



**Issue Paper:**  
***Review and Assessment of HIV/AIDS Strategies that Explicitly  
Include Attention to Rights  
Impact Mitigation***

**Defining the Issue**

This issue paper examines human rights based approaches explicitly defined as such by organizations addressing *impact mitigation* policy and programmatic efforts. Given the diversity of definitions of rights based approaches, consideration is given to how rights are conceptualized, and the explicit attention to rights in these policy and program efforts. Commonalities and differences should be considered between the various approaches to determine the evidence that exists of the value of paying attention to rights in these strategies, as well as how rights based approaches to impact mitigation are articulated. While impact mitigation covers a broad range of areas, given the devastating consequences of the epidemic on the lives of children, most of the examples below will focus on children orphaned by AIDS as an example to illustrate how rights based approaches are applied at policy and programmatic levels.

**Background: Looking at Children Orphaned by AIDS**

The UNAIDS impact mitigation strategy aims to address the impact of HIV/AIDS on: population and population structure; women; children; poverty and hunger; agriculture and rural development; supply, demand and quality of education; health sector; public –sector capacity; workers and workplace; and macroeconomic impact<sup>1</sup>. The UNAIDS 2004 Global Report points out that the percentage of children orphaned by HIV/AIDS continues to grow even in areas where the epidemic has declined or stabilized. The situation is aggravated by poverty, risk of violence, abuse, and exploitation.

Some of the internationally agreed upon rights especially impacted for children by HIV/AIDS are: non-discrimination, health, education, housing, special protection, inheritance and the right to have their views sought and considered in matters that affect their lives.

**Rights based Efforts in Programming**

*Residential Care*

- Save the Children UK focuses its HIV/AIDS impact mitigation efforts in the area of “residential care.” It articulates its rights based approach as applied both to providing services through the establishment of an alternative to orphanages, and advocacy in relation to its work to change policy in this area using the CRC (rights of children to grow up in a family environment). There is documented evidence that orphanages are detrimental to children’s health and well being and may well compromise their enjoyment of rights. Many countries continue to rely on orphanages to provide care to HIV/ AIDS orphans<sup>2</sup>. Save the Children in a recent paper states that “residential care is a rights issue,” and children are more exposed to risks while their rights are ignored or abused.

- There are also some best practice examples where NGOs and other organizations provide assistance to extended families or others that support orphans. A few of these programs are also supported by governments.

#### *Social Integration*

- In Cambodia, Norea Peaceful Children (NPC) was established as an NGO in a Buddhist monastery. The group's strategic plan has three central objectives: to promote human rights; to address the interrelationship of gender inequalities and HIV/ AIDS; and to develop community level solutions for care and support. It does this by using several types of interventions: advocacy; community behaviour change; training and direct services to orphans (provide shelter and educational opportunities for orphans and vulnerable children, including HIV/AIDS orphans). As one approach to reduce stigma and discrimination, its community based work includes, raising awareness of HIV/AIDS through general and religious community events. There are many examples of similar programs being replicated in Cambodia.
- Another example is the Salvation Army's Maryse Camp, in Zimbabwe, which has been serving orphaned children in the community by providing psychosocial support, legal consultation, and other services to address violence, abuse and exploitation. Recently they have started a "Mobile Law Clinic" to expand their engagement with orphans in relation to legal and other matters.

#### *Education*

- Another key concern is ensuring access to education for orphans. For example, in Henan Province in China, children orphaned by AIDS living with extended families have free access to primary and secondary school and financial support for further studies. In Jamaica, the National AIDS Committee, provides financial assistance for most families that take care of children infected or affected by HIV/AIDS to pay for their education.
- Zambia has made it a priority to scale up home care or other community based care for children orphaned, infected or affected by HIV / AIDS. These activities are usually carried out by churches and NGOs. Special educational programs for out-of-school youth have been developed with the Ministry of Education to ensure education for these children as well.

#### **Rights based approaches targeted towards policy and law**

- In Kenya and Zambia, a project supporting rights based approaches to law and policy reform was developed with the technical assistance of the Canadian HIV/ AIDS Legal Network. Kenya Ethical and Legal Issues Network -KELIN -in Kenya and Zambia AIDS law Research and Advocacy – ZARAN –in Zambia are the implementing partners. KELIN and ZARAN have developed a three year strategic plan, based on the reform of HIV/AIDS law and policy. While not specific to orphans, the integration of human rights into law and policy is noteworthy. Both organizations also promoted a human rights based approach among legal practitioners and policy makers.
- Another program was developed in the Caribbean (approved by HIV/AIDS-PNCAP with the assistance of the Canadian HIV/AIDS Legal Network) to explore how regional initiatives can support rights based approaches to law and policy reform. The project began in 2002, and an action plan was developed to support national and regional initiatives. In 2004, national assessments of legal, ethical, and human rights issues in nine countries will be undertaken. An important objective is to improve the "human rights culture," in a region where human rights are not well established.

- The following questions are raised:
  - In what ways are these programs rights based and what components are missing?
  - How can international human rights instruments such as the CRC be “operationalized” so as to be effective at the programmatic level in impact mitigation efforts?
  - What would constitute a rights based legal framework to address impact mitigation for orphans and more generally? (For example, ratify and implementing the CRC, include adoption laws, regulatory processes, etc.). More specifically, this may also include:
    - What is the larger socio-economic and cultural context?
    - What are the acceptable patterns of childcare practice and policy?
    - Are home or community based care promoted?
    - Are residential care institutions controlled by the government?
    - Are governments obligated to provide programs to strengthen extended families capacity to childcare?
    - Do children have the power to make decisions about their lives and future?
    - Are adoption laws adapted to address the realities of HIV/AIDS in the country?
    - How to determine relevant policies ensure the best interests of the child?

*This issue paper was prepared by Mabel Bianco  
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<sup>1</sup> UNAIDS 2004 Report on the Global AIDS Epidemic

<sup>2</sup> A study developed in 1994 by the Department of Social Welfare and the University of Zimbabwe demonstrated orphanages were not the best response for the children. By contrary they concluded “children are better served by programs that keep them in the community, surrounded by leaders and peers they know and love”.