

NGO *Summary*

of the International Guidelines on HIV/AIDS and *Human Rights*

The Second International Consultation on HIV/AIDS and Human Rights convened by UNAIDS and the Office of the High Commissioner for Human Rights, has issued a series of guidelines for member states to assist them in designing programs and policies which protect and promote human rights in the context of the HIV/AIDS pandemic.

The text contained in this booklet constitutes a popular summary of the International Guidelines on HIV/AIDS and Human Rights. Some of the words have been changed. Not all of the original text has been included. For the full and unaltered text, please consult the International Guidelines themselves.

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Establish a national framework for the response to HIV/AIDS that integrates policies and program responsibilities across all branches of government, and that is:

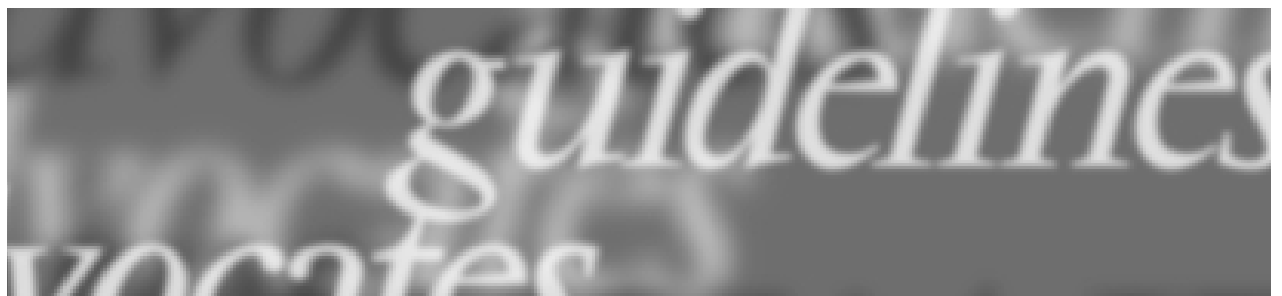
- effective;
- coordinated;
- participatory;
- transparent; and,
- accountable

States should:

- Make a political commitment to dedicate adequate resources to the epidemic.
- Ensure that HIV/AIDS and human rights activities are integrated into all relevant government programs.
- Clearly define roles and responsibilities within governments.
- Find ways to avoid unnecessary politicization of HIV/AIDS.

These include programs in the following areas:

- Education.
- Health.
- Law and justice (including police and prison services).
- Science and research.
- Employment and public service.
- Welfare, social security and housing.
- Immigration and refugees.
- Indigenous populations.
- Foreign affairs and development.
- Treasury and finance.
- Defence (including the armed forces).



States should consider:

- Forming an inter-ministerial committee to develop and monitor national action plans.
- Establishing committees with representation from all political viewpoints to provide an opportunity for briefings and policy discussions.
- Forming or strengthening advisory bodies to counsel governments on legal and ethical issues.
- Educating the judicial branch of government on legal, ethical and human rights issues.
- Including HIV/AIDS issues in existing mainstream forums, such as regular gatherings of ministers of health, justice and social welfare.

In federal systems, the committee should include provincial or state representation.

These could be parliamentary or legislative committees, or similar forums. Such committees would help to increase understanding of the epidemic.

Representation should include PLWHIV/AIDS, NGOs and ASOs.

RATIONALE:

- A national framework is required to mobilize key players in the different branches of government and to provide the necessary leadership.
- Although most countries have a national AIDS committee, government policy often remains uncoordinated and there is a lack of specific attention to human rights issues.
- Politicization of HIV/AIDS diverts energy and divides the community instead of engendering a sense of solidarity and consensus.

Provide political and financial support to ensure that community organizations are able to carry out their activities effectively.

Provide political and financial support to ensure that community consultation occurs in all phases of policy design, program implementation and program evaluation.

States should:

- Establish formal mechanisms to facilitate ongoing dialogue and input.
- Provide funding to community organizations to sustain and enhance their core and project activities, and to strengthen their organizational skills in the areas of advocacy, lobbying and human rights work.

Community representation should include PLWHIV/AIDS, CBOs, ASOs, human rights NGOs and representatives of vulnerable groups.

The funding should be allocated to activities such as:

- Training seminars.
- Workshops.
- Networking.
- Developing promotional and educational materials.
- Advising clients of their legal rights.
- Referring clients to relevant grievance bodies.
- Collecting data on human rights issues.
- Human rights advocacy.

States should consider:

- Regular reporting by community representatives to official bodies.
- Joint workshops with community representatives on policy issues and on the planning and evaluation of state responses to the epidemic.
- Mechanisms for receiving written submissions from the community.

RATIONALE:

- Community partners have knowledge and expertise that states need in order to respond effectively to the epidemic.
- Community representatives are either directly affected by human rights problems or work with people who are affected.
- The contribution of the community is an essential part of the overall national response to the epidemic.
- State funding to community organizations would enhance the community contribution.
- Collection of data by the community on human rights complaints is vital to inform governments and the international community where the most serious human rights problems are occurring, and what actions should be implemented to mount an effective response.

Review and reform public health laws to ensure:

- **that they adequately address the public health issues raised by HIV/AIDS;**
- **that the provisions applicable to casually transmitted diseases are not inappropriately applied to HIV/AIDS; and,**
- **that they are consistent with international human rights obligations.**

States should:

- Fund and empower public health authorities to provide a comprehensive range of services for prevention and treatment.
- Ensure that HIV testing of an individual is voluntary — i.e., performed only with the specific informed consent of that individual.
- Provide pre- and post-test counselling whenever possible.
- Ensure that HIV and AIDS cases reported to public health authorities for epidemiological purposes are subject to strict rules of data protection and confidentiality.
- Ensure that information related to the HIV status of an individual is protected from unauthorized collection, use or disclosure in health care and other settings.
- Ensure that people are not subjected to coercive measures such as isolation, detention or quarantine because of their HIV status.

These services should include:

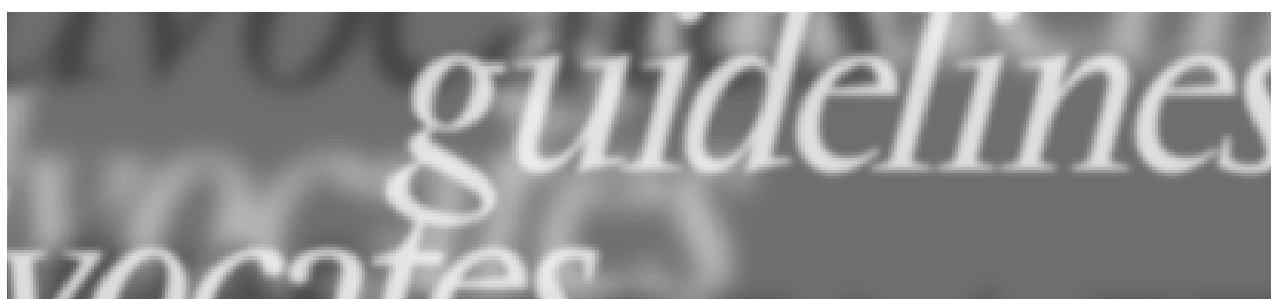
- Relevant information and education.
- Access to voluntary testing and counselling.
- STD, sexual and reproductive health services for men and women.
- Condoms, drug treatment services and clean injection materials.
- Adequate medical treatment (including pain prophylaxis).

Exceptions can be made in the case of surveillance testing and other unlinked testing done for epidemiological purposes. Any other exceptions to the rule of voluntary testing require specific judicial authorization and should only be made after due consideration of the privacy and liberty considerations involved.

If home testing kits are available, states should:

- Ensure quality control of the kits.
- Make counselling and referral services available for those who use such tests.
- Establish legal and support services for those who are victims of the use of such tests by others.

Where the liberty of PLWHIV/AIDS is restricted because of alleged illegal activity, due process protections should be guaranteed. Examples of such protections are notice; rights of review and appeal; fixed rather than indeterminate periods of orders; and rights of representation.



Public Health Laws

- Authorize, but not require, health care professionals to inform the sexual partners of their HIV-positive patient of the HIV status of their patient.
- Ensure that the blood, tissue and organ supply is free of HIV and other blood-borne diseases.
- Ensure that universal infection control precautions are implemented in health care and other settings involving exposure to blood and other bodily fluids; and that people working in these settings are provided with the appropriate equipment and training to implement the precautions.
- Ensure that health care workers undergo human rights training before receiving a license to practice.

Such a decision should be made on a case-by-case basis and in accordance with the following criteria:

- The patient has been thoroughly counselled.
- The counselling has failed to achieve appropriate behavioural change.
- The patient has refused to notify his/her partners, or has refused to consent to their notification.
- There is a real risk of HIV transmission to the partner.
- The patient is given reasonable advance notice.
- The identify of the patient is concealed from the partner (if this is practical).
- Follow up work is done to ensure that support is provided to those involved, as required.

Professional societies of health care workers should be encouraged to develop and enforce codes of conduct covering ethical and human rights issues such as confidentiality and the duty to provide treatment.

Criminal Law and Correctional Systems

Review and reform criminal laws and correctional systems to ensure:

- **that they are not targeted against vulnerable groups;**
- **that they are not misused in the context of HIV/AIDS; and,**
- **that they are consistent with international human rights obligations.**

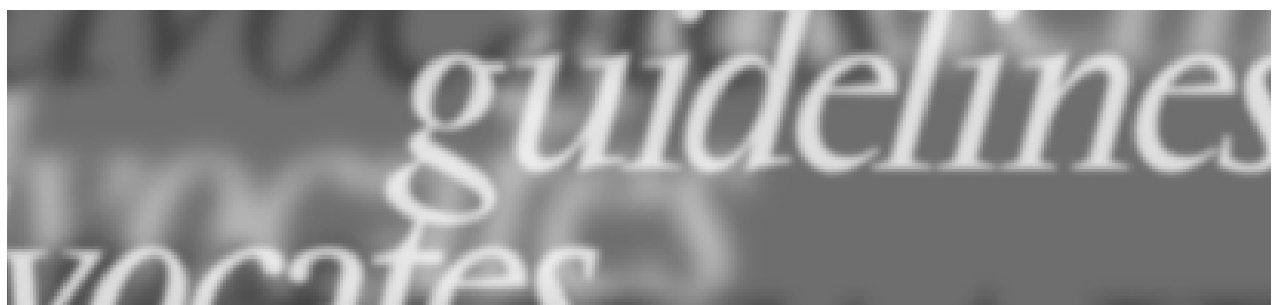
States should:

- Ensure that there are no specific offences against the deliberate transmission of HIV, and that existing general criminal offences are applied to these exceptional cases.
- Repeal criminal laws prohibiting sexual acts between consenting adults in private.
- Decriminalize and regulate adult commercial sex activities which do not involve victimization.
- Ensure that children and adult sex workers who have been trafficked or coerced into sex work are not prosecuted for such participation, but rather are removed from sex work and provided with medical and psychosocial support services.
- Ensure that criminal laws are not an impediment to measures taken by states to reduce the risk of HIV transmission among injection drug users and to provide care and treatment to this population.

Such acts include adultery, sodomy, fornication and commercial sexual encounters. If not repealed, such laws should not be allowed to impede provision of prevention and care services to the affected communities.

Regulations should enforce occupational health and safety guidelines to protect sex workers and their clients. If not decriminalized, laws governing commercial sex activities should not impede the provision of prevention and care services to sex workers and their clients.

States should consider: (1) the authorization or legalization and promotion of needle and syringe exchange programs; and (2) the repeal of laws criminalizing the possession and dispensing of needles and syringes.



Criminal Law and Correctional Systems

Prison authorities should:

- Take all necessary measures to protect prisoners from rape, sexual violence and coercion.
- Provide prisoners and prison staff with access to prevention information, education, voluntary testing and counselling.
- Ensure that prisoners have access to the means of prevention (condoms, bleach and clean injection equipment).
- Ensure that HIV-positive prisoners have access to care and treatment, including voluntary participation in clinical trials.
- Ensure confidentiality of information regarding a prisoner's HIV status.
- Prohibit mandatory testing and segregation of HIV-positive prisoners.
- Ensure access to prison facilities, privileges and release programs for HIV-positive prisoners.
- Consider compassionate early release of prisoners living with AIDS.

Such measures should include adequate staffing, effective surveillance and appropriate disciplinary action.

- E**nact or strengthen anti-discrimination and other protective laws to:
- *protect vulnerable groups, PLWHIV/AIDS and people with disabilities from discrimination in both the public and private sectors;*
 - *ensure privacy and confidentiality;*
 - *ensure ethics in research involving human subjects; and,*
 - *provide for speedy and effective administrative and civil remedies when the laws are breached.*

States should:

- Enact or revise general anti-discrimination laws to cover PLWHIV/AIDS, whether or not they are symptomatic; people suspected of having HIV or AIDS; and groups made more vulnerable to HIV/AIDS due to the discrimination they face.
- Ensure that disability laws include HIV/AIDS in the definition of disability.
- Review all laws which affect the status and treatment of various groups in society to ensure that they are consistent with the anti-discrimination laws.
- Enact general confidentiality and privacy laws to protect HIV-related information from unauthorized access or use.

General anti-discrimination laws should meet the following criteria:

- They should cover a broad range of areas, including health care, social security, welfare benefits, employment, education, sport, accommodation, clubs, trade unions, qualifying bodies, and access to transport and other services.
- They should cover direct and indirect discrimination, as well as cases where HIV/AIDS is only one of several reasons for a discriminatory act.
- They should provide for speedy and effective legal and administrative procedures for seeking redress — including features such as fast tracking when the complainant is terminally ill; investigatory powers to address systemic cases of discrimination in policies and procedures; the ability to make complaints using pseudonyms; and the ability to make representative complaints (including the possibility of public interest organizations bringing cases on behalf of PLWHIV/AIDS).
- They should require that exemptions for superannuation and life insurance be based on reasonable actuarial data, so that HIV/AIDS is not treated differently than similar medical conditions.

These laws should ensure that:

- HIV-related information on individuals is included within the definition of personal and medical data to be protected.
- The unauthorized use or publication of HIV-related information on individuals is prohibited.
- Individuals have a right to see their own records and to request amendments to ensure that the information is accurate.
- An independent agency is established to redress breaches of confidentiality.
- PLWHIV/AIDS have the authority to demand that their identity and privacy be protected in legal proceedings in which their HIV status may be revealed.
- Provisions are made for professional bodies to discipline members involved in breaches of confidentiality.

Anti-Discrimination Laws

- Develop a national policy on HIV/AIDS in the workplace and ensure that laws, regulations and collective agreements guarantee HIV/AIDS workplace rights.
- Ensure that workers' compensation laws address the occupational transmission of HIV.
- Enact or strengthen laws governing legal and ethical protection for human participants in research.

HIV/AIDS workplace rights include:

- Prohibition of HIV screening for employment, promotion, training or benefits.
- Confidentiality regarding all medical information, including HIV status.
- Job security for PLWHIV/AIDS until they are no longer able to work, including the provision of reasonable alternative working arrangements when required.
- Access to social security and other benefits for PLWHIV/AIDS (including life insurance, pension, health insurance, termination benefits and death benefits).
- Adequate health care accessible in or near the workplace.
- Protection from stigmatization and discrimination by colleagues, unions, employers and clients.
- Access to counselling and appropriate referral.
- Adequately equipped first aid kits and a definition of safe first aid practices.
- Adequate and accessible supplies of free condoms.
- The participation of workers in decision-making around workplace issues related to HIV/AIDS.
- Access to information and education on HIV/AIDS.

Laws on human participation in research should ensure that:

- The selection of participants is non-discriminatory (i.e., that groups such as women, children and minorities are not excluded or under-represented).
- Informed consent is obtained from all participants.
- Personal information is kept confidential.
- There is equitable access to the information and benefits emanating from research.
- Counselling, protection from discrimination, health services and support services are provided during and after participation in research projects.
- Local and/or national ethical review committees are established to provide an independent and ongoing ethical review of each research project.
- Members of the affected communities are included on the review committees.

Anti-Discrimination Laws

- Review laws and police practices relating to assaults against men who have sex with men to ensure that adequate legal protections are in place.
- Revoke laws, regulations and practices that provide for restriction on the movement or association of members of vulnerable groups in the context of HIV/AIDS.
- Ensure that public health, criminal and anti-discrimination laws prohibit mandatory testing of targeted groups.
- Enact anti-discrimination laws to reduce human rights violations against women, children, and men who have sex with men — to reduce the impact of HIV/AIDS on these groups, and to reduce the vulnerability of these groups to infection by HIV/AIDS.

Women

Anti-discrimination laws involving women should proclaim the equality of women in matters regarding property and marital relations, and in access to employment and economic opportunity. Discriminatory limitations should be removed on the right of women:

- To own and inherit property.
- To enter into contracts and marriage.
- To obtain credit and finance.
- To initiate separation or divorce.
- To equitably share assets upon separation or divorce.
- To retain custody of children.

Anti-discrimination laws involving women should incorporate women's reproductive and sexual rights, including:

- The right to independent access to reproductive and STD health information and services.
- The right to independent access to the means of birth control, including safe and legal abortion, and the freedom to choose among these means.
- The right to determine the number and spacing of children.
- The right to demand safer sex practices.
- The right to protection from sexual violence inside and outside marriage.

The laws should include legal prohibitions against marital rape.

Anti-discrimination laws involving women should ensure that:

- The age of consent to sex and marriage is consistent for males and females.
- Women have the right to refuse marriage and sexual relations.
- The HIV status of a parent or child is not treated any differently from similar medical conditions in decisions made around custody, fostering or adoption.

Men who have sex with men

Anti-discrimination laws involving men who have sex with men should ensure that:

- Penalties are provided for the vilification of people who engage in same-sex relationships.
- Same-sex marriages or relationships are legally recognized and governed by property, divorce and inheritance provisions that are consistent with other marriages and relationships.
- The age of consent for sex and marriage is consistent for heterosexual and homosexual relationships.

Children

Anti-discrimination laws involving children should ensure that:

- Children have access to HIV-related information, education and means of prevention inside and outside school.
- Children can access voluntary testing with the consent of the child or the parent (or appointed guardian) as appropriate.
- Children, particularly those orphaned by HIV/AIDS, are protected against mandatory testing.
- Children orphaned by HIV/AIDS are protected in matters of inheritance and support.
- Children are protected against sexual abuse.
- Provisions are made for rehabilitation for children who have been abused.

Enact laws and regulations to ensure:

- *the widespread availability of good quality prevention measures and services;*
- *adequate prevention and care information; and,*
- *safe, effective and affordable medication.*

States should:

- Enact laws and regulations to facilitate the widespread provision of HIV/AIDS information through the mass media.
 - Information provided through the mass media:
 - Should be aimed at the general public as well as vulnerable populations.
 - Should be targeted to the intended audience.
 - Should not be inappropriately subject to censorship or other broadcasting standards.
- Enact laws or regulations to ensure that good quality HIV testing and counselling is available.
 - These laws or regulations should prohibit the unauthorized use of testing, such as for employment or immigration.
- Establish legal and social support systems to protect individuals from abuses arising from testing.
- Ensure that condom quality control measures are enforced and that the International Condom Standard is observed.
- Repeal restrictions on the availability of preventive measures, such as condoms, bleach, and clean needles and syringes.
 - States should consider providing condoms, bleach, and clean needles and syringes through vending machines.
- Revise duties, customs laws and value-added taxes to allow maximum access to safe, effective and affordable medications.
- Enact or strengthen consumer protection laws or regulations to prevent fraudulent claims regarding the safety and efficacy of drugs, vaccines and medical devices.

Implement and fund legal support services that will:

- **educate people about their rights;**
- **provide free legal services to enforce these rights;**
- **develop expertise on HIV-related issues; and,**
- **utilize the courts and other means to protect the rights of individuals.**

States should consider funding:

- Legal aid programs specializing in HIV/AIDS casework.
- Private sector law firms to provide services to PLWHIV/AIDS on a pro bono basis.
- Programs to educate, raise awareness and build self-esteem among PLWHIV/AIDS concerning their rights.
- Programs to empower PLWHIV/AIDS to draft and disseminate their own charters and declarations of legal and human rights.
- The production and dissemination of legal support materials.
- HIV legal services and protection through public sector institutions.

These programs could involve community legal aid centres and/or legal services based in ASOs.

Law firms could provide services in areas such as anti-discrimination and disability; health care rights (such as informed consent and confidentiality); property (e.g., wills, inheritance); and employment law.

Legal support materials could include:

- Legal rights brochures.
- Resource personnel directories.
- Handbooks.
- Practice manuals.
- Student texts.
- Model curriculums for law courses and continuing legal education.
- Newsletters to encourage information exchange and networking.

Public sector institutions that could provide legal services include:

- The ministry of justice.
- The public prosecutor and other legal offices.
- Health complaint units.
- Ombudspersons.
- Human rights commissions.

RATIONALE FOR GUIDELINES 3–7:

- Laws provide an essential framework for the observance of human rights because they regulate conduct between the state and individuals and among individuals.
- How well human rights are protected depends on the strength of the legal system and on how well citizens can access that system. Many legal systems are not strong enough and are not easily accessed by marginalized populations.

Women, Children and Other Vulnerable Groups

P*romote a supportive and enabling environment for women, children and other vulnerable groups.*

A*ddress underlying prejudices and inequalities.*

States should:

- Help establish and fund community groups in the various vulnerable communities to provide peer education, empowerment, positive behaviour change and social support.
- Support the development of prevention, care and support programs that are adequate, accessible and effective. These programs should be run by and for the vulnerable communities.
- Support the establishment of national and local forums to examine the impact of the epidemic on women.
- Ensure that primary health services, programs and information campaigns contain a gender perspective.
- Ensure that harmful practices (including violence against women, sexual abuse, exploitation, early marriage and female genital mutilation) are eliminated.
- Provide increased work opportunities for women.
- Assist women's organizations to incorporate HIV/AIDS and human rights issues into their programming.
- Ensure that all women and girls of child-bearing age have access to comprehensive information and counselling about the risks of vertical transmission of HIV and about ways to minimize that risk; and that they can access available resources to minimize that risk.

The forums should be multi-sectoral (i.e., include government, professional, religious and community representation) and should examine issues such as:

- The role of women at home and in public life.
- The sexual and reproductive rights of women and men.
- The ability of women to negotiate safer sex and make reproductive choices.
- Strategies for increasing educational and economic opportunities for women.
- Educating the people who provide services.
- Improving health care and social support services for women.
- The impact of religious and cultural traditions on women.

These are some of the key recommendations of the Cairo Programme of Action developed at the International Conference on Population and Development; and the Beijing Declaration and Platform for Action developed at the Fourth World Conference on Women.

This information should:

- Be tailored appropriately to age level and capacity.
- Enable the children and adolescents to deal positively and responsibly with their sexuality.
- Address the rights of children to access information, to privacy, to confidentiality, to respect, to means of prevention, and to provide informed consent.
- Address the responsibilities, duties and rights of parents.
- Include information on the rights of PLWHIV/AIDS (including children living with HIV/AIDS).

Women, Children and Other Vulnerable Groups

- Ensure that children and adolescents have access to adequate health information, education and services, including information on HIV/AIDS prevention and care, both inside and outside school.
- Ensure that children and adolescents can access confidential sexual and reproductive health services.
- Ensure that the staff of child care agencies (including adoption and foster homes) receive training on HIV-related children's issues.
- Support the implementation of HIV prevention and care programs designed specifically for people who have less access to mainstream programs for reasons of language, poverty or marginalization.

These services should include HIV/AIDS information, counselling, testing, and prevention measures such as condoms. They should also include social support services for people affected by HIV/AIDS. The provision of these services should reflect the appropriate balance between the rights of the child or adolescent to be involved in decision-making according to his or her evolving capabilities, and the rights and duties of parents and guardians for the health and well-being of the child.

This will enable staff to take into account the special needs of HIV-affected children and protect them from mandatory testing, discrimination and abandonment.

Examples of people in this situation are minorities; migrants; indigenous peoples; refugees and internally displaced persons; people with disabilities; prisoners; sex workers, men having sex with men; and drug users.

RATIONALE:

- By addressing the underlying prejudices and inequalities within society, states will help to reduce the vulnerability, stigmatization and discrimination that surround HIV/AIDS and to promote a supportive and enabling environment conducive to positive behavioural change.
- An essential component of a supportive and enabling environment is the empowerment of women, children and other vulnerable groups to take measures to improve their social and legal status, to mobilize their communities, and to be involved in the design and implementation of programs.
- The vulnerability of some groups is due to their lack of autonomy and their limited access to resources, information and education.
- In many countries, community organizations and NGOs have already begun to build supportive and enabling environments; this work needs to be recognized, supported and strengthened.

Changing Discriminatory Attitudes

Promote and support creative educational, training and media programs designed to:

- combat attitudes of discrimination and stigmatization associated with HIV/AIDS; and,
- create understanding and acceptance.

States should:

- Assist media groups, NGOs, networks of PLWHIV/AIDS and others to create and disseminate programs that promote respect for the rights and dignity of PLWHIV/AIDS and vulnerable populations.
- Encourage educational institutions, trade unions and workplaces to include HIV/AIDS and human rights issues in relevant curriculums.
- Provide funding for HIV-related human rights and ethics training for government officials, police, prison staff, and politicians, as well as for village, community and religious leaders.

These programs:

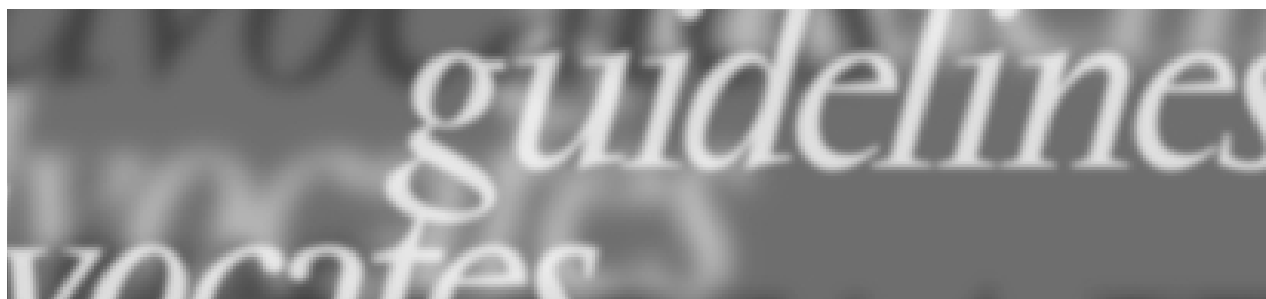
- Should use a broad range of media, such as film, theatre, television, radio, print, dramatic presentations, personal testimonials, the Internet, pictures, and bus posters.
- Should not compound stereotypes, but rather dispel myths and assumptions by depicting PLWHIV/AIDS and vulnerable populations as friends, relatives, colleagues, neighbours and partners.
- Should reassure people regarding the safety of everyday social contact with PLWHIV/AIDS.

These educational institutions include:

- Primary and secondary schools.
- Universities.
- Technical and tertiary colleges.
- Adult and continuing education programs.

Relevant curriculums include:

- Human relationships.
- Citizenship and social studies.
- Legal studies.
- Health care.
- Law enforcement.
- Family life and/or sex education.
- Welfare counselling.



Changing Discriminatory Attitudes

- Encourage the media and advertising industries to be sensitive to HIV/AIDS human rights issues, to reduce sensationalism in reporting and to reduce the inappropriate use of stereotypes, especially in relation to vulnerable populations.

States should consider developing training materials which could include:

- A handbook containing appropriate terminology to help eliminate the use of stigmatizing language.
- A professional code of behaviour to ensure respect for confidentiality and privacy.

- Provide funding for PLWHIV/AIDS working as staff and volunteers of community-based organizations and for leaders of vulnerable groups to enable them to raise their awareness of human rights and to provide the means to enforce these rights.

This funding could be used for training programs, peer education and the exchange of information.

- Provide funding for education and training in HIV/AIDS human rights issues for people working on general human rights issues.

- Provide funding to support special programs developed to overcome access problems for individuals who are located in remote or rural areas; who face language barriers; or who are illiterate, homeless or marginalized; and who do not have access to television, films and videos.

These programs could include radio shows and facilitated discussion groups.

RATIONALE:

- Formal standards and laws are not sufficient by themselves to change negative attitudes and to develop a respect for human rights.
- Public programs specifically designed to reduce stigma have been shown to create more tolerance and understanding.

Ensure that HIV/AIDS-specific professional codes of conduct are developed incorporating human rights principles.

Provide a mechanism for the implementation and enforcement of the codes of conduct.

States should:

- Encourage professional groups (particularly health care professionals, but also lawyers, insurance brokers, etc.) to develop and enforce their own codes of conduct.
- Develop or promote multi-sectoral mechanisms to ensure accountability; to raise standards of service; to strengthen linkages and communications; and to promote the free flow of information.
- Require individual government departments to articulate how HIV-related human rights standards are met in their own laws, regulations, policies and practices.

The codes of conduct should address the following issues:

- Confidentiality.
- Informed consent to testing.
- The duty to treat.
- The duty to ensure safe workplaces.
- The need to reduce vulnerability and discrimination.
- Practical remedies for breaches and misconduct.

The multi-sectoral mechanisms should ensure that all stakeholders participate equally. The list of stakeholders should include:

- Government.
- Industry.
- The professions.
- Service providers.
- NGOs.
- Consumers.

RATIONALE:

- The development of codes of conduct helps to translate human rights principles into practice.
- Codes of conduct developed by the professions themselves are more likely to succeed than codes imposed by governments.

State Monitoring and Enforcement of Human Rights

Implement monitoring and enforcement mechanisms to guarantee human rights for PLWHIV/AIDS, their families and communities.

States should:

- Collect information on HIV/AIDS and human rights and use this information as a basis for policy and program development and reform.
- Report on human rights issues to the relevant United Nations treaty bodies as part of their reporting obligations under human rights treaties.
- Establish HIV/AIDS focal points in relevant government departments to monitor human rights abuses.
- Ensure that performance indicators or benchmarks are developed to monitor government HIV-related human rights policies and programs.
- Support and fund HIV/AIDS community-based organizations and human rights NGOs to build their capacity to develop and monitor human rights standards.
- Support the creation of independent national institutions for the promotion and protection of human rights, including HIV-related human rights.
- Promote HIV-related human rights issues in international forums.

Relevant government departments include:

- National AIDS programs.
- The judiciary.
- Health.
- Social services.
- The military.

Access to these focal points should be facilitated for disadvantaged and vulnerable groups.

The institutions could take the form of human rights commissions or ombudspersons. Alternatively, states could appoint HIV/AIDS-specific ombudspersons to existing human rights and legal institutions.

States should ensure that such issues are integrated into the policies and programs of international organizations working in human rights, and should provide such organizations with the material and human resources to work effectively in this field.

RATIONALE:

- Effective mechanisms are required to monitor and enforce human rights laws and standards.
- Monitoring is required to collect information; the information is essential to formulate and revise policies, to establish priorities for change and to set benchmarks for performance measurement.
- The NGO sector can play an important role in monitoring human rights abuses because it is in close contact with the affected communities.

Foster international cooperation, through UNAIDS and other UN programs, to allow states to share knowledge and experience on HIV-related human rights issues.

Ensure that there are effective mechanisms at the international level to protect human rights in the context of HIV/AIDS.

States should:

- Report on their implementation of these guidelines and on other HIV-related human rights issues within the framework of their periodic reporting obligations under human rights treaties.
- Work with UNAIDS, the UN High Commissioner for Human Rights, the Centre for Human Rights and NGOs working in human rights and/or HIV/AIDS to make use of these guidelines in ways that will effectively promote HIV-related human rights.
- Work with UNAIDS, the UN High Commissioner for Human Rights, the Centre for Human Rights and NGOs working in human rights and/or HIV/AIDS to develop other mechanisms and resources to effectively promote HIV-related human rights.
- Promote the dissemination and implementation of these guidelines through regional human rights bodies, and the integration of the guidelines into the work of these bodies.

States should support the following initiatives at the international level to make effective use of the guidelines:

- Translate the guidelines into national and minority languages.
- Create a widely-accessible mechanism for communication, coordination and information sharing on these guidelines and on HIV-related human rights in general.
- Support multicultural education and advocacy projects on HIV/AIDS and human rights, using these guidelines as an educational tool.
- Advocate that religious and traditional leaders take up HIV/AIDS human rights issues and participate in the implementation of the guidelines.
- Support the identification and funding of NGOs and ASOs at the country level to coordinate a national NGO response to promote the guidelines.
- Provide funding for national and regional NGO networking initiatives on ethics, law and human rights to enable NGOs to disseminate the guidelines.
- Support the development of mechanisms to mobilize grassroots responses to HIV/AIDS human rights issues and grassroots implementation of these guidelines. Such mechanisms could include exchange programs and training, both within and across regions.
- Support the development of a manual that would assist human rights organizations and HIV/AIDS community-based organizations to advocate for the implementation of these guidelines.

States should support the development of the following mechanisms and resources:

- A resource directory on international declarations and treaties, policy statements and reports on HIV/AIDS and human rights.
- A mechanism to allow human rights organizations and HIV/AIDS organizations to work together to promote the human rights of PLWHIV/AIDS and vulnerable communities.
- A mechanism to monitor and publicize human rights abuses in the context of HIV/AIDS.

RATIONALE:

- The UN bodies, agencies and programs provide some of the most effective forums for the exchange of information and expertise among states, and for building support among states to implement HIV/AIDS-related human rights initiatives.