



**Issue Paper for the Session:  
Challenges and Opportunities in Implementing Rights-Based  
Approaches to HIV  
*UNAIDS: Challenges and Opportunities at the Global Level***

### **Defining the Issue**

1. UNAIDS is operating in a global climate that creates both enormous opportunities and enormous challenges for rights-based approaches to HIV. Recent and future events that will shape these are: the G8 meeting on 6-8 July 2005 which resulted in the Gleneagles Communique, the UNAIDS Programme and Coordinating Board (PCB) meeting (June 2005) at which the UNAIDS policy position paper, “Intensifying HIV prevention” and the Global Task Team recommendations were endorsed; the upcoming World Summit 2005 that will revisit the Millennium Development Goals and consider major UN reform; the UNGASS follow-up at the end of May, 2006; the International AIDS Conference (Toronto) on 14-16 August 2006; and the tenth anniversary of the establishment of UNAIDS.
2. The following overview describes these developments and highlights key opportunities and challenges in terms of the promotion and protection of human rights in this global context. It is intended to stimulate discussion within the Reference Group on how to maintain and further develop a rights-based response to HIV in the international agenda and enhance its role in the work of UNAIDS. In this context, it should be kept in mind that the strategic functions of the UNAIDS Secretariat are: (a) leadership, coordination and advocacy; (b) strategic information; (c) monitoring and evaluation; (d) civil society engagements and partnerships; and (e) resource mobilization.

### **The G8 Summit**

3. The Gleneagles Communique, stemming from the G8 Summit (2005), contains the following commitment by the G8 governments: “With the aim of an AIDS-free generation in Africa, significantly reducing HIV infections and working with WHO, UNAIDS and other international bodies to develop and implement a package for HIV prevention, treatment and care, with the aim of as close as possible to universal access to treatment for all those who need it by 2010.” The paragraph continues with language concerning support to health systems, orphans and children made vulnerable by HIV, replenishment of the Global Fund, and implementation of the Three Ones (described in Issue Paper 2). In this context, UNAIDS has now committed to, and is mobilizing behind, an ambitious target of universal access to both HIV treatment *and* HIV prevention by 2010. How UNAIDS enhances and sustains its efforts to achieve this goal – and, most importantly, to achieve it for everyone (women, children, people living with HIV and the most marginalized) – are among the major challenges the programme faces.

### **“Intensifying HIV Prevention” – UNAIDS policy position paper**

4. The UNAIDS policy position paper, “Intensifying HIV Prevention”<sup>1</sup>, endorsed at the June 2005 meeting of the PCB, states, as one of the principles of effective HIV prevention, that “All HIV prevention efforts/programmes must have as their fundamental basis the promotion, protection, and respect of human rights including gender equality”. The document goes on to cite ensuring human rights and gender equality and appropriate legal frameworks as “essential policy actions for HIV prevention” and “confronting HIV related stigma and discrimination” as one of the essential programmatic actions for HIV prevention. It also recognizes that “Prevention efforts will not be successful unless the underlying determinants of vulnerability to infection are addressed and the rights of all people are respected, promoted and protected.”

<sup>1</sup> UNAIDS (2005), Intensifying HIV Prevention: UNAIDS policy position paper. Geneva: Joint United Nations Programme on HIV/AIDS, at page 9. [http://www.unaids.org/html/pub/governance/pcb04/pcb\\_17\\_05\\_03\\_en\\_pdf.pdf](http://www.unaids.org/html/pub/governance/pcb04/pcb_17_05_03_en_pdf.pdf)

5. The prominent place of human rights in the final version of the policy was largely the product of informal negotiations of interested States and PCB members, including civil society, convened by the PCB Bureau and held prior to the PCB meeting. In general, the discussions were similar to those concerning the resolution on HIV during the sixty-first session of the Commission on Human Rights and were also encountered in relation to sexual and reproductive rights at the forty-ninth session of the Commission on the Status of Women. One coalition of governments advocated for strong explicit commitment to human rights and rights based approaches; while another coalition of governments resisted human rights language, in part due to their concern that such language imposed, or extended, human rights obligations beyond those internationally accepted. Nevertheless, in the end, the final draft approved by the PCB was one that recognized the critical importance of human rights to effective prevention of HIV.<sup>2</sup> The approved text also includes an acknowledgement of the *Guidelines on HIV/AIDS and Human Rights* as a source of expert guidance.
6. There are two current efforts to support the roll-out of intensified prevention. One involves the UNAIDS programme which by 31 December 2005 will develop an action plan on prevention, including clear divisions of responsibilities among the Secretariat and the Cosponsors, particularly with regard to support to expansion of prevention at country level. The Global Task Team (described in Issue Paper 2) is also working to create clearer divisions of responsibility among actors of the multilateral system and across UN theme groups on HIV at country level. With regard to universal access to prevention, care and treatment, the second effort involves the development of an “integrated package on prevention, care and treatment” through consultations with governments, cosponsors and civil society, including groups of people living with HIV, and is to be completed by World AIDS Day, 2005. The package will comprise a set of essential actions for governments to undertake at both the policy level and programme level, and will articulate the role of the UNAIDS family - in helping to capacitate them. Implementation will be accelerated in early 2006. One major global challenge will be to procure the funding at the level needed for both prevention *and* treatment.
7. These two efforts represent significant opportunities to promote rights-based responses to HIV prevention, care and treatment. However, significant challenges include: different degrees of commitment to such approaches among governments and agencies, different visions of the content of such approaches, lack of clarity of how to translate them into programmes, and lack of sufficient monitoring and evaluation tools by which to judge their effectiveness.

#### **Global Coalition on Women and AIDS**

8. The feminization of the epidemic means that the promotion and protection of the human rights of women must be an urgent priority of the Programme if women’s vulnerability to infection is going to be reduced, and if positive women are going to have access to the treatment and care they need. The Coalition is continuing to build partnerships and engage more people in the work of each of its seven action areas:
  - preventing HIV in young women and girls
  - violence against women
  - property and inheritance rights
  - access to treatment
  - education for girls
  - home-based care, and
  - female-controlled preventive methods.

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<sup>2</sup> The concerns of the US government were reflected in the Decisions, Recommendations and Conclusions of the meeting paragraph 8.6 which notes that the United States “could not fund needle and syringe programmes because such programmes are inconsistent with current United States law and policy, and notes that this external partner cannot be expected to fund activities inconsistent with its own national laws and policies”.  
[http://www.unaids.org/html/pub/governance/pcb04/pcb\\_17\\_05\\_decisions\\_en\\_pdf.pdf](http://www.unaids.org/html/pub/governance/pcb04/pcb_17_05_decisions_en_pdf.pdf)

9. In addition to its seven action areas, the Coalition is also pursuing strategies to enhance leadership for and by women by working with NGOs with large membership bases and outreach capacity. For example, the Coalition is working with YWCA to strengthen the leadership capacity of young women around HIV issues, with ICW to strengthen the leadership role and capacity of women living with HIV, and with the HIV Alliance to strengthen the effective role that sex workers can play in the response to the epidemic.
10. In addition, the UNAIDS Secretariat, through the Coalition, is engaging the special procedures of the UN Commission on Human Rights. Following the sixty-first session of the Commission, the Coalition invited the UN Special Rapporteur on violence against women, Yakin Ertürk,<sup>3</sup> to join the Leadership Council of the Global Coalition. UNAIDS Deputy Executive Director Debbie Landey will shortly send a similar letter of invitation to the Special Rapporteur on adequate housing, Miloon Kothari. The Special Rapporteur has already expressed his interest in an increased focus on the links between women's equal enjoyment of property and inheritance and their vulnerability to HIV infection.
11. Through and with the International Center for Research on Women, the Global Coalition (UNAIDS Secretariat) is supervising a small grants programme for *Reducing Women and Girls' Vulnerability to HIV/AIDS by Ensuring their Property and Inheritance Rights*. The programme will fund up to eight grants to organizations in sub-Saharan Africa, and is being carried out in partnership with the UN Food and Agriculture Organization (FAO). The programme is designed to support work that (a) builds the evidence base on the link between lack of property and inheritance rights and vulnerability to HIV, (b) implements activities that address such issues and empower women, and (c) demonstrates the efficacy of these activities. For UNGASS (2006) and Toronto, the Global Coalition (UNAIDS Secretariat) will produce a report on how the goals of the Coalition, and gender concerns generally, can be operationalized through the implementation of the Three Ones.<sup>4</sup>
12. The work of the Global Coalition on Women to date has largely been to change and improve the context in which the rights of women are considered and addressed in the response. Though it has had considerable success at the global level, it is now attempting to ensure that its global level advocacy has greater resonance and catalyzes real change at country level. In this regard, the challenge is how to take the well-established links between HIV and gender inequality and address them programmatically. An example of a current issue in this regard is the growing tendency of governments to pass legislation for mandatory premarital testing in an effort to protect women from being infected by their partners.

### World Summit 2005

13. The World Summit 2005 will take place on 14-16 September 2005 and is expected to include the participation of over 170 world leaders, making it the largest gathering of world leaders in history. The summit will address the Millennium Development goals as well as UN reform, as largely proposed in the Secretary-General's report "In Larger Freedom: towards development, security and human rights for all".<sup>5</sup> From the perspective of human rights, the Summit is an event that

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<sup>3</sup> At the sixty-first session of the Commission on Human Rights, the Special Rapporteur presented her report focusing on the linkages between violence against women and vulnerability to HIV, and she was part of a parallel event on the same subject which included the participation of the Global Coalition. See Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, "Intersections of Violence against Women and HIV/AIDS". E/CN.4/2005/72. [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=E/CN.4/2005/72](http://ap.ohchr.org/documents/dpage_e.aspx?si=E/CN.4/2005/72)

<sup>4</sup> In another area aid effectiveness, the UN Interagency Network on Gender and Women's Equality (IANGWE), of which UNAIDS is a member, has been approached by the Development Assistance Committee of the Organisation for Economic Development and Cooperation (OECD/DAC) regarding a possible joint meeting on aid effectiveness and gender in the context of UN reform. Dates have not yet been confirmed, but it is thought that the meeting may take place immediately prior to the Commission on the Status of Women in February 2006. The meeting represents an important opportunity to raise the visibility of gender and human rights within the aid effectiveness agenda.

<sup>5</sup> A/2005/59. The Plan of Action and was transmitted by the Secretary General to the President of the General Assembly as Appendix 3 of his report.

could set in motion a significant expansion of human rights capacity in the UN system. This proposed expansion has been elaborated in the Plan of Action of the High Commissioner for Human Rights. The High Commissioner builds on the Secretary General's assertion that much more needs to be done by the international community to address today's threats to human rights and that OHCHR must be considerably better resourced to play its central role in meeting this challenge. The Plan of Action proposes increased engagement with civil society, expanding OHCHR field presences, and addressing human rights in the context of the MDGs. The challenges and opportunities that this represents for AIDS work is discussed further in Issue Paper 2.

14. With regard to the draft outcome document<sup>6</sup> of the World Summit, UNAIDS has provided input into the provisions which address HIV. Proposed language on HIV and AIDS includes a commitment to providing resources needed for universal access to prevention, treatment, care and support by 2010. Immediately prior to the Summit, UNAIDS will host two side events-. The first – “UNAIDS and the AIDS Epidemic: The Testing Ground for UN Reform” – will feature panellists offering a range of perspectives on the evolution of UNAIDS, the lessons learned, the remaining challenges and the changes needed to overcome them. The second – “National Policy & the AIDS Response – the role of Parliamentarians” – will explore how parliamentarians can become more engaged in creating an environment at national level conducive to greater and coordinated efforts against AIDS. This will focus on their roles as policy makers and opinion leaders and their links with their constituents, all within the context of the commitments found in the resolution “The Role of Parliaments in Advocating and Enforcing Observance of Human Rights in the Strategies for the Prevention, Management and Treatment of the HIV/AIDS Pandemic” adopted unanimously by the Inter-Parliamentary Union in Manila, 8 April 2005,<sup>7</sup> and in the UNGASS Declaration.
15. The further engagement of parliamentarians since the IPU/UNAIDS production of a Handbook for Legislators on HIV and AIDS, Law and Human Rights (1999) is a welcome opportunity as legislative structures and parliamentarians have potential for a strong and progressive role in the response in human rights terms. The challenges, however, remain the same: how to do parliaments become capacitated to engage in the response positively and use the extent of their influence for positive change? How to promote law reform that will be quick, effective and rights protective? How to move from law to access and enforcement?

#### **UNGASS 2006**

16. The UN General Assembly Special Session on HIV and AIDS, (30 May – 2 June 2006) will provide occasion for a review of the Declaration of Commitment on HIV/AIDS, including what countries have achieved towards the Declaration's targets during the last five years. UNAIDS will produce an official report based on a country level review of data gathered from existing indicators and other sources. The Secretary-General will provide a report to which UNAIDS will contribute, and it appears that civil society groups may produce their own report. There will also be an outcome document to take the process forward. (Sweden will be the General Assembly president at that time.) These documents all represent opportunities to strengthen commitment to rights-based responses and to make the point that the underlying determinants of vulnerability and inequity in human rights terms have not been the subject of sufficient attention in financial, political or programmatic terms in the response to date. The challenges will be how to get donors, governments and international agencies to extend greater commitment to rights-based approaches and to invest in programmes to end stigma and discrimination, violence against women, harmful laws and gender norms, and other human rights issues in the context of HIV.
17. UNGASS 2006 also coincides with the tenth anniversary of UNAIDS. This anniversary of UNAIDS provides an opportunity to re-examine the Programme's work to date, as well as its vision for the

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<sup>6</sup> Revised draft outcome document of the high-level plenary meeting of the General Assembly of September 2005, submitted by the President of the General Assembly, 22 July 2005. A/59/HLPM/CRP.1Rev.1.

<sup>7</sup> Link: <http://www.ipu.org/conf-e/112/112-3.htm>

future. It also represents an opportunity to review the programme's response in human rights terms. The challenges comprise differing visions with regard to the degree to which the UN response should be rights-based and to the content of such a response among and within UN agencies and the governments with which they work.

#### **XVI International AIDS Conference, Toronto, Canada – 13 to 18 August 2006**

18. While UNGASS provides an opportunity to review the last five years, the International AIDS Conference, Toronto, provides an opportunity to look to the future. The Conference Organizing Committee has identified four key challenges to anchor the conference:

- accelerating research to end the epidemic
- expanding and sustaining human resources to scale up treatment and prevention
- intensifying the involvement of affected communities, and
- building new leadership to advance the response.

The primary focus of UNAIDS involvement is expected to be the promotion of universal access to prevention, treatment and care. The focus of the side event on human rights has yet to be determined. It could theoretically be a venue by which to “launch” or roll out the 2005 products of the Reference group.

#### **Questions for discussion:**

- a) How would the Reference Group advise the UNAIDS Secretariat to promote rights-based approaches to HIV in this global context?
- b) Are there concrete ways to influence the various global processes to garner more support for rights-based responses to the epidemic?
- c) How to move beyond the rhetorical, to serious financial and political commitment and programmatic clarity with regard to rights-based approaches?

#### **Supporting documents**

1. UNAIDS (2005), *Intensifying HIV Prevention: UNAIDS policy position paper*. Geneva: Joint United Nations Programme on HIV/AIDS. [http://www.unaids.org/html/pub/governance/pcb04/pcb\\_17\\_05\\_03\\_en\\_pdf.pdf](http://www.unaids.org/html/pub/governance/pcb04/pcb_17_05_03_en_pdf.pdf)
2. Report of the Secretary-General (2005), *In Larger Freedom: towards development, security and human rights for all*. A/59/2005. <http://www.un.org/largerfreedom/contents.htm>