
Check against delivery

60TH SESSION OF THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS

**Agenda item 10:
Economic, social and cultural rights**

Geneva, 30 March 2004

Chairperson, distinguished delegates,

First and foremost since the Joint United Nations Programme on HIV/AIDS, (UNAIDS), is taking the floor for the first time, we wish to extend our congratulations to you Ambassador Mike Smith of Australia on your assumption of your office of chairperson of the 60th session of the Commission. UNAIDS also congratulates Madam Louise Arbour on her appointment as the new High Commissioner for Human Rights. UNAIDS looks forward to continue working with OHCHR under her leadership.

Chairperson, distinguished delegates,

UNAIDS is the main advocate for global action on the HIV/AIDS epidemic. It leads, strengthens and supports an expanded response aimed at preventing transmission of HIV, providing care and support, reducing the vulnerability of individuals and communities to HIV/AIDS, and alleviating the impact of the epidemic. It brings together 9 UN agencies in a common effort to fight the epidemic: the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP), the International Labor Organization (ILO) the United Nations Population Fund (UNFPA), the United Nations Office on Drugs and Crime (UNODC), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Food Programme (WFP), the World Health Organization (WHO) and the World Bank.

As most of us here are aware, the range and impact of the HIV/AIDS epidemic are affecting almost all areas of human life and development. Globally, it is estimated that 40 million people are currently living with HIV/AIDS; 5 million people became infected in 2003 alone and there were 3 million AIDS deaths last year. Although Sub Saharan Africa remains by far the region most affected by HIV/AIDS, over the years more recent epidemics continue to grow in Asia, Eastern Europe, the Middle East and Latin America.

In today's world, AIDS constitutes one of the most pervasive threats to the enjoyment of economic, social and cultural rights generally and the right to health in particular. All over the world, people living with HIV/AIDS are facing stigma and discrimination, exclusion and inequality - in other words, their basic human rights are being violated or at least are not protected. Where there is unequal access to fundamental economic, social and cultural rights the conditions are ripe for the spread of HIV. People's options to defend their autonomy, develop viable livelihoods and protect themselves are limited by the denial of basic rights. Conversely, initiatives which improve people's ability to exercise their fundamental rights reinforce people's ability to protect themselves from infection, reduce their vulnerabilities and deal with the epidemic's impacts.

The HIV/AIDS epidemic poses serious human rights challenges - for example, unequal access to HIV/AIDS-related treatments remains a global reality. If countries are seriously committed to protecting the right to the enjoyment of the highest attainable standard of physical and mental health, then this inequality must be addressed. The problem is urgent. In poor countries, millions of people with HIV/AIDS need antiretroviral treatment immediately and very few of these are on antiretroviral treatment. 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.

Chairperson, distinguished delegates,

Safeguarding human rights remains a priority concern of the HIV/AIDS response at every level, from the individual to the international. Grave HIV/AIDS-related violations of human rights continue to occur with depressing regularity in various parts of the world. Serious gaps prevail between laws, policies and their implementation, with relatively few countries on track to meeting the human rights commitments adopted in the United Nations General Assembly Special Session on HIV/AIDS "*Declaration of Commitment on HIV/AIDS*".

UNAIDS therefore places great value – and a growing part of its budget – on building partnerships in the area of human rights and HIV/AIDS at national, regional and international levels. The Office of the High Commissioner for Human Rights has been a central partner at all these levels.

UNAIDS has multi-prong, inter-related approaches in advancing human rights as part of the response to the HIV epidemic. UNAIDS assists governments to develop rights based national/sectoral policies and legislative and administrative frameworks for the HIV/AIDS response. Examples of current work include the Malawi national policy on HIV/AIDS adopted in February 2004, the Cambodia HIV/AIDS Law and the HIV/AIDS policies and law reforms underway in India, Lesotho and Russia.

UNAIDS also advocates with partners at the international level on the promotion of HIV/AIDS-related human rights. In this respect, UNAIDS in the last 2 years (2002-2003) has coordinated a World AIDS Campaign to combat stigma and discrimination, premised on the fact that discrimination in and of itself is a violation of human rights which often leads to a series of violations of other human rights and that it is a great obstacle to the response. UNAIDS supported research by the Asia Pacific Network of People Living with HIV/AIDS (APN+) among HIV-positive people in India, Indonesia, Philippines and Thailand found a wide and persistent range of discrimination based on sero-status. Respondents reported that they had experienced HIV/AIDS-related discrimination from friends; had been excluded from social functions and sometimes denied benefits, privileges or services because of their HIV status. Such incidents were more frequent in workplace and health care settings. Programmatic activities have been identified to address research findings in each country.

Beyond research, regional trainings in Human Rights and HIV/AIDS have been undertaken in the Arab region (Beirut, Lebanon June 2003); Francophone Africa (Yaoundé, Cameroon) August 2003; Eastern Europe in Croatia November 2003. Further a Small Grants Facility has been established by UNESCO and UNAIDS to support implementation of projects addressing HIV/AIDS-related discrimination in Malawi, Sri Lanka, Mozambique, Zambia and Bangladesh.

The next 2 years (2004-2005) the global campaign will focus on women and AIDS. The Global Coalition on Women and AIDS is an informal grouping of partners and organizations working to mitigate the impact of AIDS on women and girls worldwide. It is a growing global, inclusive movement seeking to support, energize and drive AIDS-related programmes and projects to improve the daily life of women and girls.

The Coalition seeks to build global and national advocacy to highlight the effects of HIV and AIDS on women and girls and stimulate concrete, effective action. Efforts are focused on preventing new HIV infections, promoting equal access to treatment, addressing legal inequities and mitigating the impact of AIDS for women and girls.

On access to treatment, the WHO and UNAIDS detailed and concrete plan to provide antiretroviral treatment to three million people living with AIDS in developing countries by the end of 2005 provides key opportunities to make progress in expanding access to HIV treatment. This is a vital step towards the ultimate goal of providing universal access to AIDS treatment to all those who require it.

Chairperson, distinguished delegates,

Vigilance must be exercised to prevent backsliding towards HIV/AIDS responses that are not rights-based. In recent years, a number of policies and legislation that restrict human rights of people living with HIV/AIDS, or those assumed to be infected, have emerged/re-emerged, such as immigration laws that require that foreigners entering their country submit themselves to HIV testing. UNAIDS reiterates that there is no public health rationale to restrict liberty of movement or choice of residence on the grounds of HIV status. Any such restrictions based on suspected or real HIV status alone, including HIV screening of international travellers, are discriminatory and cannot be justified by public health concerns.

The issue of the justiciability of economic, social and cultural rights is inseparable from the question of enforceability and the existence of adequate remedies. UNAIDS appreciates that courts in many parts of the world have given effect to economic, social and cultural rights through the process of judicial interpretation of national and international law in the context of HIV/AIDS. To advance this area, UNAIDS is currently documenting cases in areas in which litigation has had a significant role in HIV/AIDS, including access to care and treatment, criminal law, discrimination, family law, and prisons. In each of these areas, key decisions would be included, with a short summary of the case and an analysis of the implications.

Chairperson, distinguished delegates,

Over the years progress has also been made in this area. HIV-related rights have been reinforced by the increasing emphasis on the enjoyment of the highest attainable standard of physical and mental health. In September 2002, the United Nations Commission on Human Rights appointed a Special Rapporteur on the Right to Health. Since his appointment, the Special Rapporteur has paid close attention to HIV/AIDS-related issues, with a particular focus on stigma and discrimination.

HIV/AIDS issues have also been integrated in the work of Special Rapporteurs and in other international human rights mechanisms. The Special Rapporteur on the right to freedom of opinion has stressed that this right is *sine qua non* in effective education and information campaigns to prevent HIV/AIDS¹ while the Special Rapporteur on the sale of children, child prostitution and child pornography has addressed the links between sexual exploitation of children and HIV/AIDS, and identified practical steps through which governments can improve protection of children's rights.

A highly significant achievement with regards to the Treaty bodies' work is the January 2003 *General Comment on HIV/AIDS and the Rights of the Child*, issued by the UN Committee on the Rights of the Child. This was the first time a General Comment on HIV/AIDS has been issued by a Treaty monitoring mechanism. Among other issues, the General Comment identifies good practices for States (countries), including specific prohibition of discrimination against children on the basis of real or perceived HIV status. Countries have been specifically asked to report on the HIV-

¹ 2003 Report to the UN Commission on Human Rights E/CN.4/2003/67

related measures they have put in place to protect children.

Chairperson, distinguished delegates,

The right to health can not be realised without appropriate HIV prevention, care and treatment for AIDS. UNAIDS looks forward to working closely with the Office of the High Commissioner for Human Rights, Special Rapporteurs, independent experts and other partners in moving this agenda forward.

Thank you.