
Appendix 1: UN Guidelines on HIV-related Human Rights

Guideline 1

States should establish an effective national framework for their response to HIV/AIDS which ensures a co-ordinated, participatory, transparent and accountable approach, integrating HIV/AIDS policy and programme responsibilities across all branches of government.

Guideline 2

States should ensure, through political and financial support, that community consultation occurs in all phases of HIV/AIDS policy design, programme implementation and evaluation and that community organisations are enabled to carry out their activities, including in the field of ethics, law and human rights, effectively.

Guideline 3

States should review and reform public health laws to ensure that they adequately address public health issues raised by HIV/AIDS, that their provisions applicable to casually transmitted diseases are not inappropriately applied to HIV/AIDS and that they are consistent with international human rights obligations.

Guideline 4

States should review and reform criminal laws and correctional systems to ensure that they are consistent with international human rights obligations and are not misused in the context of HIV/AIDS or targeted against vulnerable groups.

Guideline 5

States should enact or strengthen anti-discrimination and other protective laws that protect vulnerable groups, people living with HIV/AIDS and people with disabilities from discrimination in both the public and private sectors, ensure pri-

vacy and confidentiality and ethics in research involving human subjects, emphasise education and conciliation,

Guideline 6

States should enact legislation to provide for the regulation of HIV-related goods, services and information, so as to ensure widespread availability of qualitative prevention measures and services, adequate HIV prevention and care information and safe and effective medication at an affordable price.

Guideline 7

States should implement and support legal support services that will educate people affected by HIV/AIDS about their rights, provide free legal services to enforce those rights, develop expertise on HIV-related legal issues and utilise means of protection in addition to the courts, such as offices of ministries of justice, ombudspersons, health complaint units and human rights commissions.

Guideline 8

States, in collaboration with and through the community, should promote a supportive and enabling environment for women, children and other vulnerable groups by addressing underlying prejudices and inequalities through community dialogue, specially designed social and health services and support to community groups.

Guideline 9

States should promote the wide and ongoing distribution of creative education, training and media programmes explicitly designed to change attitudes of discrimination and stigmatisation associated with HIV/AIDS to understanding and acceptance.

Guideline 10

States should ensure that government and the private sector develop codes of conduct regarding HIV/AIDS issues that translate human rights principles into codes of professional responsibility and practice, with accompanying mechanisms to implement and enforce these codes.

Guideline 11

States should ensure monitoring and enforcement mechanisms to guarantee the protection of HIV-related human rights,

including those of people living with HIV/AIDS, their families and communities.

Guideline 12

States should co-operate through all relevant programmes and agencies of the United Nations system, including UNAIDS, to share knowledge and experience concerning HIV-related human rights issues and should ensure effective mechanisms to protect human rights in the context of HIV/AIDS at international level.

Source: OHCHR and UNAIDS, 1996

Appendix 2: Global and Commonwealth Mandates on Gender and HIV/AIDS

Global Mandates

The Convention for the Elimination of all forms of Discrimination Against Women (CEDAW) (1981)

This convention has been ratified by 166 states at the time of writing, including most members of the Commonwealth. In article 1, it defines discrimination against women as: ‘any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field’. This definition has been accepted by the Human Rights Committee as applicable to discrimination under the International Covenant on Civil and Political Rights (ICCPR).

Article 12 of the convention is concerned with the area of health. HIV/AIDS is not specifically addressed since there was not a global pandemic at the time the convention came into force. However, it is the focus of General Recommendation 15: ‘Avoidance of Discrimination against Women in National Strategies for the Prevention and Control of AIDS’ (1990).³ This recommends that State Parties:

- make information more widely available to increase public awareness of the risk and effects of HIV infection and AIDS, especially to women and children;

³The Committee on the Elimination of Discrimination Against Women (CEDAW) has made a number of General Recommendations. Although these are not a formally binding interpretation of the Convention, they ‘have considerable authority ... [and should] be an integral part of the domestic application of international law’ (Bayefsky, 1994).

- ensure that AIDS programmes give special attention to the rights and needs of women and children, and to the ways in which the reproductive role of women and their subordinate position in some societies makes them especially vulnerable to HIV infection;
- take measures to ensure the active participation of women in primary health care and to enhance their role as care providers, health workers and educators in the prevention of infection with HIV;
- include information in their reports under article 12 of the Convention on the effects of AIDS on the situation of women and on the action taken to cater to the needs of those women who are infected and to prevent specific discrimination against them.

At its 14th (1996), 16th (1997), 18th (1998), 20th (1999) and 22nd and 23rd (2000) sessions, the Committee expressed its concern about the effect of the HIV/AIDS pandemic on young women in a number of contexts. These include prostitution, trafficking in women and girls, health education, lack of statistical data on HIV/AIDS – including sex-disaggregated data – and risks of parent-to-child transmission. The Committee therefore recommended:

- more information on the prevention of HIV/AIDS;
- more studies and statistical data;
- access of prostitutes to appropriate health service;
- education in sexual and reproductive health, including HIV/AIDS;
- promotion of condom use; and
- increased education and services on HIV/AIDS to all women, including rural women.

Programme of Action of the International Conference on Population and Development (ICPD, Cairo, 1994)

At the 1994 International Conference on Population and Development (ICPD), held in Cairo, 179 countries agreed that

population and development are inextricably linked, and that empowering women and meeting people's needs for education and health, including reproductive health, are necessary for both individual advancement and balanced development. The Programme of Action (PoA) identifies advancing gender equality and equity and the empowerment of women, the elimination of all kinds of violence against women and ensuring women's ability to control their own fertility as cornerstones of population and development-related programmes (principle 4).

Sexually transmitted infections (STIs)

Section C recommends actions designed to prevent, reduce the incidence of and provide treatment for STIs, including HIV/AIDS. Such actions include to:

- increase efforts in reproductive health programmes to prevent, detect and treat STIs and other reproductive tract infections;
- provide specialised training to all health-care providers in the prevention and detection of, and counselling on, STIs, especially infections in women and youth;
- make information, counselling for responsible sexual behaviour and effective prevention of STIs and HIV integral components of all reproductive and sexual health services; and
- promote and distribute high-quality condoms as integral components of all reproductive health-care services (para. 7.30–33).

The AIDS pandemic

Section D calls on governments to mobilise all segments of society to control the AIDS pandemic. Actions include to:

- provide sex education and information to both those infected and those not infected, and especially to adolescents;
- ensure health providers have training in:
 - promoting responsible sexual behaviour, including voluntary sexual abstinence and condom use, in education and information programmes;

Box 23: Benchmark Indicators Adopted at the ICPD +5 Review

After reviewing progress made in the goals and objectives set by the ICPD Programme of Action (1994), the 1999 General Assembly special session (ICPD +5) agreed on a new set of benchmarks. These included:

- By 2005, 60 per cent of primary health care and family planning facilities should offer the widest achievable range of safe and effective family planning methods, essential obstetric care, prevention and management of reproductive tract infections, including sexually transmitted diseases, and barrier methods to prevent infection. By 2010, 80 per cent of facilities should offer such services and by 2015 all should do so.
- By 2005, the gap between the proportion of individuals using contraceptives and the proportion expressing a desire to space or limit their families should be reduced by half, by 2010 by 75 per cent, and by 2015 by 100 per cent. Recruitment targets or quotas should not be used in attempting to reach this goal.
- By 2005, at least 90 per cent of young men and women aged 15–24 should have access to preventive methods to reduce vulnerability to HIV/AIDS infection – such as female and male condoms, voluntary testing, counselling and follow up, and by 2010 at least 95 per cent.
- By 2005, HIV infection rates in young people aged 15–24 should be reduced by 25 per cent in the most affected countries and by 2010 by 25 per cent globally.

Source: www.unfpa.org/icpd/index.htm

- counselling on sexually transmitted diseases and HIV infection, including the assessment and identification of high-risk behaviours needing special attention and services;
- the avoidance of contaminated equipment and blood products; and

- the avoidance of sharing needles among injecting drug users;
- develop guidelines and counselling services on AIDS and STIs within the primary health-care services;
- mobilise all segments of society to control the AIDS pandemic, including NGOs, community organisations, religious leaders, the private sector, the media, schools and health facilities;
- develop policies and guidelines to protect the individual rights of and eliminate discrimination against persons infected with HIV and their families;
- devise special programmes to provide care and the necessary emotional support to men and women affected by AIDS and to counsel their families and near relations;
- promote responsible sexual behaviour, including voluntary sexual abstinence, for the prevention of HIV infection;
- make condoms and drugs for the prevention and treatment of STIs widely available and affordable and included in all essential drug lists; and
- further control the quality of blood products and equipment decontamination (paras. 8.30–35).

A 1999 review of progress since the Cairo Conference culminated in a Special Session of the United Nations General Assembly (ICPD +5) which identified key actions needed for further implementation of the PoA and new benchmarks for measuring progress towards ICPD goals (see Box 23).

Beijing Declaration and Platform for Action, Fourth World Conference on Women (1995)

Participants: All Commonwealth countries, either in national delegations or through the Commonwealth Secretariat.

The Beijing Platform for Action (PFA) identifies five strategic objectives in the area of health, under each of which governments agreed to take a number of actions. Objective C3 calls for gender-sensitive initiatives that address STIs, HIV/

AIDS, and sexual and reproductive health issues. Actions to be taken include to:

- ensure the involvement of women, especially those infected with HIV/AIDS or other STIs or affected by the HIV/AIDS pandemic, in all decision-making relating to the development, implementation, monitoring and evaluation of policies and programmes on HIV/AIDS and other STIs;
- review and amend laws and combat practices that may contribute to women's susceptibility to HIV infection and other STIs;
- encourage all sectors of society to develop compassionate and supportive, non-discriminatory HIV/AIDS-related policies and practices that protect the rights of infected individuals;
- develop gender-sensitive multisectoral programmes and strategies to end the social subordination of women and girls and to ensure their social and economic empowerment and equality;
- support and strengthen national capacity to create and improve gender-sensitive policies and programmes on HIV/AIDS and other STIs;
- provide workshops and specialised education and training to parents, decision makers and opinion leaders at all levels of the community, including religious and traditional authorities, on prevention of HIV/AIDS and other STIs and on their effect on both women and men of all ages;
- give full attention to the promotion of mutually respectful and equitable gender relations and, in particular, to meeting the educational and service needs of adolescents to enable them to deal in a positive and responsible way with their sexuality;
- design specific programmes for men of all ages and male adolescents aimed at providing complete and accurate information on safe and responsible sexual and reproductive behaviour, and educate and enable men to assume their responsibilities to prevent HIV/AIDS and other STIs;

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- ensure the provision, through the primary health-care system, of universal access of couples and individuals to appropriate and affordable preventive services with respect to STIs, including HIV/AIDS; and
 - support and expedite action-oriented research on affordable methods, controlled by women, to prevent HIV and other STIs, and on methods of care, support and treatment of women, ensuring their involvement in all aspects of such research (para. 108).

Beijing +5 Outcome Document (2000)

Five years after Beijing, governments met in New York at a Special Session of the General Assembly entitled ‘Women 2000: Gender Equality, Development and Peace for the Twenty-first Century’ (popularly known as Beijing +5). Governments adopted the ‘Further Actions and Initiatives to Implement the Beijing Declaration and the Platform for Action (PFA)’ by which they reaffirmed their commitment to the goals and objectives contained in the Beijing Declaration and PFA and to the implementation of the 12 critical areas of concern. In the area of HIV/AIDS, they also agreed to undertake a number of further actions, including to:

- Adopt policies and implement measures to address the gender aspects of health challenges such as HIV/AIDS (para. 72a).
- Give priority attention to measures to prevent, detect and treat STIs, including HIV/AIDS (para. 72b).
- Revise national policies, programmes and legislation to implement the key actions for the further implementation of the ICPD Programme of Action. Particular attention should be paid to providing a wide range of safe and effective family planning and contraceptive methods; and reducing young people’s risk of HIV/AIDS (para. 79c).
- Promote people’s right to make decisions concerning reproduction free of discrimination, coercion and violence (para. 72j).

- Promote mutually respectful and equitable gender relations (para. 72j).
- Design and implement programmes for adolescents with their full involvement to provide them with education, information and appropriate, specific, user-friendly and accessible services that address their reproductive and sexual health needs (para. 79f).
- Design and implement programmes to encourage and enable men to adopt safe and responsible sexual and reproductive behaviour, and to effectively use methods to prevent unwanted pregnancies and STIs, including HIV/AIDS (para. 72l).
- Adopt measures to ensure non-discrimination against and respect for the privacy of those living with HIV/AIDS and STIs, including women and young people. They should have access to the information needed to prevent further transmission of HIV/AIDS and STIs and be able to access treatment and care services without fear of stigmatisation, discrimination or violence (para. 72n).
- Encourage a high awareness of the harmful effects of certain traditional or customary practices affecting the health of women, some of which increase their vulnerability to HIV/AIDS and other STIs, and intensify efforts to eliminate such practices (para. 98d).
- Intensify education, services and community-based mobilisation strategies to protect women of all ages from HIV and other STIs. This should include:
 - the development of safe, affordable, effective and easily accessible female-controlled methods, including microbicides and female condoms;
 - voluntary and confidential HIV testing and counselling;
 - the promotion of responsible sexual behaviour, including abstinence and condom use;
 - the development of vaccines, simple low-cost diagnosis and single dose treatments for sexually transmitted infections (para. 103b).

- Provide access to adequate and affordable treatment, monitoring and care for all people, especially women and girls, infected with STIs or living with life-threatening diseases, including HIV/AIDS and associated opportunistic infections, such as tuberculosis (para. 103c).
- Provide gender-sensitive support systems for women and other family members who are involved in caring for persons affected by serious health conditions, including HIV/AIDS (para. 103c).
- Eliminate gender biases in bio-medical, clinical and social research. This includes conducting voluntary clinical trials involving women, with due regard for their human rights, and gathering, analysing and making available to appropriate institutions and to end-users gender-specific information about dosage, side-effects and effectiveness of drugs, including contraceptives and methods that protect against STIs (para. 92d).
- Promote, improve, systemise and fund the collection of data disaggregated by sex, age and other appropriate factors, on health and access to health services, including comprehensive information on the impact of HIV/AIDS on women, throughout the life-cycle (para. 92c).

Declaration of Commitment on HIV/AIDS, 'Global Crisis – Global Action', Special Session of the UN General Assembly on the Problem of HIV/AIDS in All its Aspects (2001)

A Special Session of the UN General Assembly was held in June 2001 in order to intensify international action to fight the HIV/AIDS epidemic and to mobilise the resources needed. Governments unanimously agreed on a Declaration of Commitment to reduce infection rates by 25 per cent by 2005, end discrimination by challenging 'gender stereotypes and attitudes' and inequalities between men and women worldwide, and provide AIDS education to 90 per cent of young people by 2005. Poverty, women's rights and funding issues were also addressed as a part of the solution to combat HIV/AIDS.

In the Declaration, governments emphasise that the vulnerable must be given priority in the response to the HIV/AIDS crisis, and that empowering women is essential for reducing vulnerability. They agree to take action in eleven key areas:

- Leadership
- Prevention
- Care, support and treatment
- HIV/AIDS and human rights
- Reducing vulnerability
- Children orphaned and made vulnerable by HIV/AIDS
- Alleviating social and economic impact
- Research and development
- HIV/AIDS in conflict and disaster affected regions
- Resources
- Follow up.

All countries are called on to take the necessary steps to implement, in “strengthened partnership and co-operation with other multilateral and bilateral partners and with civil society”, a number of time-bound targets, including to:

By 2003

- Ensure the development and implementation of multisectoral national strategies and financing plans for combating HIV/AIDS that:
 - address the epidemic in forthright terms;
 - confront stigma, silence and denial;
 - address gender and age-based dimensions of the epidemic;
 - eliminate discrimination and marginalisation;
 - involve partnerships with civil society and the business sector and the full participation of people living with HIV/AIDS, those in vulnerable groups and people mostly at risk, particularly women and young people;

- are resourced to the extent possible from national budgets;
- fully promote and protect all human rights and fundamental freedoms, including the right to the highest attainable standard of physical and mental health;
- integrate a gender perspective;
- address risk, vulnerability, prevention, care, treatment and support and reduction of the impact of the epidemic; and strengthen health, education and legal system capacity (para. 37).
- Establish time-bound national targets to achieve the internationally agreed goal of reducing HIV prevalence among young men and women aged 15–24 by 25 per cent in the most affected countries by 2005 and globally by 2010. Intensify efforts to achieve these targets as well as to challenge gender stereotypes and attitudes and gender inequalities in relation to HIV/AIDS, encouraging the active involvement of men and boys (para. 47).
- Have in place in all countries strategies, policies and programmes that identify and begin to address those factors that make individuals particularly vulnerable to HIV infection, including:
 - underdevelopment
 - economic insecurity
 - poverty
 - lack of empowerment of women
 - lack of education
 - social exclusion
 - illiteracy
 - discrimination
 - lack of information and/or commodities for self-protection
 - all types of sexual exploitation of women, girls and boys, including for commercial reasons.

Such strategies, policies and programmes should address the gender dimension of the epidemic, specify the action that will be taken to address vulnerability and set targets for achievement (para. 62).

- Develop and/or strengthen strategies, policies and programmes to reduce the vulnerability of children and young people by ensuring their access to primary and secondary education; including HIV/AIDS in curricula for adolescents; and ensuring safe and secure environments, especially for young girls (para. 63).
- Evaluate the economic and social impact of the HIV/AIDS epidemic and develop multisectoral strategies to:
 - address the impact at the individual, family, community and national levels;
 - develop and accelerate the implementation of national poverty eradication strategies to address the impact of HIV/AIDS on household income, livelihoods, and access to basic social services, with a special focus on individuals, families and communities severely affected by the epidemic; and
 - review the social and economic impact of HIV/AIDS at all levels of society especially on women and the elderly, particularly in their role as caregivers and in families affected by HIV/AIDS and address their special needs (para. 68).
- Develop and begin to implement national strategies that incorporate HIV/AIDS awareness, prevention, care and treatment elements into programmes or actions that respond to emergency situations. Populations destabilised by armed conflict, humanitarian emergencies and natural disasters, particularly women and children, are at increased risk of exposure to HIV infection (para. 75).

By 2005

- Ensure that a wide range of prevention programmes is available in all countries, including:
 - information, education and communication aimed at

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- reducing risk-taking behaviour and encouraging responsible sexual behaviour, including abstinence and fidelity;
 - expanded access to essential commodities, including male and female condoms; and
 - early and effective treatment of sexually transmittable infections (para. 52).
 - Ensure that at least 90 per cent, and by 2010 at least 95 per cent, of young men and women aged 15–24 have access to the information and education necessary to develop the life skills required to reduce their vulnerability to HIV infection (para. 53).
 - Reduce the proportion of infants infected with HIV by 20 per cent, and by 50 per cent by 2010, by:
 - ensuring that 80 per cent of pregnant women accessing antenatal care have information, counselling and other HIV prevention services available to them;
 - increasing the availability of effective treatment to reduce mother-to-child transmission of HIV;
 - providing effective interventions for HIV-infected women (para. 54).
 - Implement national strategies that:
 - promote the advancement of women and women's full enjoyment of all human rights;
 - promote shared responsibility of men and women to ensure safe sex;
 - empower women to have control over and decide freely and responsibly on matters related to their sexuality to increase their ability to protect themselves from HIV infection (para. 59).
 - Implement measures to increase capacities of women and adolescent girls to protect themselves from the risk of HIV infection through:
 - the provision of health care and health services, including sexual and reproductive health;
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- prevention education that promotes gender equality within a culturally and gender sensitive framework (para. 60).
- Ensure development and accelerated implementation of national strategies for women's empowerment; promotion and protection of women's full enjoyment of all human rights; and reduction of their vulnerability to HIV/AIDS. This should include the elimination of all forms of discrimination, as well as all forms of violence against women and girls, including harmful traditional and customary practices, abuse, rape and other forms of sexual violence, battering and trafficking in women and girls (para. 61).

Periodically

Conduct national reviews involving the participation of civil society, particularly people living with HIV/AIDS, vulnerable groups and caregivers, of progress achieved in realising these commitments and identify problems and obstacles to achieving progress and ensure wide dissemination of the results of these reviews (para. 94).

Commonwealth Mandates

Commonwealth Plan of Action on Gender and Development (1995) and its Update (2000–2005)

Signatories: All Commonwealth Heads of Government

The 1995 Commonwealth Plan of Action on Gender and Development and its Update are a blueprint for Commonwealth action to achieve gender equality. The Plan states as its vision that the Commonwealth works towards a world in which women and men have equal rights and opportunities at all stages of their lives to express their creativity in all fields of human endeavour. This world is also one in which women are respected and valued as equal and able partners in establishing values of social justice, equity, democracy and respect for human rights. Within such a framework of values, women and men will work in collaboration and partnership to ensure people-centred sustainable development for all nations (4.1.1).

To achieve this vision, the Commonwealth member governments will put in place national action plans with a key

focus on strengthening institutional capacity. Fifteen elements are identified as desirable components for national action plans, including:

- Integrate gender issues in all national policies, plans and programmes.
- Promote equal opportunities and positive and/or affirmative action throughout the country and consult women on priorities.
- Action for anti-discrimination.
- Women's rights as human rights, the elimination of violence against women, the protection of the girls child and the outlawing of all forms of trafficking in women and girls.
- Action for women's participation in decision-making.
- Action for sustainable development, poverty alleviation and eradication of absolute poverty.
- Action for human resource development, literacy, training and education.
- Action for women's health. This includes increasing women's access to affordable, quality health care and related services that meet their needs and priorities, and ensure their full participation as decision-makers in the development and design of health policies and programmes that impact on their lives and those of their families and communities. Empower women to protect and care for themselves, particularly in relation to maternal and infant mortality, HIV/AIDS and other infectious diseases.

Commonwealth Heads of Government Meeting (CHOGM) Mandates (1999)

Heads of government at the 1999 CHOGM expressed grave concern over the devastating social and economic impact of HIV/AIDS, particularly in sub-Saharan Africa. They agreed that this constituted a Global Emergency and pledged personally to lead the fight against HIV/AIDS within their countries and internationally. They urged all sectors in government,

international agencies and the private sector to co-operate in increased efforts to tackle the problem (para. 55, 1999 Durban CHOGM Communiqué).