



# UNAIDS Global Reference Group on HIV/AIDS and Human Rights

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## Issue Paper

*Status: final*

### **Strategies for involvement of civil society in HIV testing within context of “3 by 5”: Focus on marginalized communities**

#### **Defining the issue**

For “3 by 5” to be successful in meeting its objectives, barriers that limit marginalised groups from accessing HIV testing must be addressed so that these communities can gain the benefits of scale up efforts. There is no simple rule which can be applied to marginalised groups to “de-marginalise” them. Sex workers and intravenous drug users (both of whom may be engaged in acts outside the law in selling sex and buying/selling/using drugs) are marginalised in ways which go beyond simple application of the law<sup>i</sup>. They face stigma and discrimination but then working with them and supporting them may fall outside the work of most civil society organizations. Strategies for delivering support, information and services – if not done on a self-help basis – will most likely involve delivery by small support groups rather than mainstream organizations. Yet it is precisely wide engagement with civil society organizations which may offer necessary protection and support to these marginalised groups.

Organizations of drug users, sex workers and other marginalised groups can articulate their concerns and speak for themselves but there is little doubt that working collaboratively with other civil society players, including mainstream human rights organizations, can amplify their effectiveness and, at times, offer them protection.

#### **Involvement of Human Rights Organizations: the example of Amnesty International**

There still remains a gulf between mainstream human rights organizations and marginalised groups at risk of HIV such as drug users and sex workers. Perhaps there is an important lesson there in terms of outreach. And we have to be frank about tensions within the human rights movement regarding whether sex work inherently breaches women’s human rights; this ambivalence may have hampered its response to human rights violations which occur against sex workers. Likewise, with drug users the human rights movement has not traditionally considered this a group whose concerns are at the centre of their work.

#### **Injecting Drug Users:**

On 1 February 2003, the Thai government began a severe three-month crackdown on drug “traffickers” in response to the high level of use and trade in methamphetamine<sup>ii</sup>. A list of some 50,000 people was drawn up for “monitoring” by the police. In the past year more than two thousand people have been killed during and after the campaign, drawing widespread protests from human rights groups<sup>iii</sup>. The authorities repeatedly asserted that the vast majority of the deaths were as a result of drug traffickers killing one another.

In this context, information from local NGOs working on drug-user rights enabled Amnesty International to undertake a variety of campaigning actions based on traditional AI concerns related to the right to life<sup>iv</sup>. At the same time, Human Rights Watch also spoke out against the upsurge of killings<sup>v</sup> and warned that attacks on drug users could lead to an increase in HIV in Thailand<sup>vi</sup>.

AI has yet to explicitly take on board a harm reduction framework for drug use and its approach to “sign-ons” -- where letters contain more than the minimum agreed message – is evolving. AI tends to maintain the belief that a signature signifies support for *all* contents of a signed letter and is therefore wary of signing on, even if many of the issues are undisputedly part of its work, if it can not endorse all parts of a letter.

#### Sex workers:

Sex workers remain a constant target of “clean up” campaigns and persistent repression. Human rights groups have been weak in offering sufficient support to this group within the civil and political human rights framework. Amnesty International has increased its work dramatically over recent years using the framework of gender-based violence and persecution on grounds of sexuality and yet work in this area is only slowly evolving. For AI, the forthcoming campaign on violence against women will open opportunities for addressing sex workers as a targeted sector.

#### **How to ensure marginalized groups benefit from 3 by 5, and increases in HIV testing**

A key issue arising from the “3 by 5” initiative will be maximising the potential benefit from expanded testing while minimising the potential negative outcomes including stigmatisation and discrimination. Dialogue with groups at the margin is critical. It is essential that the potential benefits of these scale-up efforts reach marginalized groups, and do not contribute to further stigma, discrimination and human rights abuse.

I take it as read that health and human rights activists will be aware of the risks associated with scaling up testing and ARVs and will be actively engaged in promoting good practice and rights protection. I also presume that we can only strategize about how to better involve marginalized groups, given their absence at this meeting.

International and national bodies can and should encourage the development of self-advocacy organizations within marginalised communities. International funding bodies<sup>vii</sup> as well as human rights organizations can play an important role here. Linkages between civil society organizations and marginalised populations might be effectively based on commitment by leadership to cooperate ; awareness of an organization’s strengths and weaknesses; agreed objectives; an agreed working method; mutual respect; and participation by members of the marginalised group (including people living with HIV/AIDS).

Possible next steps in connecting with a wider forum (for discussion) include:

1. Discussion between HIV/AIDS organizations, NGOs and grass roots organizations on “3 by 5” including the scaling up of testing with a goal of mutual information and strategising.
2. Raising again the issues arising from the “3 by 5” initiative with human rights organizations, using language which speaks to their traditional concerns.

3. Building into strategies the particular risks IDUs and sex workers face: criminalisation; stigma; tolerated violence; and barriers such as difficulties in self-organizing; lack of resources; lack of access to remedies; vulnerability to health problems.
4. Beyond “3 by 5” (but bearing on it), it would be useful to encourage discussion between HIV/AIDS organizations and mainstream human rights NGOs on the role which harm reduction plays in protecting human rights.
5. Encouraging sex work groups and IDU groups to identify concerns which already fall within the mandate of human rights and other organizations, seeking their support. In this context it might be useful to promote the recognition of those who work for IDUs and sex work rights as being human rights defenders.

## Conclusion

International organizations, as well as local mainstream organizations can play a useful role in spelling out the benefits – and the risks – attendant in a scaling up of ARV availability and increasing HIV testing. They can also join with IDUs and sex workers in dialogue with health professionals and public health bodies.

*This Issue Paper was prepared by Jim Welsh to facilitate discussion at the Reference Group's January 2004 meeting.*

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<sup>i</sup> In many countries one could add men who have sex with men, who may also be confronted by repressive laws. The three groups are linked by stigma and extra-legal discrimination.

<sup>ii</sup> This was on top of the persistent use of the death penalty against those convicted of drug offences. Thailand has the highest recorded level of methamphetamine use in the world according to some sources.

<sup>iii</sup> On 24 February 2003 – just three weeks into the campaign -- Asma Jahangir, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions expressed "deep concern at reports of more than 100 deaths in connection with a crackdown on the drug trade."

<sup>iv</sup> See AI: Thailand: grave developments – killings and other abuses. <http://web.amnesty.org/library/Index/ENGASA390082003>.

<sup>v</sup> Thailand: Bush Should Press Thaksin on Extrajudicial Executions..., <http://www.hrw.org/press/2003/06/thailand060903.htm>.

<sup>vi</sup> Thailand: Grant to Fight HIV Faces Rights Test: <http://www.hrw.org/press/2003/10/thailand103103.htm>

<sup>vii</sup> See the HRW press release in connection with the grant from the Global Fund to a Thai-based drug-user support organization. The Global Fund decision was also welcomed by, amongst others, the Red Cross/Red Crescent: "Red Crescent welcomes Global Fund move to tackle HIV/AIDS among injecting drug users" (19 October 2003).