect impacts of security measures often have specific and compounded consequences for women. For example, due to restrictions on freedom of movement pregnant women have had to give birth at military checkpoints, resulting at times in the death of the mother or the newborn babies. The report also observes the disproportionate impact of house demolitions on women, and the differences in how they experience detention, injuries and loss of life.

Gender inequality is often more pronounced in conflict and crisis situations. Sustenance of group boundaries, family honour and the maintenance of everyday life fall on women's shoulders, for whom this often means having to submit to traditional patriarchal norms. This is the point where two systems of subordination - occupation and patriarchy - converge in the OPT. Thus, women find themselves having to encounter increasing inequality sustained through multiple forms of direct and indirect violence inside and outside their home.

My report urges the Government: of Israel and the Palestinian Authority to join efforts towards a peaceful and viable solution to the conflict. I have also called on Israel to end the occupation and, until then, ensure the rights and protection of Palestinian civilians. I called on the Palestinian Authority to ensure that the voices of women are heard.

Mr Chairperson,

While in Sudan for the Africa Regional Consultation and amidst ongoing reports of human rights abuses in Darfur, I took the opportunity to visit the region, with the agreement of the government. In Darfur, I received numerous reports of violence against women, particularly rape, perpetrated by armed militias. Women in IDP camps told me that rape, beatings, and abductions occur when they leave the camp to collect necessities. Since my return, I remain disturbed by the continuation of violence against women in Darfur. In this regard, I have called on the Government of Sudan to ensure the security of civilians; introduce protection measures, especially for internally displaced women and girls; hold the perpetrators accountable; fully involve women in all peace efforts; and prioritize the ratification of CEDAW. While it has been reported that the Sudanese authorities have apprehended over 100 perpetrators of human rights violations, the magnitude of the crisis and inability of the national justice system to ensure accountability leads me to fully support the recent decision of the Security Council to refer the situation to the International Criminal Court.

In addition to the above, I also conducted missions to: the Russian Federation, including the north Caucasus in December 2004; the Islamic Republic of Iran in January 2005; and Mexico in February 2005.¹ I will present my findings to the Commission at its sixty-second session in 2006.

Mr. Chairperson,

Last year, I reported to this Commission that I would work to develop two indices to monitor implementation of commitments to eradicate violence against women: one index on violence against women and one on state accountability. In this regard, I have written to the UN Statistical Division and I have discussed the subject with the Division for the Advancement of Women, the lead agency for the Secretary-General's study on violence against women. I remain convinced that effective implementation requires measurable indicators, time bound targets, as well as disaggregated data that reflect the complex interplay between multiple forms of discrimination and violence against women. Considering that the Secretary-General's study will examine indicators, among other issues related to my mandate, I have signalled my readiness to contribute to this study. I also intend to work closely with the Office of the High Commissioner on Human Rights, to ensure a human rights based approach.

I look forward, Mr. Chairperson, to a constructive dialogue with the distinguished members of this Commission.

Thank you.



UN OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

**Human Rights Violations and Remedies in the
HIV & AIDS Epidemic**

Palais des Nations, Room XXVII

Tuesday, 12 April 2005

13.00 – 15.00

Remarks by the UN High Commissioner for Human Rights

Louise Arbour

Thank you Mr. Ambassador Rapacki, and let me add my welcome to all of you to today's event. I would like to express my appreciation to Ambassador Rapacki and to the Permanent Mission of Poland for supporting this event, and for Poland's leadership in the Commission on the issue of HIV/AIDS and human rights. My appreciation extends to our other co-organizers for this event at UNAIDS and Human Rights Watch.

Distinguished panelists, ladies and gentlemen,

We are here today out of a common concern over the continuing HIV and AIDS epidemic. I have a strong commitment to the role of human rights in supporting efforts to halt and reverse the spread of HIV/AIDS. I would like to briefly share with you some thoughts on how – now more than ever – addressing violations of human rights is key in our fight against HIV and AIDS.

The situation of the HIV and AIDS epidemic today is bleak. The numbing figures are well known and I will defer to our colleagues from UNAIDS to paint the picture in detail. If anything, the unrelenting bad news of HIV and AIDS statistics has rendered trite the catchphrase that 'HIV/AIDS is one of the greatest human rights and health challenges facing us'. What the figures don't reveal however are the

countless individual stories of the many indignities visited upon people whose rights are denied as a result of their HIV status; of women who are ostracized; and of the HIV-positive men and women living in poverty without basic health services or access to adequate prevention, treatment and care services.

Over the past few weeks, the Commission on Human Rights has been discussing the relevance of human rights to the HIV and AIDS epidemic from a number of viewpoints, including health, access to medication, women, children, the MDGs, migrants, criminal justice systems, racial discrimination and so forth. In these, and in the resolutions of the Commission, the General Assembly and other UN bodies, the centrality of human rights in the fight against the epidemic is roundly acknowledged.

But we now need to take an extra step. I have indicated on prior occasions that the human rights movement today is faced with the challenge of more effectively implementing the norms and standards so extensively set out in covenants, conventions and resolutions. HIV/AIDS is no exception. This is not to deny the significant work and achievements in recent years, particularly in areas such as access to medication. We remain, however, faced with situations of widespread and often gross violations of human rights.

At this point, where we are challenged to – to borrow an apposite phrase – ‘scale up’ implementation of human rights norms in the context of the epidemic, I think it is worth recalling some of the more challenging aspects of a rights-based approach.

Intrinsic – vs. instrumental

The first point I would like to recall relates to the motivations for adopting a rights-based approach to the epidemic. Human rights have both intrinsic and instrumental values. A rights approach may be instrumental in helping us achieve our goals, such as halting the spread of HIV. However, our prime motivation is to respect rights *as rights*.

I make this seemingly simple point today because arguments are sometimes put forward to the effect that a focus on individual rights in some cases worsens the HIV/AIDS epidemic. Sometimes these arguments place a human rights approach in opposition to a public health approach. There is no need to argue for primacy of one approach over the other. There is no reason to expect that the fight against HIV/AIDS can only be successful if it disregards fundamental rights and freedoms. Any sound policy would strive to halt the spread of the disease without incurring the unacceptable social costs that rights violations inevitably occur.

In what my friend and judicial colleague Michael Kirby has called the ‘AIDS paradox’, it is precisely this focus on individual rights – particularly of those already living with HIV – that will help us overcome the epidemic. Rights may need to be reconciled with other apparently conflicting rights, but human rights remain the framework for the overall policy response to the disease, including significant public health concerns.

Universality

The second point I would like to recall stems from the universality of human rights. Our respect for human rights norms cannot be selective. All are entitled to have their human rights protected. Again, this is a simple – even bland – point. However in the context of HIV and AIDS, it has a peculiarly strong resonance. This is because the spread of the disease is linked very much to situations which cause discomfort, denial and often rejection in many people. I am talking of the spread of HIV through sex, often violent or predatory, sometimes between men, sometimes as a commercial transaction. I am talking of the alarming spread of HIV among injecting drug users, and of infection by what ever means among prisoners or involving children.

These realities cannot prejudice our response to the situation. All individuals have a right to the highest attainable standard of physical and mental health, including access to prevention, treatment and care. All have a right of access to information to protect themselves. None should be subject to torture, arbitrary detention or execution. And if evidence indicates that individuals are being targeted by reason of their status, governments have an obligation to protect them and, more broadly, to address the situation.

Powershift

My third and final point relates to the importance of human rights in addressing underlying power inequalities. A glaring example of this is that of women and the so-called feminization of the HIV and AIDS epidemic. The most startling statistic is that in sub-Saharan Africa a staggering 76% of people aged 15 to 24 living with HIV are women. Even in regions of the world where transmission has traditionally resulted in male infection, increasing numbers of women are becoming infected. It is difficult to find a clearer illustration of the impact of power relations on the spread of the epidemic. As the Special Rapporteur on violence against women states in her report to this year's Commission entitled 'Intersections of Violence against Women and HIV/AIDS':

programmes aimed at the prevention and treatment of HIV/AIDS cannot succeed without challenging the structures of unequal power relations between women and men.

That report sets out in depressing detail the relationship between violence against women and the spread of HIV and AIDS. Addressing the rights of women is now a priority. Indeed, success in this area could turn the tide in the battle against HIV/AIDS. As ever, the basic premise is non-discrimination. Women have equal rights to information, to health care, to property and inheritance and to the equal enjoyment of all internationally protected rights. And they have those rights not as spouses, or mothers, or care-givers, or peace-makers, but as human beings.

Distinguished panelists, ladies and gentlemen,

Before I conclude, let me flag two developments in the year ahead.

This year the international community will look at efforts to achieve the Millennium Development Goals, including Goal 6 which focuses specifically on HIV and AIDS, among other diseases. The MDG initiative has the potential to make enormous strides in realizing the human rights of millions. Human rights provide the only framework – neither time-bound nor quantified – which will support the effective achievement of the MDGs. 2005 is a key opportunity for the human rights aspects of the MDGs to be explicitly acknowledged by the international community. We know that Goal 6 will not be achieved if human rights aspects are ignored, in particular if we are to reach the most marginalized.

2005 is also an important year for the “3 by 5” initiative of WHO and UNAIDS. Remarkable results have been achieved and the right to health of millions advanced. Much depends on continued access to affordable medicines and the willingness of countries to pursue all means available to them to provide medication to those in need, including by making use of existing flexibilities under international trade agreements. The provision of antiretroviral treatment also relies on the balance between identifying those in need of treatment and respecting individuals’ rights to security of the person and privacy. Rigorous adherence to a policy of voluntary counselling and testing remains our best approach in this situation.

Both “3 by 5” and the MDGs provide important targets for mobilizing resources and action. Respect for human rights will ensure that each initiative will reach those most in need, and will do so without inflicting additional indignities to the most vulnerable.

Finally, I thank you all for attending this event, and encourage you to take part in what I am sure will be a rich discussion. I trust OHCHR can count on your support in the year ahead in working on HIV and AIDS issues and on the human rights challenges that they present.

Thank you.



Joint United Nations Programme on HIV/AIDS

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HIV/AIDS and the Role of National Human Rights Institutions

**Parallel Session
Commission on Human Rights
Sixty-first Session
13 April 2005
Geneva**

**Susan Timberlake
Senior Law and Human Rights Advisor
UNAIDS**

Please let me thank Ambassador Smith and the Australian government for hosting this session. I also wish to thank the representatives of national human rights institutions present here today for their interest and participation, and thank you all for giving me the opportunity to speak.

UNAIDS is a strange international beast. It is a cosponsored programme with 10 cosponsors from the UN system. I start with this to underline that this is the way the UN has to work against this epidemic, indeed the way countries have to work against it – as a broad range of partners who bring their particular expertise to particular aspects of the response - because the epidemic is a multi-headed Hydra - with different epidemics across regions and even within countries - affecting every aspect of societies and their development. Only many different partners going at it in many different ways will overcome it.

One set of partners which we are very excited about are national human rights institutions. Unlike any other disease, HIV has shown us that human rights are central to an effective response – because, unless human rights are protected, people get infected. And unless the human rights of positive people are protected, they first become unable to support themselves and their families, then without treatment, they die. Where the numbers are high, whole communities are devastated, as is the right to development.

You know the statistics: 40 million infected, half of whom are women (in Africa it is 57%); 640,000 children infected last year; 20+ million dead; 14 million orphans; 9 countries in Africa where life expectancy has dropped to less than 40 years old.

The international community and national governments have recognized that human rights are critical to this epidemic. In the UNGASS Declaration of Commitment, governments agreed by 2003 to implement a multisectoral response that, among other things: “confronts stigma, silence and denial; addresses gender and age-based dimensions of the epidemic; eliminates discrimination and marginalization; involves partnerships with civil society and the full participation of people living with HIV, those in vulnerable groups and people mostly at risk, particularly women and young people; fully promotes and protects all human rights...and integrates a gender perspective...”(Para. 37) The Declaration contains a whole section on specific human rights commitments involving, among other things, law reform, sexual and reproductive health, and the empowerment of women and children.

I cite this at length, because it is exactly in these elements of the response that we need the assistance of national human rights institutions. Unfortunately, these targets have not been met in most countries. To meet these targets the major challenges are:

- To get human rights people to take up HIV
- To get people affected by HIV to take up human rights
- To get human rights programmed into the response
- To get the response's programmes to realize and protect human rights.

And to do it at national level – to move beyond proclamations on human rights and HIV to operationalizing human rights in the form of programmes that keep people uninfected, or if infected, alive and functioning. As a central national body in a country whose specific function is to promote and protect human rights, a national human rights institution can be key in achieving these challenges. Let me go through some of the Paris Principles in terms of what I think national human rights institutions can do.

In terms of achieving a **broad-based mandate**, UNAIDS would urge national institutions to include a strong focus on economic, social and cultural rights at country level in their work. Though non-discrimination is key in the response to AIDS, economic, social and cultural rights are also key, particularly the rights to health, education and information, as well as the economic and social rights of women, girls and young people – the groups that are being infected at the fastest rate.

In terms of a **pluralistic and representative composition**, one invaluable lesson learned in this epidemic is that people living with HIV are major resources in the fight. But tremendous lip service is paid to this principle without true involvement on the ground. In some countries, HIV activists have organized themselves in spite of lack of support and have achieved major human rights goals, such as the “right to health = the right to life-saving medication”; others are actually procuring and providing such medication where health services have failed. National human rights institutions can support the broad-based involvement of positive people in human rights activities at national level.

UNAIDS with others has launched the Global Coalition on Women and AIDS. It is a network of individuals and organizations that take a loud and public stand on the rights of women and girls that must be protected to stop the epidemic and push for concrete changes that will improve their lives.

One aspect of the Coalition is bringing women leaders and women's rights groups into the fight against the epidemic. National human rights institutions could help in this effort, as well as in the promotion of the rights of women related to HIV.

In countries where the epidemic is still concentrated among particular groups, such as sex workers, drug users, men having sex with men, migrants and prisoners, these too must come out of marginalization and into HIV prevention, care and human rights activities. In some countries, these groups are making impressive gains to demand protection of their rights and to thereby avoid infection or be able to deal with it. But in many countries civil society is not well-functioning, organized or supported, and these groups are criminalized and/or highly marginalized. In these societies, HIV infection first spirals within the group, then moves out into the general population. National human rights institutions can help ensure that there is a truly pluralistic and representative approach to the epidemic through the involvement of such groups.

In terms of sufficient resources to fulfil their mandates, in my view, national human rights institutions should benefit from national and international AIDS funding, and their participation in the national response could enable such funding.

Let me touch on the following responsibilities of national human rights institutions that are pertinent to AIDS:

Reporting and making recommendations to the government on human rights

UNAIDS promotes what it calls the "Three Ones" which are essentially one multi-sectoral national AIDS coordinating authority, one agreed national action framework, and one agreed country-level monitoring and evaluation System.

National human rights institutions should be part of the national authority, the national action framework and the process of evaluation, and contribute their human rights expertise to these settings. In particular, national human rights institutions can ensure that adequate resources are allocated to the protection of HIV-related human rights, law reform, and legal education, as well as ensure the real and meaningful involvement of civil society, including the marginalized. UNAIDS, through its Global Reference Group on HIV/AIDS and Human Rights, is working to develop indicators to help evaluate the response to the epidemic in terms of human rights protection. National institutions could help to see that such indicators are used.

Beyond general recommendations on a rights-based response to the epidemic, national institutions could also work with networks of positive people in their efforts to monitor violations against them. National institutions could then either relay such information to the appropriate authorities, or where authorized to consider individual complaints, could mediate or otherwise help find redress for the individuals whose rights have been infringed.

Promoting conformity of national law and practice with international human rights standards including the need for law reform

UNAIDS is continually being asked by governments to give advice as they reform their domestic legislation so that it helps, not hinders, the response to HIV. The problems usually involve outdated, restrictive public health law being applied to HIV; and inadequate protection of non-discrimination for positive people; the rights of women, including against violence inside and outside marriage; inadequate protection of confidentiality and informed consent around HIV testing; clumsy laws criminalizing HIV transmission; and laws that hamper provision of prevention, care and treatment to sex workers, prisoners, drug users and migrants.

UNAIDS has developed a number of resources on HIV-related law reform. With the Inter-Parliamentary Union, we have produced a guide to appropriate legislative responses. With the Canadian HIV Legal Network, we are developing draft model legislation for the protection of women and in the area of drug use. We are also supporting networks of positive people in Europe to monitor laws that criminalize HIV transmission. National human rights institutions could use such tools to do invaluable work in monitoring laws, working with parliamentarians on HIV-related law reform, finding ways to deal with harmful customary law, and supporting the development of legal aid for positive people.

Cooperating with national, regional and UN human rights bodies

This is an area that UNAIDS and the UN treaty bodies desperately need help with, as there is not enough information on HIV-related rights issues going into the treaty body reports or into the work of the special procedures (though some of these have done groundbreaking work, e.g. on violence against women and right to health). Many years ago, UNAIDS produced a *Guide to the UN Human Rights Machinery*. It was intended to encourage AIDS service organizations and AIDS activists to

become involved in the monitoring function of the treaty bodies, particularly the country reports. National human rights institutions could support the involvement of AIDS activists in the special procedures, and either incorporate HIV into reports on which they work or help organize input by AIDS groups into shadow reports. UNAIDS Country Coordinators would be ready to help provide useful information on the national epidemic and response.

Implementing human rights education programmes

National human rights institutions could work to incorporate health and HIV-related issues into ongoing human rights education programmes. This could take the form of HIV-related aspects being included in human rights curricula at all levels of schooling, as well as inserting HIV-related human rights education into professional training. It is important to expand human rights education to professionals, because much of the discrimination faced by positive people comes from doctors, nurses, employers, police, judges and government officials providing social services. National human rights institutions could do a great deal for the response if they helped to provide relevant human rights education to these groups regarding non-discrimination against positive people.

Publicizing human rights

Twenty years into the epidemic and countless public information campaigns have taught people how HIV is transmitted but not how to be compassionate and not discriminate in a world of AIDS. National human rights institutions could support public human rights and media campaigns regarding the rights of positive people and those vulnerable to infection. UNAIDS, through its Global Reference Group on Human Rights, is developing a *Best Practice Guide* and *Do's and Don'ts* on rights-based responses to HIV. National human rights institutions could find their own national examples of this and publicize and support such efforts.

I know national human rights institutions come in all shapes and sizes, but if I could have anything I wanted, I would like to see all of them take the following basic steps to ensure HIV concerns are part of their work:

- Meet with the UNAIDS Country Coordinator to be briefed on the national epidemic, its key challenges, opportunities, and players
- Become a member of the national AIDS coordinating authority
- Convene a small consultation with AIDS service organizations, networks of positive people and AIDS activists to learn about their concerns
- Support a network of these groups to provide ongoing information and consultation for input at national level and into the UN treaty bodies
- Encourage prominent human rights and women's rights activists to work on HIV issues and urge special rapporteurs and representatives who visit your country to address HIV issues
- Develop a workplace policy on HIV/AIDS for the Institution and encourage the hiring of people living with HIV, including among you own staff
- Take up some of the suggestions I have outlined above according to your own interests and capacities.

Let me conclude by saying that national human rights institutions can make a truly unique and important contribution to the national HIV response by bringing their expertise, stature and mandate to bear on human rights in the epidemic. They can also serve as an important bridge between government and civil society, helping to empower duty-bearers to respond to AIDS and rights-holders to realize their rights in the context of AIDS.

HIV does not pose easy issues. As with all leaders, it will take representatives of national human rights institutions to have courage, vision, and a willingness to speak out about what others are often not willing to speak out about. But the help and involvement of such institutions could make a critical difference in the life and death of thousands of citizens.

2005/84. The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS)

The Commission on Human Rights,

Recalling its resolutions 2003/47 of 23 April 2003, 2001/51 of 24 April 2001 and 1999/49 of 27 April 1999, as well as the Declaration of Commitment on HIV/AIDS adopted at the twenty-sixth special session of the General Assembly on HIV/AIDS in 2001, which affirms that the realization of human rights and fundamental freedoms for all is essential to reduce vulnerability to HIV/AIDS and that respect for the rights of people living with HIV/AIDS drives an effective response,

Noting with concern that, according to estimates by the Joint United Nations Programme on HIV/AIDS (UNAIDS) and the World Health Organization, at the end of 2004 the number of people living with HIV was 39.4 million, including 4.9 million people newly infected with HIV in 2004, and the number of people who have died of AIDS since the beginning of the epidemic is more than 20 million, including the 3.1 million people who died of AIDS in 2004,

Noting with concern that, according to UNAIDS and the World Health Organization, in the last two years, the number of people living with HIV has risen in every region, with the steepest increases occurring in East Asia, Eastern Europe and Central Asia,

Noting with particular concern that, also according to UNAIDS and the World Health Organization, women and girls are disproportionately affected by the epidemic in that they comprise an increasing proportion of the people infected, particularly in sub-Saharan Africa where women account for 57 per cent of those infected, with young women aged 15 to 24 being three times more likely to be infected than young men of the same age, and in Eastern Europe, Asia and Latin America, where the proportion of infected women continues to grow,

Noting also with particular concern that the situation of children under 15 made vulnerable or orphaned by HIV/AIDS is worsening, with an estimated 2.2 million children living with HIV at the end of 2004, including 640,000 children newly infected that year; that 510,000 children died of AIDS in 2004 and 500,000 children are in need of HIV/AIDS treatment; and that 12 million children have been orphaned in sub-Saharan Africa, with the number expected to rise to more than 18 million by 2010,

Noting with concern that an estimated 95 per cent of all people infected with HIV live in the developing world, mostly in conditions of poverty, underdevelopment, conflict and inadequate measures for the prevention, care and treatment of HIV infection, and that marginalized groups in these societies are even more vulnerable to HIV infection and the impact of AIDS,

Also noting with concern the devastating impact of HIV/AIDS, including increased mortality and morbidity among men, women and children; higher health and social costs; and, in hardest-hit countries, devastation of human and social capital and development gains, including the reduction of poverty, resulting in a major threat to the achievement of the internationally agreed development goals, including those contained in the United Nations Millennium Declaration,

Taking note of the fact that in the context of the "3 by 5" initiative to treat three million people by 2005, the World Health Organization and UNAIDS have estimated that 700,000 people in developing countries were receiving antiretroviral treatment by the end of 2004, which represented 12 per cent of the 5.8 million people in need of such treatment,

Emphasizing, in view of the increasing challenges presented by HIV/AIDS, 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,

Concerned that lack of full enjoyment of human rights by persons suffering from economic, social or legal disadvantage heightens the vulnerability of such persons to the risk of HIV infection and to its impact, if infected,

Recalling the Guidelines on HIV/AIDS and Human Rights as summarized in paragraph 12 of document E/CN.4/1997/37, including the summary of the *Revised Guideline 6: Access to prevention, treatment, care and support* (2002), which provide guidance to ensuring the respect, protection and fulfilment of human rights in the context of HIV/AIDS,

Taking note with interest of the reports by the United Nations special procedures that have devoted specific attention, in the context of their mandates, to the critical intersection between the protection of human rights and an effective response to the epidemic, among others, the Special Rapporteurs on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, on the question of torture, on the right to freedom of opinion and expression, on violence against women its causes and consequences, and on the sale of children, child prostitution and child pornography,

Also taking note with interest of general comment No. 3 on HIV/AIDS and the rights of the child, adopted by the Committee on the Rights of the Child at its thirty-second session in January 2003,

Welcoming the fact that positive steps in implementing previous resolutions have been taken, including the enactment of legislation in some countries to promote human rights in the context of HIV/AIDS and to prohibit discrimination against persons infected or presumed to be infected and members of vulnerable groups,

Welcoming also the significant role of UNAIDS in cooperation with relevant bodies of the United Nations system, in particular the Office of the United Nations High Commissioner for Human Rights, and of national and international non-governmental organizations, in particular organizations of people living with HIV/AIDS, in promoting and protecting human rights in the context of HIV/AIDS, including fighting discrimination against people living with HIV/AIDS, and in the full range of prevention, treatment and care activities,

Recalling that HIV-related stigma and discrimination are major obstacles to an effective HIV/AIDS response and that discrimination on the basis of HIV or AIDS status, actual or presumed, is prohibited by existing international human rights law, and that the term "or other status" in non-discrimination provisions in international human rights texts should be interpreted to cover health status, including HIV/AIDS,

Welcoming the report of the Secretary-General on the protection of human rights in the context of HIV and AIDS (E/CN.4/2005/79), which provides an overview of action taken by a number of Governments, specialized agencies and international and non-governmental organizations on the implementation of the Guidelines on HIV/AIDS and Human Rights, as summarized in paragraph 12 of document E/CN.4/1997/37, and their dissemination, and which addresses issues of technical cooperation for the promotion and protection of human rights in the context of HIV/AIDS,

Welcoming the appointment by the Secretary-General of Special Envoys on HIV/AIDS for Africa, Asia, the Caribbean and Eastern Europe,

1. *Invites* States, United Nations organs, 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 Guidelines on HIV/AIDS and Human Rights, as summarized in paragraph 12 of document E/CN.4/1997/37;

2. *Calls upon* all 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;

3. *Invites* States, United Nations bodies and international and non-governmental organizations, including the international donor community, to further contribute to international cooperation and assistance, with a view to assisting developing countries, particularly the least developed countries, in the context of the “Three Ones” key principles of UNAIDS and in the context of HIV-related human rights through, inter alia, advancing HIV/AIDS prevention and care programmes, including the provision of youth-friendly and gender-sensitive health programmes, facilitating equal access to HIV-related treatment, and sharing knowledge and achievements concerning HIV-related issues;

4. *Invites* States to develop, support and strengthen national mechanisms for protecting HIV-related human rights in consultation with relevant national bodies, including national human rights institutions and professional bodies, to monitor and enforce HIV-related human rights, to eliminate HIV-related stigma and discrimination, and to ensure that codes of professional conduct respect human rights and dignity in the context of HIV/AIDS, so that infected persons who reveal their HIV status, those presumed to be infected and other affected persons are protected from violence, stigmatization and discrimination;

5. *Urges* States to ensure that their laws, policies and practices, including workplace policies and practices, respect human rights in the context of HIV/AIDS and promote effective programmes for the prevention and treatment of HIV/AIDS and the prohibition of HIV-related discrimination, including through voluntary testing and counselling, education, media and awareness-raising campaigns, improved and equitable access to high-quality goods and health care, particularly to safe and effective medication, assistance to educate people infected with and affected by HIV/AIDS about their rights and to assist them in realizing their rights;

6. *Urges* all States to integrate sexual and reproductive health programmes and the promotion and protection of reproductive rights, as understood in previous international commitments, such as the Programme of Action adopted at the International Conference on Population and Development (Cairo, 5-13 September 1994) and the Beijing Declaration and Programme for Action adopted at the Fourth World Conference for Women (Beijing, 4-15 September 1995), as strong and robust components of their national strategies on HIV/AIDS, and stresses that women have the right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence;

7. *Requests* States to further develop and, where necessary, establish coordinated, participatory, gender-sensitive, transparent and accountable national policies and programmes for HIV/AIDS response and to translate national policies to district level and local action, involving in all phases of development and implementation non-governmental and faith- and community-based organizations, including women’s organizations and advocacy groups and representatives of people living with HIV/AIDS and vulnerable groups;

8. *Also requests* States to take all appropriate measures to protect the human rights of women and children in the context of HIV/AIDS, in particular to address gender inequality, violence against women and girls, harmful traditional practices, as well as the legal and social needs of children orphaned or made vulnerable by HIV/AIDS and the needs of their caregivers;

9. *Calls upon* States to ensure full and equal access for women and children to HIV prevention, information, voluntary counselling and testing, education and care, as well as to high-quality medication and treatment, including through the development of efficient national health systems with the necessary human resources, recognizing the need for youth-friendly services and the appropriate role and responsibility of parents, families, legal guardians and caregivers in this regard;

10. *Invites* the human rights treaty bodies, when considering reports submitted by States parties, to give particular attention to HIV-related rights and invites States to include appropriate HIV-related information in the reports they submit to the relevant treaty bodies;

11. *Invites* States when preparing their progress reports to the General Assembly on the implementation of the Declaration of Commitment on HIV/AIDS to include information on human rights in the context of HIV/AIDS;

12. *Requests* all special procedures and open-ended working groups of the Commission to continue to integrate the protection of HIV-related human rights within their respective mandates;

13. *Requests* the Secretary-General to invite Member States and the United Nations organs and programmes, as well as the specialized agencies, to integrate HIV-related human rights into their policies, programmes and activities, including those involving regional intergovernmental human rights and other bodies, and to involve non-governmental and faith- and community-based organizations and the private sector in all phases of development and implementation, to help ensure a system-wide approach, stressing the coordinating and catalytic role of UNAIDS;

14. *Also requests* the Secretary-General to solicit comments from Governments, United Nations organs, 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 on HIV/AIDS and Human Rights, as summarized in paragraph 12 of document E/CN.4/1997/37, and the present resolution, and to submit, in consultation with interested parties, a progress report to the Commission for consideration at its sixty-third session.

61st meeting

21 April 2005

[Adopted without a vote. See chap. XIV.]

**2005/23. Access to medication in the context of pandemics
such as HIV/AIDS, tuberculosis and malaria**

The Commission on Human Rights,

Reaffirming the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights,

Reaffirming also that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is a human right,

Recalling its resolutions 1999/49 of 27 April 1999, 2001/33 of 23 April 2001, 2001/51 of 24 April 2001, 2002/32 of 22 April 2002, 2003/29 of 22 April 2003 and 2004/26 of 15 April 2004,

Bearing in mind World Health Assembly resolutions WHA55.12 entitled "Contribution of WHO to the follow-up of the United Nations General Assembly special session on HIV/AIDS", and WHA55.14 entitled "Ensuring accessibility of essential medicines", both adopted on 18 May 2002, and World Health Assembly resolutions WHA56.27 entitled "Intellectual property rights, innovation and public health" and WHA56.30 entitled "Global health-sector strategy for HIV/AIDS", both adopted on 28 May 2003 and resolution WHA57.14 entitled "Scaling up treatment and care within a coordinated and comprehensive response to HIV/AIDS" adopted on 22 May 2004,

Recalling the establishment of the Commission on Intellectual Property Rights, Innovation and Public Health by the World Health Organization,

Acknowledging that prevention and comprehensive care and support, including treatment and access to medication for those infected and affected by pandemics such as HIV/AIDS, tuberculosis and malaria are inseparable elements of an effective response and must be integrated into a comprehensive approach to respond to such pandemics,

Recalling general comment No. 14 (2000) on the right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights), adopted by the Committee on Economic, Social and Cultural Rights at its twenty-second session,

Recalling also general comment No. 3 (2003) on HIV/AIDS and the rights of the child, adopted by the Committee on the Rights of the Child at its thirty-second session,

Noting with great concern that, according to the Joint United Nations Programme on HIV/AIDS (UNAIDS), the HIV/AIDS pandemic claimed an estimated 3.1 million lives in 2004,

Alarmed that, according to the same source, about 40 million people were living with HIV by the end of 2004 and that an estimated 5 million people were newly infected with HIV in 2004,

Alarmed also that, according to information provided jointly by UNAIDS, the United Nations Children's Fund and the United States Agency for International Development, in July 2002, it is projected that 25 million children under the age of 15 will lose one or both parents owing to HIV/AIDS by 2010, 20 million of whom will reside in Africa,

Recalling General Assembly resolution 59/256, entitled "2001-2010: Decade to Roll Back Malaria in Developing Countries, Particularly in Africa", adopted on 23 December 2004,

Alarmed that, according to the global Roll Back Malaria partnership, malaria annually causes more than one million preventable deaths, about 90 per cent of which are in Africa, that malaria is the leading cause of death in young children and that it causes at least 300 million cases of acute illness each year,

Alarmed also that, according to the World Health Organization report of 2004 entitled *Global Tuberculosis Control: Surveillance, Planning, Financing*, tuberculosis kills about 2 million people each year, more than 8 million people around the world become sick with tuberculosis each year, and it is projected that between 2002 and 2020, 36 million people will die of tuberculosis if control is not further strengthened,

Acknowledging the significance of HIV/AIDS in the increase in tuberculosis and other opportunistic infections,

Alarmed that, according to the World Health Organization, one third of the world's population still lacks access to essential medicines and that in the poorest parts of Africa and Asia, over half of the population lacks access to even the most basic essential drugs,

Welcoming the initiatives of the Secretary-General and relevant United Nations agencies, developed and developing countries, and the private sector to make drugs related to HIV/AIDS, tuberculosis and malaria more accessible to developing countries, and noting that much more can be done in this regard,

Recalling the Declaration on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and Public Health adopted at the Fourth Ministerial Conference of the World Trade Organization in Doha in November 2001,

Recalling also the decision on the implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, adopted by the General Council of the World Trade Organization on 30 August 2003,

Recognizing the existing efforts and need to further promote the transfer of technology and capacity-building to countries with insufficient or no manufacturing capacities in the pharmaceutical sector, in accordance with applicable international law, including international agreements acceded to,

Stressing the importance of fully implementing the Declaration of Commitment on HIV/AIDS, "Global Crisis - Global Action", adopted by the General Assembly in its resolution S-26/2 of 27 June 2001 at its special session on HIV/AIDS, and taking note of the report of the Secretary-General on progress towards implementation of the Declaration of Commitment on HIV/AIDS (A/58/184),

Expressing its support for the work of the Global Fund to Fight AIDS, Tuberculosis and Malaria and of other international bodies combating such pandemics, and encouraging the Global Fund to develop further effective and appropriate processes for the disbursement of funds,

Recalling the goal of the World Health Organization and UNAIDS which aims to support developing countries in securing access to antiretroviral treatment for 3 million people living with HIV/AIDS by the end of 2005, noting the importance of mobilizing financial contributions from States and other donors and the need to think beyond the 2005 target,

Taking note of the World Health Organization's initiatives to make safe, effective and affordable medicines and diagnostics of good quality more easily accessible to developing countries and countries with economies in transition,

Recalling the need to strengthen the prevention aspect in the fight against pandemics such as HIV/AIDS, tuberculosis and malaria,

Recognizing that the spread of HIV/AIDS can have a uniquely devastating impact on all sectors and levels of society and stressing that the HIV/AIDS pandemic, if unchecked, may pose a risk to stability and security, as stated in Security Council resolution 1308 (2000) of 17 July 2000,

Emphasizing, in view of the increasing challenges presented by pandemics such as HIV/AIDS, tuberculosis and malaria, the need for intensified efforts to ensure universal respect for and observance of human rights and fundamental freedoms for all, including by reducing vulnerability to pandemics such as HIV/AIDS, tuberculosis and malaria and by preventing related discrimination and stigma,

1. *Recognizes* that access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria is one fundamental element for achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;
2. *Calls upon* States to consider taking into account the guidelines elaborated at the Second International Consultation on HIV/AIDS and Human Rights held in Geneva from 23 to 25 September 1996 (E/CN.4/1997/37, annex I), as well as the revision of guideline 6 at the Third International Consultation, held on 25 and 26 July 2002;
3. *Also calls upon* States to develop and implement national strategies, in accordance with applicable international law, including international agreements acceded to, in order to progressively realize access for all to prevention-related goods, services and information as well as access to comprehensive treatment, care and support for all individuals infected and affected by pandemics such as HIV/AIDS, tuberculosis and malaria;
4. *Further calls upon* States to establish or strengthen national health and social infrastructures and health-care systems, with the assistance of the international community as necessary, for the effective delivery of prevention, treatment, care and support to respond to pandemics such as HIV/AIDS, tuberculosis and malaria;
5. *Affirms* the importance of public health interests in both pharmaceutical and health policies;
6. *Calls upon* States to pursue policies, in accordance with applicable international law, including international agreements acceded to, which would promote:
 - (a) The availability, in sufficient quantities, of pharmaceutical products and medical technologies used to treat and/or prevent pandemics such as HIV/AIDS, tuberculosis and malaria or the most common opportunistic infections that accompany them;
 - (b) The accessibility and affordability for all without discrimination, including the most vulnerable or socially disadvantaged groups of the population, as well as infants and children, of pharmaceutical products or medical technologies used to treat and/or prevent pandemics such as HIV/AIDS, tuberculosis, malaria or the most common opportunistic infections that accompany them;
 - (c) The assurance that pharmaceutical products or medical technologies used to treat and/or prevent pandemics such as HIV/AIDS, tuberculosis, malaria or the most common opportunistic infections that accompany them, irrespective of their sources and countries of origin, are scientifically and medically appropriate and of good quality;
7. *Calls upon* States, at the national level, on a non-discriminatory basis, in accordance with applicable international law, including international agreements acceded to:
 - (a) To refrain from taking measures which would deny or limit equal access for all persons to preventive, curative or palliative pharmaceutical products or medical technologies, including microbicides and male and female condoms, used to treat and/or prevent pandemics such as HIV/AIDS, tuberculosis, malaria or the most common opportunistic infections that accompany them;
 - (b) To adopt and implement, as appropriate, legislation or other measures affecting public health, in accordance with applicable international law, including international

agreements acceded to, to safeguard access to such preventive, curative or palliative pharmaceutical products or medical technologies from any limitations by third parties;

(c) To adopt all appropriate positive measures, to the maximum of the resources allocated for this purpose, to promote effective access to such preventive, curative or palliative pharmaceutical products or medical technologies;

8. *Also calls upon* States, in furtherance of the Declaration of Commitment on HIV/AIDS, to address factors affecting the provision of drugs related to the treatment of pandemics such as HIV/AIDS and the most common opportunistic infections that accompany them, as well as to develop integrated strategies to strengthen health-care systems;

9. *Urges* States to develop and implement national health policies that monitor the use of medications, diagnoses and related technologies, to ensure informed consent and confidentiality in conducting HIV testing and counselling, and to strengthen laboratory capacities and the training of health-care providers and technicians;

10. *Calls upon* States to adopt effective measures to prevent mother-to-child transmission of HIV and to facilitate access to antiretroviral therapy, safe delivery practices and breast-milk substitutes, where feasible and safe;

11. *Also calls upon* States to take all appropriate measures, nationally and through cooperation, to promote research and development of new and more effective preventive, curative or palliative pharmaceutical products and diagnostic tools, in accordance with applicable international law, including international agreements acceded to;

12. *Further calls upon* States, at the international level, to take steps, individually and/or through international cooperation, in accordance with applicable international law, including international agreements acceded to, such as:

(a) To facilitate, wherever possible, access in other countries to essential preventive, curative or palliative pharmaceutical products or medical technologies used to treat and/or prevent pandemics such as HIV/AIDS, tuberculosis and malaria and the most common opportunistic infections that accompany them, as well as to extend the necessary cooperation, wherever possible, especially in times of emergency;

(b) To ensure that their actions as members of international organizations take due account of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and that the application of international agreements is supportive of public health policies that promote broad access to safe, effective and affordable preventive, curative or palliative pharmaceutical products and medical technologies;

13. *Urges* States to consider, whenever necessary, enacting appropriate national legislation in order to use to the fullest extent the flexibilities contained in the TRIPS Agreement and encourages States to take into account such flexibilities when entering into international trade agreements that may affect public health;

14. *Calls upon* States to conduct an impact assessment of the effects of international trade agreements with regard to public health and to the progressive realization of the right of everyone to the highest attainable standard of health;

15. *Welcomes* the financial contributions made to date to the Global Fund to Fight AIDS, Tuberculosis and Malaria, urges that further contributions be made by States and other donors, and also calls upon all States to encourage the private sector to increase their contributions to the Fund as a matter of urgency;

16. *Calls upon* all States and other donors to cooperate in supporting the “3 by 5”

Initiative launched jointly by the World Health Organization and UNAIDS with the aim of providing antiretroviral treatment to 3 million people in the developing world by the end of 2005;

17. *Calls upon* international organizations, agencies and programmes to mobilize further resources to combat pandemics such as HIV/AIDS, tuberculosis and malaria and calls upon all Governments to take measures to ensure that the necessary resources are made available for that purpose;

18. *Calls upon* States to ensure that those at risk of contracting malaria, in particular pregnant women and children under five years of age, benefit from the most suitable combination of personal and community protective measures, such as insecticide-treated bed nets, indoor residual spraying and other interventions that are accessible and affordable, in order to prevent infection and suffering, and to support expanded access to artemisinin-based combination therapy;

19. *Also calls upon* States to provide the necessary support for the World Health Organization "Roll Back Malaria" and "Stop TB" partnerships in ongoing measures to combat malaria and tuberculosis;

20. *Calls upon* the international community, the developed countries in particular, to continue to assist the developing countries in the fight against pandemics such as HIV/AIDS, tuberculosis and malaria through financial and technical support, as well as through the training of personnel;

21. *Invites* the Committee on Economic, Social and Cultural Rights also to give attention to the issue of access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria and invites States to include appropriate information thereon in the reports they submit to the Committee;

22. *Takes note with interest* of the report of the Secretary-General on access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria (E/CN.4/2005/38);

23. *Requests* the Secretary-General to solicit comments from Governments, United Nations organs, programmes and specialized agencies and international and non-governmental organizations on the steps they have taken to promote and implement, where applicable, the present resolution, as well as to report thereon to the Commission at its sixty-second session;

24. *Decides* to continue its consideration of this matter at its sixty-second session, under the same agenda item.

51st meeting

15 April 2005

[Adopted without a vote. See chap. X.]

2005/41. Elimination of violence against women

The Commission on Human Rights,

Reaffirming that discrimination on the basis of sex is contrary to the Charter of the United Nations, the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women and other international human rights instruments, and that its elimination is an integral part of efforts towards the elimination of violence against women and girls,

Reaffirming the Vienna Declaration and Programme of Action, the Declaration on the Elimination of Violence against Women, the Beijing Declaration and Platform for Action, the outcome of the twenty-third special session of the General Assembly, entitled “Women 2000: gender equality, development and peace for the twenty-first century”, and the Declaration adopted at the forty-ninth session of the Commission on the Status of Women,

Recalling all its previous resolutions on the elimination of violence against women, in particular its resolution 1994/45 of 4 March 1994, in which it decided to appoint a special rapporteur on violence against women, its causes and consequences, all General Assembly resolutions relevant to elimination of violence against women, and Security Council resolution 1325 (2000) of 31 October 2000 on women, peace and security,

Reaffirming the responsibility of all States to put an end to impunity and prosecute those responsible for genocide, crimes against humanity and war crimes,

Recalling the inclusion of gender-related crimes and crimes of sexual violence in the Rome Statute of the International Criminal Court, which affirms that rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and other forms of sexual violence of comparable gravity constitute, in defined circumstances, a crime against humanity and/or a war crime, and reiterating that acts of sexual violence in situations of armed conflict can constitute serious violations or grave breaches of international humanitarian law,

Deeply concerned that all forms of discrimination, including racism, racial discrimination, xenophobia and related intolerance, and multiple or aggravated forms of discrimination and disadvantage can lead to the particular targeting or vulnerability to violence of girls and some groups of women, such as women belonging to minority groups, indigenous women, refugee and internally displaced women, migrant women, women living in rural or remote communities, destitute women, women in institutions or in detention, women with disabilities, elderly women, widows and women in situations of armed conflict, and women who are otherwise discriminated against, including on the basis of HIV status,

Noting with concern the reported incidents of violence committed against women and girls on the basis of dress code,

1. *Welcomes:*

(a) The report of the Special Rapporteur on violence against women, its causes and consequences, including her work on the relationship between violence against women and HIV/AIDS (E/CN.4/2005/72);

(b) The initiatives, increasing efforts and important contributions at the national, regional and international levels to eliminate all forms of violence against women and girls and encourages the continued efforts of States, all United Nations bodies, funds and programmes, regional organizations and non-governmental organizations, including women’s organizations, to build upon these successful initiatives, and to support and participate in regional consultations in this area;

2. *Reaffirms* that the term “violence against women” means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or

suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life, and encompasses but is not limited to domestic violence, crimes committed in the name of honour, crimes committed in the name of passion, trafficking in women and girls, traditional practices harmful to women and girls, including female genital mutilation, early and forced marriages, female infanticide, dowry-related violence and deaths, acid attacks and violence related to commercial sexual exploitation as well as economic exploitation;

3. *Strongly condemns* all acts of violence against women and girls, whether these acts are perpetrated by the State, by private persons or non-State actors, and calls for the elimination of all forms of gender-based violence in the family, within the general community and where perpetrated or condoned by the State, in accordance with the Declaration on the Elimination of Violence against Women, and stresses the need to treat all forms of violence against women and girls as a criminal offence, punishable by law, as well as the duty to provide access to just and effective remedies and specialized assistance to victims, including medical and psychological assistance, as well as effective counselling;

4. *Reaffirms* that States have an obligation to exercise due diligence to prevent, investigate and punish the perpetrators of violence against women and girls and to provide protection to the victims, and that failure to do so violates and impairs or nullifies the enjoyment of their human rights and fundamental freedoms;

5. *Strongly condemns* physical, sexual and psychological violence occurring in the family, which encompasses, but is not limited to, battering, sexual abuse of women and girls in the household, dowry-related violence, marital rape, female infanticide, female genital mutilation, crimes committed against women and girls in the name of honour, crimes committed in the name of passion, traditional practices harmful to women and girls, incest, early and forced marriages, non-spousal violence and violence related to commercial sexual exploitation as well as economic exploitation;

6. *Stresses* that all forms of violence against women occur within the context of de jure and de facto discrimination against women and the lower status accorded to women in society and are exacerbated by the obstacles women often face in seeking remedies from the State;

7. *Emphasizes* that violence against women and girls has an impact on their physical and mental health, including their reproductive and sexual health, and, in this regard, encourages States to ensure the availability to women and girls of comprehensive and accessible health-care services and programmes and to health-care providers who are knowledgeable and trained to recognize signs of violence against women and girls and to meet the needs of patients who have been subjected to violence, in order to minimize the adverse physical and psychological consequences of violence;

8. *Stresses* that women should be empowered to protect themselves against violence and, in this regard, stresses that women have the right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence;

9. *Emphasizes* that violence against women and girls, inter alia rape, including marital rape, female genital mutilation, incest, early and forced marriage, violence related to trafficking, violence related to commercial sexual exploitation and economic exploitation, as well as other forms of sexual violence, increases their vulnerability to HIV/AIDS, that HIV infection further increases women's and girls' vulnerability to violence, and that violence against women and girls contributes to the conditions fostering the spread of HIV/AIDS;

10. *Urges* Governments to strengthen initiatives that would increase the capacities of women and adolescent girls to protect themselves from the risk of HIV infection, principally through the provision of health care and health services, including for sexual and reproductive health, and through prevention education and campaigns that promote gender equality within a culturally and gender-sensitive framework, taking into account the recommendations made by the Special Rapporteur;

11. *Also urges* Governments to effectively promote and protect women's and girls' human rights, including reproductive rights and sexual health, in the context of HIV/AIDS to lessen their vulnerability to HIV infection and to the impact of AIDS, as included in the summary of the Guidelines on HIV/AIDS and Human Rights in paragraph 12 of document E/CN.4/1997/37, and to cooperate with United Nations bodies, programmes and specialized agencies, and international and non-governmental organizations in this regard;

12. *Encourages* Governments, in collaboration with United Nations bodies, programmes and specialized agencies, and international and non-governmental organizations to provide comprehensive care for victims of sexual violence, including psychosocial and legal support, the timely and sufficient use of affordable and effective antiretroviral drugs both for post-exposure prophylaxis and for ongoing treatment in case of HIV infection;

13. *Urges* Governments to design and implement programmes to encourage and enable men and adolescent boys to adopt safe, informed and responsible sexual and reproductive behaviour, and to use effectively methods to prevent unwanted pregnancies and sexually transmitted infections, including HIV/AIDS;

14. *Reminds* Governments that their obligations under the Convention on the Elimination of All Forms of Discrimination against Women must be implemented fully with regard to violence against women, taking into account general recommendation No. 19 (1992) on violence against women adopted by the Committee on the Elimination of Discrimination against Women at its eleventh session, reaffirms their commitment to accelerate the achievement of universal ratification of the Convention, and urges all States that have not yet ratified or acceded to the Convention, to consider doing so, as a matter of priority;

15. *Also urges* States parties to limit the extent of any reservations to the Convention on the Elimination of All Forms of Discrimination against Women, to formulate any such reservations as precisely and as narrowly as possible, to ensure that no reservations are incompatible with the object and purpose of the Convention, to review their reservations regularly with a view to withdrawing them and to withdraw reservations that are contrary to the object and purpose of the Convention;

16. *Urges* States parties to consider signing and ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;

17. *Stresses* that States have an affirmative duty to promote and protect the human rights and fundamental freedoms of women and girls and must exercise due diligence to prevent, investigate and punish all acts of violence against women and girls, and calls upon States:

(a) To apply international human rights norms and to consider, as a matter of priority, becoming party to international human rights instruments that relate to violence against women and girls, and to implement fully their international obligations;

(b) To accelerate their efforts towards the full and effective implementation of the Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century";

(c) To take all measures to empower women and strengthen their economic independence, and to protect and promote the full enjoyment of all human rights and fundamental freedoms in order to allow women and girls to protect themselves better against violence and, in this regard, to give priority to and promote the full and equal participation in public and political life of women as well as to ensure their full and equal access to education, training, economic opportunity and economic advancement;

(d) To include in reports submitted in accordance with the provisions of relevant United Nations human rights instruments data and information disaggregated by sex, age and other factors, where appropriate, pertaining to violence against women and girls,

including measures to eliminate traditional or customary practices harmful to women and girls, and other measures taken to implement the Declaration on the Elimination of Violence against Women, the Platform for Action adopted by the Fourth World Conference on Women and other instruments relevant to the elimination of violence against women and girls;

(e) To condemn violence against women and girls and not to invoke custom, tradition or practices in the name of religion or culture to avoid their obligations to eliminate such violence;

(f) To address the specific circumstances facing girls and young women in relation to violence, especially sexual violence, including its immediate and long-term consequences;

(g) To address the specific circumstances facing indigenous women and girls in relation to gender-based violence, especially sexual violence, arising from multiple, intersecting and aggravated forms of discrimination, including racism, paying particular attention to the structural causes of violence;

(h) To ensure that marital rape is not excluded from general criminal provisions, and to investigate these acts and to prosecute and punish the perpetrators;

(i) To disseminate widely existing national guidelines for medico-legal care for victims of sexual violence;

(j) To intensify efforts to develop and/or utilize legislative, educational, social and other measures aimed at the prevention of violence against women and girls and to ensure their full and equal access to justice, including the adoption and implementation of laws, dissemination of information, active involvement with community-based players, and training of legal, judicial and health personnel on gender-based violence and related issues, and, where possible, through developing and strengthening support services;

(k) To enact and, where necessary, reinforce or amend domestic legislation, including measures to enhance the protection of victims, to investigate, prosecute, punish and redress the wrongs done to women and girls subjected to any form of violence, whether in the home, the workplace, the community or society, in custody or in situations of armed conflict, to ensure that such legislation conforms with relevant international human rights instruments and international humanitarian law, to abolish existing laws, regulations, customs and practices which constitute discrimination against women, to remove gender bias in the administration of justice, and to take action to investigate and punish persons who perpetrate acts of violence against women and girls;

(l) To formulate, implement and promote, at all appropriate levels, plans of action, including time-bound measurable targets where appropriate, to eliminate violence against women and girls, guided by, inter alia, the Declaration on the Elimination of Violence against Women, as well as relevant regional instruments pertaining to the elimination of violence against women and girls;

(m) To consider establishing appropriate national mechanisms for monitoring and evaluating implementation of measures taken to eliminate violence against women and girls, including through the use of national indicators, and to mainstream a gender perspective in budget policies and processes at all levels;

(n) To support initiatives undertaken by women's organizations and non-governmental organizations on the elimination of violence against women and girls and to establish and/or strengthen, at the national level, collaborative relationships with relevant non-governmental and community-based organizations, and with public and private sector institutions, aimed at the development and effective implementation of provisions and policies relating to violence against women and girls, including in the area of support services for victims;

(o) To encourage and support men and boys to take an active part in the prevention and elimination of all forms of violence, and especially gender-based violence, including in the context of HIV/AIDS, and to increase awareness of men's and boys' responsibility in ending the cycle of violence, inter alia through the promotion of attitudinal and behavioural change, integrated education and training that prioritize the safety of women and children, prosecution and rehabilitation of perpetrators, and support for survivors;

(p) To examine the impact of, and take measures to address, gender role stereotypes that contribute to the prevalence of violence against women and girls, including in cooperation with the United Nations system, regional organizations, civil society, the media and other relevant actors;

(q) To develop and/or enhance, including through funding, training programmes for judicial, legal, medical, social, educational, police, correctional service, military, peacekeeping, humanitarian relief and immigration personnel, in order to prevent the abuse of power leading to violence against women and girls and to sensitize such personnel to the nature of gender-based acts and threats of violence;

(r) To provide gender-sensitive training to all actors, as appropriate, in peacekeeping missions in dealing with female victims of violence, including sexual violence and, in this regard, acknowledges the important role of peace support operations personnel in eliminating violence against women and girls, and calls upon States to promote, and relevant agencies of the United Nations system and regional organizations to ensure full and effective implementation of the Ten Rules Code of Personal Conduct for Blue Helmets;

18. *Strongly condemns* violence against women and girls committed in situations of armed conflict, such as murder, rape, including widespread and systematic rape, sexual slavery and forced pregnancy, and calls for effective responses to these violations of human rights and international humanitarian law;

19. *Takes note* of work already undertaken to implement Security Council resolution 1325 (2000) on women, peace and security, and strongly urges continued efforts towards its full implementation;

20. *Acknowledges* the inclusion of gender-related crimes in the Rome Statute of the International Criminal Court and in the Elements of Crimes, adopted by the Assembly of State Parties to the Rome Statute in September 2002, and urges States to ratify or accede to the Rome Statute, which entered into force on 1 July 2002;

21. *Stresses* the importance of, and critical need for, concerted efforts to eliminate impunity for violence against women and girls in situations of armed conflict, including by prosecuting gender-related crimes and crimes of sexual violence, by providing protective measures, counselling and other appropriate assistance to victims and witnesses, by integrating a gender perspective into all efforts to eliminate impunity, including in international, internationally supported and domestic courts and other tribunals, commissions of inquiry and commissions for achieving truth and reconciliation, and invites the Special Rapporteur to report, as appropriate, on these mechanisms;

22. *Also urges* States to mainstream a gender perspective into all policies and programmes, including national immigration and asylum policies, regulations and practices, as appropriate, in order to promote and protect the rights of all women and girls, including the consideration of steps to recognize gender-related persecution and violence when assessing grounds for granting refugee status and asylum;

23. *Further urges* States and the United Nations system to give attention to, and encourages greater international cooperation in systematic research and the collection, analysis and dissemination of data, including data disaggregated by sex, age and other relevant

information, on the extent, nature and consequences of violence against women and girls, and on the impact and effectiveness of policies and programmes for combating this violence;

24. *Calls upon* all relevant United Nations bodies, States, the Special Rapporteur, as well as relevant non-governmental organizations, to cooperate closely in the preparation of the Secretary-General's in-depth study on all forms of violence against women;

25. *Encourages* the Special Rapporteur to respond effectively to reliable information that comes before her and requests all Governments to cooperate with and assist the Special Rapporteur in the performance of her mandated tasks and duties, to supply all information requested, including with regard to implementation of her recommendations, and to respond to the Special Rapporteur's visits and communications;

26. *Bears in mind* the need to develop, with full participation of all Member States, an international consensus on indicators and ways to measure violence against women, calls on the Special Rapporteur to recommend proposals for indicators on violence against women and on measures taken to eliminate violence against women, for the use by, inter alia, Member States;

27. *Invites* the Special Rapporteur, with a view to promoting greater efficiency and effectiveness, as well as enhancing her access to the information necessary to fulfil her duties, to continue to cooperate with other special procedures of the Commission, regional intergovernmental organizations and any of their mechanisms engaged in the promotion of human rights of women and girls, including, where appropriate, undertaking joint missions, joint reports, urgent appeals and communications;

28. *Requests* special rapporteurs responsible for various human rights questions, United Nations organs and bodies, specialized agencies and intergovernmental organizations, and encourages the human rights treaty bodies, to continue to give consideration to violence against women and girls within their respective mandates, to cooperate with and assist the Special Rapporteur in the performance of her mandated tasks and duties and, in particular, to respond to her requests for information on violence against women, its causes and consequences;

29. *Renews its request* to the Secretary-General to continue to provide the Special Rapporteur with all necessary assistance, in particular the staff and resources required to perform all mandated functions, especially in carrying out and following up on missions undertaken either separately or jointly with other special rapporteurs and working groups, and adequate assistance for periodic consultations with the Committee on the Elimination of Discrimination against Women and all other treaty bodies;

30. *Requests* the Secretary-General to ensure that the reports of the Special Rapporteur are brought to the attention of the Commission on the Status of Women at its fiftieth session, the General Assembly, as well as to the attention of the Committee on the Elimination of Discrimination against Women, and requests the Special Rapporteur to present an oral report to the General Assembly at its sixtieth session;

31. *Decides* to continue consideration of the question as a matter of high priority at its sixty-second session.

*57th meeting
19 April 2005*

[Adopted without a vote. See chap. XII.]

Excerpts of other resolutions with specific provisions on HIV and AIDS

2005/25. Women's equal ownership, access to and control over land and the equal rights to own property and to adequate housing

The Commission on Human Rights, [...]

Recognizing that the Secretary-General has linked the growing prevalence of HIV/AIDS in women with laws that inhibit the full enjoyment of women's rights to land ownership and inheritance, and that he has called for positive change and attention to women's empowerment and protection of women's housing and land rights to make women less vulnerable to HIV/AIDS,

Reaffirming the Declaration of Commitment on HIV/AIDS, agreed to at the twenty-sixth special session of the General Assembly convened in 2001, which calls for all Governments to strengthen or enforce legislation, regulations and other measures to eliminate all forms of discrimination and to ensure the full enjoyment of all human rights and fundamental freedoms by people living with HIV/AIDS and members of vulnerable groups, in particular, to ensure their access to inheritance and legal protections, [...]

10. *Invites* Governments to take further appropriate measures to address the increasing rate of homelessness or inadequate housing for women, including its underlying factors, such as gender inequality, HIV/AIDS, poverty and violence;

11. *Encourages* Governments, specialized agencies, funds, programmes and other organizations of the United Nations system, as well as other international organizations and non-governmental organizations, to provide judges, lawyers, political and other public officials, community leaders and other concerned persons, as appropriate, with information and human rights education concerning women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing;

12. *Invites* the Secretary-General to encourage all organizations and bodies of the United Nations system, individually and collectively, in particular the United Nations Development Programme, the United Nations Human Settlements Programme (UN-Habitat), the United Nations Development Fund for Women and the **Joint United Nations Programme on HIV/AIDS (UNAIDS)**, to **undertake further initiatives that promote women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing**, and allocate further resources for studying, documenting and addressing the impact of complex emergency situations and the HIV/AIDS pandemic, particularly with respect to women's equal rights to own land, property and adequate housing; [...]

2005/19. Effects of economic reform policies and foreign debt on the full enjoyment of all human rights

19. Requests the independent expert to explore further, in his analytical annual report to the Commission, **the interlinkages with trade and other issues, including HIV/AIDS, when examining the impact of structural adjustment and foreign debt** and also to contribute, as appropriate, to the process entrusted with the follow-up to the International Conference on Financing for Development, with a view to bringing to its attention the issue of the effects of structural adjustment and foreign debt on the enjoyment of human rights, particularly economic, social and cultural rights; [...]

29. Urges States, international financial institutions and the private sector to take **urgent measures to alleviate the debt problem** of those developing countries **particularly**

affected by HIV/AIDS, so that more financial resources can be released and used for health care, research and treatment of the population in the affected countries;

2005/21. The right to education

7. Urges all States: [...]

(b) To take all appropriate measures to eliminate obstacles limiting effective access to education, notably by girls, including pregnant girls, children living in rural areas, children belonging to minority groups, indigenous children, migrant children, refugee children, internally displaced children, children affected by armed conflicts, children with disabilities, children affected by infectious diseases, including HIV/AIDS, sexually exploited children, children deprived of their liberty, children living in the street, working children and orphaned children:

Taking all necessary legislative measures to prohibit explicitly discrimination in education on the basis of race, colour, descent, national, ethnic or social origin, sex, language, religion, political or other opinion, property, disability, birth or other status which has the purpose or effect of nullifying or impairing equality of treatment in education;

(c) To improve all aspects of the quality of education aimed at ensuring excellence of all so that recognized and measurable learning outcomes are achieved by all, especially in literacy, numeracy and essential life skills, and, in this regard, to emphasize the development of quality indicators and monitoring instruments, to promote a sound school environment, school health, education on reproductive health issues, **preventive education against HIV/AIDS** and drug abuse, and science and technology education, and to carry out surveys and build up a knowledge base in order to provide advice on the use of information and communication technologies in education;

2005/38. The right to freedom of opinion and expression

4. *Calls upon* all States: [...]

(k) To adopt and implement policies and programmes that aim to effectively **raise awareness of**, and **disseminate information and education on**, **prevention and treatment of HIV/AIDS** and other diseases through **effective and equal access to information** and all appropriate means, including through the media and availability of information and communication technologies, and targeted at specific vulnerable groups;

2005/44. Rights of the child

19. *Calls upon* all States:

(a) To ensure the enjoyment of the highest attainable standard of physical and mental health of all children without discrimination, to develop sustainable health systems and social services, to ensure access to such systems and services without discrimination, and to pay particular attention to adequate food and nutrition to prevent disease and malnutrition, to prenatal and post-natal health care, to special needs of adolescents, to reproductive and sexual health and to threats from substance abuse and violence;

(b) To give support and rehabilitation to children and their families affected by HIV/AIDS and to **involve children and their caregivers**, as well as the private sector, **to ensure the effective prevention of HIV infections** through correct information and access to voluntary and confidential care, reproductive health care and education, treatment and testing, including pharmaceutical products and medical technologies, affordable to all, giving due importance to the prevention of mother-to-child transmission of the virus;