UNAIDS Reference Group on HIV and Human Rights

Action on human rights is essential to achieving "the end of AIDS."

SUMMARY: Statement on the occasion of the UN General Assembly 2016 High-Level Meeting on Ending AIDS, June 8–10, 2016

The UNAIDS Reference Group on HIV and Human Rights was established in 2002 to advise the Joint United Nations Programme on HIV/AIDS on all matters relating to HIV and human rights. The Reference Group speaks with an independent voice; thus, its views do not necessarily reflect the views of the UNAIDS Secretariat or any of the UNAIDS Cosponsors.

A key moment in the HIV response

In the 35 years, and counting, of the HIV epidemic, extraordinary progress has been made in responding to one of the world's worst public health crises — and the international community has unanimously agreed on "ending AIDS by 2030" as one of the Sustainable Development Goals. But the crisis of both HIV prevention and treatment continue, with millions of new infections each year and less than half of those in need of life-saving antiretroviral medication receiving it. It is simply not possible to achieve "the end of AIDS" without a political and financial commitment to rapidly scaling up the response to meet ambitious HIV prevention and treatment targets, *and*, to that end, without taking action to protect and promote human rights, particularly the rights of the populations and communities most heavily affected by the epidemic. Efforts to "fast-track" the end of AIDS through the achievement of ambitious HIV prevention targets, or of the "90-90-90" treatment targets, will not succeed without attention to the structural factors continuing to drive new infections or impeding access to medicines.

Human rights are essential to the HIV response

There is abundant evidence that the abuse of human rights continues to fuel new infections among women and girls, and among various "key populations" such as people who use drugs, sex workers, gay men and other men who have sex with men, transgender people, and prisoners and other detainees. There is also ample evidence that measures to protect, promote and fulfil human rights, of people living with HIV and of key populations most affected, are beneficial, including in advancing HIV prevention and treatment efforts. In its three previous declarations on HIV, the General Assembly has repeatedly and unanimously reaffirmed that "the full realization of all human rights and fundamental freedoms for all is an essential element in the global response to the HIV epidemic, including in the areas of prevention, treatment, care and support." The UNAIDS Reference Group on HIV and Human Rights therefore offers a number of human rights–oriented recommendations to Member States for the 2016 Political Declaration, under three broad headings:

- removing punitive laws, policies and practices, particularly those targeting key populations, and instead creating a more enabling environment through protective laws, policies and practices;
- accelerating universal access to treatment; and
- scaling up the human rights programs that are essential to an effective response to HIV.

In the more detailed brief that follows, the UNAIDS Reference Group on HIV and Human Rights explains why each of these areas of human rights concern requires attention, and sets out, in the Annex, specific proposed language for inclusion in the Political Declaration.

The views of the Reference Group do not necessarily reflect the views or positions of the UNAIDS Secretariat or the Co-sponsors of UNAIDS.

Removing punitive, and implementing protective, laws, policies and practices

Member States should not only commit to tackling "stigma and discrimination," but should also reaffirm their commitment to the removal of laws, policies and practices that block effective responses to AIDS — including: the criminalization of people living with HIV and key HIV-affected populations and other punitive measures targeting them (e.g., abusive policing, compulsory detention); those that permit violence and discrimination against women (and girls) and enforce their legal and economic dependence on men; and those that impede access to HIV information, services and goods (including medicines). Similarly, Member States should commit to taking proactive steps to create an "enabling environment" for effective HIV prevention, testing and treatment. This includes the adoption of laws and policies to protect human rights, particularly of key HIV-affected populations. It also requires states to implement evidence-based services (e.g., comprehensive harm reduction services, including in prisons), along with taking action against violence (including sexual and gender-based violence), stigma and discrimination. Furthermore, the declaration should reaffirm a commitment to monitoring progress with respect to these, as well as a commitment to measure the harmful impact on health of punitive laws, policies and practices and, conversely, of the positive impact of laws that protect and promote human rights and of human rights programs and interventions.

Accelerating universal access to treatment

Member States should affirm the urgency of states scaling up access to health-care technologies (including antiretroviral and other medicines), and of removing legal and policy barriers that impede the achievement of this objective, which is essential for fast-tracking achievement of both prevention and treatment targets. Accordingly, the declaration should encourage states to use the options currently available to them under international and domestic law, and to reject the adoption of any more restrictive measures that would limit those options. In particular, Member States should commit to utilizing, to the fullest extent possible, flexibilities under the WTO *Agreement on Trade-Related Aspects of Intellectual Property Rights* (TRIPS) to promote public health and access to medicines for all, as confirmed unanimously by WTO Members in the 2001 "Doha Declaration" and Public Health and previously by the General Assembly and the Human Rights Council. Similarly, they should preserve those flexibilities against further erosion through "TRIPS-plus" provisions in other agreements.

Scaling up human rights programs

A key lesson from the HIV pandemic has been the critical importance of civil society, and in particular community organizations, in advocating for human rights in the HIV response. Yet many such organizations are facing a serious crisis, both of funding and of efforts to prevent or restrict their work. Meanwhile, the seven key human rights programmes that have been identified by UNAIDS remain woefully underfunded — including stigma and discrimination reduction; HIV-related legal services; monitoring and reforming law, regulation and policies relating to HIV; legal literacy ("know your rights"); training for law-makers and law enforcement, and for health-care providers; and reducing discrimination against women in the context of HIV. Such human rights programmes have proved successful in addressing vulnerability to HIV and barriers to access to HIV services.

No time for backsliding

The human rights approach has brought great success and saved millions of lives. Now is not the time for national governments, donors or the United Nations to betray the fundamental principles of human rights. We all want to achieve the end of AIDS, but in speaking of an end, we must speak boldly and honestly not only of the successes of the HIV response, but also of the failures — including the ongoing human rights failures. Both successes and failures offer key lessons to galvanize future commitment and action, not only to end AIDS eventually but also to transform and advance global health more broadly, in keeping with the Sustainable Development Goals. Otherwise, we risk falsely declaring "the end of AIDS," while the epidemic becomes another disease of those who are poor and marginalized.

The views of the Reference Group do not necessarily reflect the views or positions of the UNAIDS Secretariat or the Co-sponsors of UNAIDS.

UNAIDS Reference Group on HIV and Human Rights

Action on human rights is essential to achieving “the end of AIDS.”

Statement on the occasion of the UN General Assembly 2016 High-Level Meeting on Ending AIDS, June 8–10, 2016

The UNAIDS Reference Group on HIV and Human Rights was established in 2002 to advise the Joint United Nations Programme on HIV/AIDS on all matters relating to HIV and human rights. The Reference Group speaks with an independent voice; thus, its views do not necessarily reflect the views of the UNAIDS Secretariat or any of the UNAIDS Cosponsors.

A key moment in the HIV response

1 In the 35 years since the HIV epidemic was identified, an estimated 76 million people have been infected with HIV, some 34 million people have died of AIDS, an estimated 14 million children have been orphaned by the disease, and AIDS has become the leading cause of death among women of reproductive age globally and the second leading cause of death in adolescents globally.[1] During those same decades, tremendous progress has been made in responding to one of the world’s worst public health crises, to the point that the UN General Assembly has unanimously committed to “end the epidemic of AIDS” by 2030 as one of the targets of the Sustainable Development Goals.[2]

2 However, it is not possible to achieve “the end of AIDS” by 2030 without a political and financial commitment to rapidly scaling up the response to meet ambitious HIV prevention and treatment targets, *and*, to that end, without taking action to respect, protect and fulfil human rights, particularly the rights of the populations and communities most affected by the epidemic. In the Sustainable Development Goals, Member States have committed to leave no one behind.

3 HIV prevention remains in crisis. There has been important progress in *slowing* the rate of new infections. But despite claims to the contrary — including in the zero draft of the 2016 Political Declaration (para. 20) — we have not yet *halted* the spread of the epidemic. While there has been considerable progress in reducing mother-to-child transmission, on other fronts, new HIV infections declined by less than 10% between 2010 and 2014.[3] In 2014, an estimated 2 million people were newly infected with HIV.[4] An estimated 6000 new infections occur every day, mostly among people in low- and middle-income countries; roughly one-third of these infections are among young people. However, this burden is not shared equally. In recent years young women and adolescent girls in sub-Saharan Africa have been identified as one of the most vulnerable

[1] *On the Fast-Track to End the AIDS epidemic: Report of the Secretary-General*, UN Doc. A/70/811 (1 April 2016), paras. 21, 26, online: http://www.hlm2016aids.unaids.org/wp-content/uploads/2016/05/20160423_SGreport_HLM_en.pdf.

[2] UN General Assembly, *Transforming the world: the 2030 Agenda for Sustainable Development*, UNGA Resolution A/Res/70/1 (2015), Goal 3.3, online via http://www.un/org/sustainabledevelopment.

[3] UNAIDS, World AIDS Day: Fact Sheet 2015, online: http://www.unaids.org/sites/default/files/media_asset/20150901_FactSheet_2015_en.pdf.

[4] UNAIDS, *AIDS by the numbers 2015*, online: http://www.unaids.org/sites/default/files/media_asset/AIDS_by_the_numbers_2015_en.pdf.

The views of the Reference Group do not necessarily reflect the views or positions of the UNAIDS Secretariat or the Co-sponsors of UNAIDS.

populations being left behind by the HIV response.[5] In 2013, approximately 74 percent of new infections among adolescents in Africa were in adolescent girls,[6] who contracted HIV at four times the rates of their male peers in some countries.[7] And on other fronts, the world has failed dramatically in achieving the prevention targets previously agreed in relation to various key populations. For example, the earlier agreed target of halving HIV infections among people who inject drugs by 2015 has been missed by a staggering 80%.[8] Furthermore, there is abundant evidence that human rights abuses, in law and in practice, continue to fuel new infections among people who use drugs, as well as among other key populations such as sex workers, people criminalized because of their sexual orientation or gender identity, and prisoners and other detainees.

4 HIV treatment also remains a crisis. While it is an extraordinary achievement to have rapidly scaled up access to antiretroviral (ARV) therapy to 15.8 million people by the middle of 2015, thereby reaching and exceeding the target previously set, the world continues to face a crisis of HIV treatment. Access to such life-saving medicines is not a reality for a majority of those in need and the death toll from AIDS continues to mount in staggering numbers. As of 2015, less than half (only 41%) of adults and less than one-third (only 32%) of children living with HIV were receiving ARV therapy.[9] Some 22 million people are still in need of treatment,[10] and in 2014 alone, 1.2 million people died of AIDS-related illnesses.[11] In some cases, even where treatment data indicate that populations are covered, stock-outs — periods when people cannot pay for their medicines — and other factors may effectively undermine coverage.

5 In such a context, achieving "the end of AIDS" requires concrete action — by governments, by civil society, and others — to address the ongoing violation and denial of human rights that are in many instances key drivers of new infections and of avoidable deaths. As UNAIDS has highlighted:

> Throughout the world, stigma, discrimination and exclusion, as well as imbalanced power and gender relations, continue to make women and girls, young people and key populations vulnerable to HIV and hinder access to HIV prevention, treatment and care services. Sustained and rebounding AIDS epidemics in many contexts and regions, such as the Middle East and North Africa and eastern Europe and central Asia, are fuelled by punitive laws, policies and practices that deny access to effective services to the people who need them most, including key populations.[12]

6 Efforts to "fast-track" the end of AIDS through the achievement of ambitious HIV prevention targets, or of the "90-90-90" treatment targets, will not succeed without attention to the structural factors continuing to drive

---

[5] UNAIDS, *The Gap Report* (2014), http://www.unaids.org/sites/default/files/en/media/unaids/contentassets/documents/unaidspublication/2014/UNAIDS_Gap_report_en.pdf.

[6] UNAIDS and the African Union, "Empower Young Women and Adolescent Girls: Fast-Tracking the End of the AIDS Epidemic in Africa," (2015), online: http://www.unaids.org/sites/default/files/media_asset/JC2746_en.pdf.

[7] UNICEF, "Preventing HIV Infection among Adolescent and Young People," (2012), online: http://www.unicef.org/esaro/5482_HIV_prevention.html.

[8] Harm Reduction International, Briefing: "The potential to end AIDS among people who inject drugs: Why member states at the HIV High Level Meeting must champion harm reduction," London: HRI, 2016, online: http://www.ihra.net/contents/1688.

[9] UNAIDS, World AIDS Day: Fact Sheet 2015, online: http://www.unaids.org/sites/default/files/media_asset/20150901_FactSheet_2015_en.pdf.

[10] *On the Fast-Track to End the AIDS epidemic: Report of the Secretary-General*, UN Doc. A/70/811 (1 April 2016), para. 20, online: http://www.hlm2016aids.unaids.org/wp-content/uploads/2016/05/20160423_SGreport_HLM_en.pdf.

[11] UNAIDS, *AIDS by the numbers 2015*, online: http://www.unaids.org/sites/default/files/media_asset/AIDS_by_the_numbers_2015_en.pdf.

[12] UNAIDS, *Ending AIDS, realizing rights*, online: http://www.unaids.org/sites/default/files/media_asset/HumanRights_Snapshot_en.pdf.

The views of the Reference Group do not necessarily reflect the views or positions of the UNAIDS Secretariat or the Co-sponsors of UNAIDS.

new infections or impeding access to medicines — including laws, policies and practices that infringe the human rights of the key populations most affected by HIV. These infringements range from police violence against sex workers to the criminalization of people who use drugs, from the health service that violates women's bodily autonomy or discriminates against gay men or transgender people, to the prison system or detention centre that withholds evidence-based health programs to those in custody, to the legal regime that keeps life-saving medicines priced out of reach of those who are too poor. People who fear or experience discrimination, violence or other abuse will be harder to reach with HIV prevention programs. Meanwhile, as a growing number of people living with HIV are living in middle-income countries — an estimated 70% of them by 2020 — global and domestic laws and policies aimed at containing the price of medicines, including in middle-income countries and not just in lower-income countries, will be essential if there is to be any hope of achieving treatment targets — an essential component of realizing the human right to the highest attainable standard of health.

7 To end AIDS as a public health threat by 2030, such challenges as these must and can be overcome. As the UN Secretary-General has urged, what is critically needed is "the political commitment to implement our proven tools adequately and equitably."[13]

Human rights are essential to the HIV response

8 All Member States of the UN General Assembly have repeatedly and unanimously reaffirmed that "the full realization of all human rights and fundamental freedoms for all is an essential element in the global response to the HIV epidemic, including in the areas of prevention, treatment, care and support."[14] So, too, has the Human Rights Council on numerous occasions, including its most recent resolution on the subject in the course of preparing a contribution to the deliberations of the 2016 High-Level Meeting.[15]

9 Given this repeated affirmation by Member States, the Reference Group recalls that 20 years ago, UNAIDS and the Office of the High Commissioner for Human Rights (OHCHR) issued the first *International Guidelines on HIV/AIDS and Human Rights*, which provide guidance to States on how to take concrete steps to protect human rights in the context of HIV, and which have since been updated and reissued.[16] The Reference Group urges Member States to reaffirm the importance of this guidance and to commit to implementing the International Guidelines in their response to HIV.

10 Furthermore, a human rights approach is central to the work of the specialized technical agencies that are UNAIDS co-sponsors, including the World Health Organization (WHO), the United Nations Development Program (UNDP), UNICEF, UNFPA, UN Women and the International Labour Organization (ILO), and of course, of the UNAIDS Secretariat itself. The recently renewed *UNAIDS Strategy 2016–2021* continues to recognize human rights as one of the three programmatic pillars of UNAIDS' work, and recognises that realizing human rights is critical for the full attainment of each of the other sets of targets related to HIV prevention and treatment:

---

[13] *On the Fast-Track to End the AIDS epidemic: Report of the Secretary-General*, UN Doc. A/70/811 (1 April 2016), para. 3, online: http://www.hlm2016aids.unaids.org/wp-content/uploads/2016/05/20160423_SGreport_HLM_en.pdf.

[14] *Political Declaration on HIV/AIDS: Intensifying our Efforts to Eliminate HIV/AIDS*, UNGA Resolution 65/277, UN Doc. A/RES/65/277 (2011), para. 39, online: http://www.unaids.org/sites/default/files/sub_landing/files/20110610_UN_A-RES-65-277_en.pdf; *Political Declaration on HIV/AIDS*, UNGA Resolution 60/262, UN Doc. A/RES/60/262 (2006), para. 11, online: http://www.unaids.org/sites/default/files/sub_landing/files/20060615_hlm_politicaldeclaration_ares60262_en.pdf; and *Declaration of Commitment on HIV/AIDS: Global crisis – Global action*, UNGA Resolution S-26/2, UN Doc. A/RES/S-26/2 (2001), online: http://www.un.org/ga/aids/docs/aress262.pdf.

[15] UN Human Rights Council, "Contribution of the Human Right Council to the high-level meeting on HIV/AIDS in 2016," Resolution 30/8, UN Doc. A/HRC/30/8 (2015).

[16] *International Guidelines on HIV/AIDS and Human Rights (2006 Consolidated Version)*, Geneva: UNAIDS & OHCHR, 2006, online: http://www.unaids.org/sites/default/files/sub_landing/files/jc1252-internguidelines_en.pdf.

The views of the Reference Group do not necessarily reflect the views or positions of the UNAIDS Secretariat or the Co-sponsors of UNAIDS.

Ending the AIDS epidemic will involve progress across the entire spectrum of rights: civil, cultural, economic, political, social, sexual and reproductive. Defending the rights of all people — including children, women, young people, men who have sex with men, people who use drugs, sex workers and clients, transgender people and migrants — is critical to ensuring access to life-saving services.[17]

11 In conjunction with the General Assembly's last High-Level Meeting on HIV (in 2011), eminent experts laid out a framework for improved investments in an effective response to the epidemic, including the need for "critical enablers" such as overcoming social stigma and punitive legal environments that hinder the implementation and effectiveness of basic HIV/AIDS programmes and the adoption of evidence-based policies and best practices.[18] The following year, the Global Commission on HIV and the Law, after an extensive process of receiving hundreds of submissions and conducting dialogues in all regions of the world, issued numerous recommendations in 2012 aimed at fulfilling human rights as an essential dimension of an effective response to HIV.[19] In 2014, *The Gap Report* from UNAIDS identified multiple ways in which the denial and violation of human rights drives the epidemic among various key populations and people who are at risk, more vulnerable and affected by HIV/AIDS.[20] More recently, in its 2015 report, the UNAIDS-Lancet Commission has again underscored the critical importance of human rights to defeating AIDS and to the broader goal of advancing global health.[21] And the UN Secretary-General, in his report to the General Assembly to inform the 2016 High-Level Meeting, has again stressed repeatedly the importance of "reinforc[ing] rights-based approaches, including those that foster gender equality and empower women."[22]

12 There is ample evidence that measures to protect, promote and fulfil human rights, of people living with HIV and of key populations most affected and at-risk, are beneficial, including in advancing HIV prevention and treatment efforts. Rigorous evaluations from many countries have shown that concerted action to reduce HIV-related stigma, to improve health workers' ability to interact respectfully with people living with HIV or from key HIV-affected populations,[23] to modify abusive policing of people living with or at risk of HIV, and to reduce gender-based violence can all dramatically increase the effectiveness and reach of HIV prevention and treatment programs. A large body of research on sex worker collectives in South Asia, for example, shows that persons living with or at risk of HIV, even when they are socially marginalized, can organize HIV services and information for themselves and reduce stigma and other abuses in the community.[24] It is well documented across the world that meaningful participation of people most affected by HIV is essential for effective HIV programmes.

---

17 UNAIDS, *On the Fast-Track to end AIDS: UNAIDS 2016–2021 Strategy*, online: http://www.unaids.org/sites/default/files/media_asset/20151027_UNAIDS_PCB37_15_18_EN_rev1.pdf.

18 B. Schwartländer et al., "Towards an improved investment approach for an effective response to HIV/AIDS," *The Lancet* 2011; 377: 2031–41.

19 Global Commission on HIV and the Law, *HIV and the Law: Risks, Rights and Health*, 2012, online: www.hivlawcommission.org.

20 UNAIDS, *The Gap Report*, Geneva: UNAIDS, 2014, p. 149, online: http://www.unaids.org/en/resources/documents/2014/20140716_UNAIDS_gap_report.

21 The UNAIDS and Lancet Commission. *Defeating AIDS—Advancing Global Health* (2015), online: http://www.unaids.org/en/resources/campaigns/post2015.

22 UN Secretary-General, *On the Fast-Track to End the AIDS epidemic: Report of the Secretary-General*, UN Doc. A/70/811 (1 April 2016), para. 8, online: http://www.hlm2016aids.unaids.org/wp-content/uploads/2016/05/20160423_SGreport_HLM_en.pdf.

23 L Nyblade et al., "Combating HIV stigma in health care settings: what works?" *Journal of the International AIDS Society* 2009; 12: 15, doi: 10.1186/1758-2652-12-15.

24 E.g., see review in D Kerrigan et al., "A community empowerment approach to the HIV response among sex workers: effectiveness, challenges, and considerations for implementation and scale-up," *Lancet* 2014; 385:172-85, doi: http://dx.doi.org/10.1016/S0140-6736(14)60973-9.

The views of the Reference Group do not necessarily reflect the views or positions of the UNAIDS Secretariat or the Co-sponsors of UNAIDS.

Some key human rights elements for inclusion in the 2016 Political Declaration

13 The UNAIDS Reference Group on HIV and Human Rights offers a number of human rights–oriented recommendations to Member States negotiating the 2016 Political Declaration, under three broad headings:

A. removing punitive laws, policies and practices, particularly those targeting key populations, and instead creating a more enabling environment through protective laws, policies and practices;
B. accelerating universal access to treatment; and
C. scaling up the human rights programs that are essential to an effective response to HIV.

Based on the discussion below, the enclosed Annex includes specific proposed language for inclusion in the Political Declaration to address a number of human rights priorities in the HIV response.

A. Removing punitive laws targeting key populations and enacting protective laws

14 There is no doubt that stigma and discrimination can and do kill. Governments may refuse to recognize the existence of key populations affected by HIV or to fund the evidence-based services needed to address HIV in those populations. Fear of discrimination, violence or other human rights violations is a barrier to people seeking health services, including HIV testing and treatment. Gender discrimination and inequality — including in severe forms such as gender-based violence – can put women and girls at greater risk of infection, and doubly disadvantage women and girls living with HIV, including impeding their access and adherence to treatment. But it is not adequate to consider that a "human rights approach" to HIV starts and ends with expressing concern about and challenging stigma and discrimination.

15 In particular, Member States should renew and reaffirm their commitment to the removal of laws, policies and practices that block effective responses to AIDS — including those that: criminalize people living with HIV through overly broad criminalization of HIV transmission, exposure and non-disclosure; criminalize key populations; permit violence and discrimination against women (and girls) and enforce their legal and economic dependence on men; impede access to HIV services, including for prevention, diagnosis and treatment; limit access of young people to HIV information, education and services; and limit the social rights of people living with HIV to health care, work, residency and housing, education, and travel across borders.

16 The Reference Group underscores that the criminalization of key populations and other punitive measures — such as abusive policing practices or the compulsory detention of sex workers and of people who use drugs for ostensible "treatment" or "rehabilitation" — have been and remain central obstacles to overcoming AIDS and other conditions such as tuberculosis and hepatitis C. It is critical that the international community speak not only of "stigma and discrimination" as barriers to addressing HIV, but explicitly name criminalization of key populations — e.g., of men who have sex with men (and in some settings of transgender people); of sex workers (and their clients, their workplaces and third parties[25]); of people who use drugs; of people living with HIV — as well as the overuse of incarceration and pretrial detention for all these persons, as human rights matters that States and others must address as a very necessary element of ending AIDS and of advancing global health more broadly. As noted in *The Gap Report*, in much of the world HIV epidemics in these populations remain explosive even where HIV incidence in non-criminalized populations is declining.

---

[25] The Global Network of Sex Work Projects (NSWP) has outlined why the decriminalization of the third parties is important for sex workers' health and human rights, and has specified that: "The term 'third parties' includes managers, brothel keepers, receptionists, maids, drivers, landlords, hotels who rent rooms to sex workers and anyone else who is seen as facilitating sex work": NSWP, *Statement: Criminalisation of Third Parties and its Impact on Sex Workers' Human Rights* (23 May 2016), online: http://www.nswp.org/resource/criminalisation-third-parties-and-its-impact-sex-workers-human-rights; see also UNAIDS, *Guidance Note on HIV and Sex Work* (2012), online: http://www.unaids.org/sites/default/files/en/media/unaids/contentassets/documents/unaidspublication/2009/JC2306_UNAIDS-guidance-note-HIV-sex-work_en.pdf.

The views of the Reference Group do not necessarily reflect the views or positions of the UNAIDS Secretariat or the Co-sponsors of UNAIDS.

17 Punishing drug use through "wars on drugs" and over-incarceration of people who use drugs is an inappropriate and rights-violating response to a public health challenge. It does far more to fuel HIV risk than drug use itself.[26] As UNAIDS has reported to Member States earlier this year, people who inject drugs are 28 times more likely to acquire HIV than others in the general population; in 2014, an estimated 110 000 people who inject drugs were newly infected with HIV and people who inject drugs account for approximately 30% of all new HIV infections occurring outside of sub-Saharan Africa.[27] UNAIDS estimates that between 2010 and 2014, there was a mere 10% reduction in new HIV infections among people who inject drugs, because people who use drugs continue to face punitive legal environments, a variety of human rights abuses and poor access to harm reduction services, including needle and syringe programmes (NSP) and opioid substitution therapy (OST).[28]

18 In accordance with public health evidence and human rights principles, governments ought to treat drug dependence as a health condition and fully implement harm reduction models such as needle and syringe programs, opioid substitution therapy, overdose prevention, and safer injection facilities, in accordance with the expert, evidence-based guidelines of the WHO and other technical agencies of the UN.[29] Health services must be equally accessible in prisons and other places of detention, in keeping with the well-established principle of equivalence of health services[30] — a point unanimously reaffirmed mere weeks ago by Member States in the outcome document of the recent UN General Assembly's Special Session on "the world drug problem" in April 2016.[31] In addition, as has been urged by a wide range of UN specialized agencies and human rights experts, governments must not delay further in closing down compulsory drug detention centres, which routinely incarcerate people without due process and subject to them to a wide range of reported human rights abuses; such centres should be replaced with voluntary, evidence-based alternatives in the community.[32]

19 To address HIV effectively among people who use drugs, beyond ensuring access to health services that are of good quality, evidence-based and that respect human rights, Member States also need to change the legal

---

[26] J. Csete et al., "Public health and international drug policy," *The Lancet* 2016; 387: *1427–1480,* DOI: http://dx.doi.org/10.1016/S0140-6736(16)00619-X; *Study on the impact of the world drug problem on the enjoyment of human rights: Report of the United Nations High Commissioner for Human Rights*, UN Doc. A/HRC/30/65 (2015), online: http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A_HRC_30_65_E.docx.; UNAIDS Reference Group on HIV and Human Rights, *Drug policy, HIV and human rights: A crucial moment for change—Submission to the Office of the UN High Commissioner for Human Rights* (May 2015), online: http://www.hivhumanrights.org/statements/drug-policy-hiv-and-human-rights-a-crucial-moment-for-change; Open Letter by the Special Rapporteur on the right of everyone to the highest attainable standard of mental and physical health, Dainius Pūras, in the context of the preparations for the UN General Assembly Special Session on the Drug Problem (UNGASS), which will take place in New York in April 2016 (7 December 2015), online: http://www.ohchr.org/Documents/Issues/Health/SRLetterUNGASS7Dec2015.pdf; Joint Open Letter by the UN Working Group on Arbitrary Detention; the Special Rapporteurs on extrajudicial, summary or arbitrary executions; torture and other cruel, inhuman or degrading treatment or punishment; the right of everyone to the highest attainable standard of mental and physical health; and the Committee on the Rights of the Child, on the occasion of the United Nation General Assembly Special Session on Drugs (15 April 2016), online: http://www.unodc.org/documents/ungass2016/Contributions/UN/OHCHR/UNGASS_joint_OL_HR_mechanisms.pdf.

[27] UNAIDS, *A Public Health and Rights Approach to Drugs* (2015), p. 1, online: http://www.unaids.org/en/resources/documents/2015/JC2803_drugs.

[28] Ibid.

[29] WHO *Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations* (Geneva, July 2014), online: http://www.who.int/hiv/pub/guidelines/keypopulations/en/.

[30] United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), UN Doc. A/RES/70/175 (2015), Rules 5, 24, online: http://www.penalreform.org/wp-content/uploads/1957/06/ENG.pdf.

[31] UN General Assembly, Our joint commitment to effectively addressing and countering the world drug problem," UN Doc. A/S-30/1 (adopted 19 April 2016), para 4(b).

[32] Joint Statement: Compulsory drug detention and rehabilitation centres (March 2012), online: http://www.unaids.org/sites/default/files/en/media/unaids/contentassets/documents/document/2012/JC2310_Joint%20Statement6March12FINAL_en.pdf.

The views of the Reference Group do not necessarily reflect the views or positions of the UNAIDS Secretariat or the Co-sponsors of UNAIDS.

and policy environment such that, instead of hindering access to these services, it facilitates access and makes them more effective by respecting, protecting and fulfilling rights. As UNAIDS has reported:

> ... there is irrefutable evidence that new HIV infections drop sharply when people who inject drugs have access to harm reduction and other public health programmes, property crimes are reduced, public security is increased and there are improved health outcomes for people who inject drugs. Alternatives to criminalization and incarceration facilitate access to health services and enable drug use to be treated as a health condition rather than as a crime. Public health programmes can be fully funded for a fraction of the current investments in the criminal justice system related to drug offenses and they will produce significantly higher health and social benefits. [33]

20 In fact, Member States have repeatedly reaffirmed that their measures adopted in relation to drugs must be "in full conformity" international human rights standards — including most recently in the outcome document of the recent UNGASS on "the world drug problem."[34] More specifically, in that resolution, Member States unanimously declared, without qualification or exception, that drug law enforcement efforts are to be brought into line with a number of important human rights standards in international law, including an obligation to take "practical measures" to prohibit arbitrary arrest and detention, and to prohibit torture and other cruel, inhuman or degrading treatment or punishment — abuses which are, unfortunately, all too common in the experience of people who use drugs.[35]

21 Addressing HIV requires confronting in a completely non-judgmental manner sex outside the context of traditional heterosexual marriage, whether sex between men, sex between young people, or sex in exchange for money or other goods. So-called "culture wars" may persist in relation to sex and sexuality, but they must not distract from the central task of ensuring sufficient coverage, uptake and adherence of HIV services for key populations and HIV-affected women and girls — particularly given the much higher prevalence, on a global scale, of HIV among these populations than among the population as a whole (i.e., 12 times higher among sex workers, 19 times higher among gay men and other men who have sex with men, 28 times higher among people who inject drugs, 49 times higher among transgender women, and up to 50 times higher among prisoners).[36] As an urgent priority, governments must address violence and discrimination against sex workers, gay and other men who have sex with men (GMSM) and transgender people, including illegal police practices such as harassment, extortion, arbitrary arrest, and rape committed in the name of enforcing laws against prostitution, sex between men, or vaguely defined (and selectively enforced) acts of "indecency." As UNAIDS has observed in its guidance on HIV and sex work: "The decriminalization of sex work is key to changing the course of the HIV epidemics among sex workers, and in countries as a whole."[37] Ultimately, governments should repeal such laws, ensure access to legal aid for key populations, and provide platforms for constructive exchange about these issues as a substitute for the vicious polarization that often prevails. This is a human rights issue for those affected as well as for the broader society and is urgent in endemic, high- and low-prevalence countries.

22 Similarly, not only does criminalization lead to the over-incarceration of key populations, the denial of human rights of prisoners and other detainees — including denial of the right to health services equivalent to those available outside prison — has also fueled new infections with HIV (as well as TB and viral hepatitis) within

---

[33] UNAIDS, *A Public Health and Rights Approach to Drugs* (2015), p. 1, online: http://www.unaids.org/en/resources/documents/2015/JC2803_drugs.

[34] UN General Assembly, *Our joint commitment to effectively addressing and countering the world drug problem*," UN Doc. A/S-30/1 (adopted 19 April 2016).

[35] Ibid., para 4(o).

[36] UNAIDS, *The Gap Report*, Geneva: UNAIDS, 2014, online: http://www.unaids.org/en/resources/documents/2014/20140716_UNAIDS_gap_report.

[37] UNAIDS, Guidance Note: Services for sex workers (2014), p. 3, online: http://www.unaids.org/sites/default/files/media_asset/SexWorkerGuidanceNote_en.pdf.

The views of the Reference Group do not necessarily reflect the views or positions of the UNAIDS Secretariat or the Co-sponsors of UNAIDS.

this “key population” and has undermined access to treatment for those living with HIV. As UNAIDS has noted, the prevalence of HIV, other sexually transmitted infections, viral hepatitis and tuberculosis in prison populations is estimated to be between 2 and 10 times higher than in the population as whole, and in some settings may be up to 50 times higher than in the general population.[38]

23 Member States must invest in tangible programs that empower women and girls to assert their sexual and reproductive autonomy and rights, including the right to be free from violence, coercion and harmful practices. Where women and girls make up half or more of those infected with HIV, half or more of the resources budgeted for the HIV response should be allocated to programmes benefiting them — proven programmes that address the full range of women’s and girls’ needs and rights over their life cycles. States should further support the creation of an enabling legal environment that: criminalizes all forms of violence against women, including marital rape and early marriage of girls; guarantees access to reproductive health care (including by removing any requirement for another person to consent in order for women or for adolescents to obtain access to care); protects the bodily autonomy and privacy of women living with HIV, including protecting against forced or coerced sterilization; and ensures women’s equal access to property and inheritance, as well as to non-discriminatory access to education and employment.

24 The Reference Group therefore urges Member States to reflect in the 2016 Political Declaration the substance of the recommendations of the Global Commission on HIV and the Law that are aimed at eliminating the ongoing stigmatization, marginalization and criminalization of people living with HIV and key populations affected by HIV — including through the abolition of punitive laws, policies and practices. (Furthermore, specifically in the case of the people who use drugs, the Reference Group draws the attention of Member States to the additional recommendations of the Global Commission on Drug Policy[39] and the recent findings of the Johns Hopkins-Lancet Commission on public health and international drug policy.[40])

25 The Reference Group recommends to Member States that the 2016 Political Declaration include a renewed commitment to the removal of punitive laws, policies and practices that undermine human rights, particularly of key populations, and thereby impede an effective HIV response, and to the adoption of laws, policies and practices aimed at respecting, protecting and fulfilling human rights. Furthermore, the declaration should reaffirm a commitment to monitoring progress with respect to these, as well as a commitment to measure the harmful impact on health of punitive laws, policies and practices and, conversely, of the positive impact of laws that protect and promote human rights and of human rights programs and interventions. (More detailed recommendations appear below.)

B. Accelerating access to treatment

26 Achieving the goal of universal access to HIV treatment has relied, and continues to rely, on generic competition to lower the price of medicines[41] — at times and in places requiring States to make use of flexibilities in intellectual property law, including as that law is shaped by international agreements, such as the WTO’s *Agreement on Trade-Related Aspects of Intellectual Property Rights* (TRIPS) and other regional or bilateral agreements. The HIV epidemic, and the global mobilization in response to the urgent need for life-saving medicines to treat millions of people, have illustrated starkly the critical importance of ensuring

---

[38] UNAIDS, *The Gap Report*, Geneva: UNAIDS, 2014, p. 149, online: http://www.unaids.org/en/resources/documents/2014/20140716_UNAIDS_gap_report.

[39] Global Commission on Drug Policy, *The War on Drugs and HIV/AIDS: How the Criminalization of Drug Use Fuels the Global Epidemic* (2012), online: http://www.globalcommissionondrugs.org/reports/the-war-on-drugs-and-hivaids/; Global Commission on Drug Policy, *Taking Control: Pathways to Drug Policies That Work* (2014), online: http://www.globalcommissionondrugs.org/reports/taking-control-pathways-to-drug-policies-that-work/.

[40] J. Csete et al., “Public health and international drug policy,” *The Lancet* 2016; 387: *1427–1480,* DOI: http://dx.doi.org/10.1016/S0140-6736(16)00619-X.

[41] B. Waning et al., “A lifeline to treatment: the role of Indian generic manufacturers in supplying antiretroviral medicines to developing countries,” *Journal of the International AIDS Society* 2010; 13: 35, doi: 10.1186/1758-2652-13-35.

The views of the Reference Group do not necessarily reflect the views or positions of the UNAIDS Secretariat or the Co-sponsors of UNAIDS.

countries have the ability to devise policies, including in the areas of intellectual property, investment, procurement, competition, and price regulation, to address public health needs. This effort will require maximum use of flexibilities in the international patent regime to ensure the competition needed to lower the price of second-line and third-line treatments and their production in generic form. Most of all, it will require the same combination of urgency, human rights advocacy and political will that drove the first era of the HIV response.

27 The HIV epidemic and the HIV response have also illustrated (some of) the deficiencies of the current regime. The current international intellectual property regime does not ensure the equitable development or distribution of medicines needed globally. If the international community is to achieve the health-related goals of the 2030 Sustainable Development Agenda — and explicitly Goal 3.3, which includes ending the epidemic of AIDS by 2030 — the appropriate balance between private intellectual property claims and the human rights to health, to benefit from scientific progress, and to non-discrimination must be found. As the UN Secretary General has observed, in convening a High-Level Panel on Access to Medicines, there is a need for "recommendations that (a) remedy the policy incoherence between international human rights law and trade rules in the context of access to health technologies; and (b) achieve a better balance of the justifiable rights of inventors, the right to health and sustainable development."[42]

28 The Reference Group recommends to Member States that the 2016 Political Declaration should affirm the urgency of states scaling up access to health-care technologies (including antiretroviral and other medicines), and of removing legal and policy barriers that impede the achievement of this objective, which is essential for fast-tracking achievement of both prevention and treatment targets. Accordingly, the declaration should encourage states to use the options currently available to them under international and domestic law, and to reject the adoption of any more restrictive measures that would limit those options. In particular, Member States should commit to utilizing, to the fullest extent possible, flexibilities under the WTO *Agreement on Trade-Related Aspects of Intellectual Property Rights* (TRIPS) to promote public health and access to medicines for all, as confirmed unanimously by WTO Members in the 2001 "Doha Declaration"[43] and Public Health and previously by the General Assembly[44] and the Human Rights Council.[45] Similarly, they should preserve those flexibilities against further erosion through "TRIPS-plus" provisions in other agreements.

C. Scaling up human rights programs

29 A key lesson from the HIV pandemic has been the critical importance of civil society, particularly community organizations, in achieving progress in the HIV response — from community service providers to human rights advocates and defenders. As UNAIDS has recently observed, "[a] growing body of scientific research shows that community empowerment and advocacy programmes can lead to reduced HIV incidence among vulnerable populations."[46] The World Health Organization now recommends "supportive legislation, policy and financial commitment … addressing stigma and discrimination …community empowerment … and addressing violence against people from key populations" as part of the comprehensive package of

---

[42] UN Secretary-General's High Level Panel on Access to Medicines, *Terms of Reference* (2015), online via www.unsgaccessmeds.org.

[43] WTO Ministerial Conference, *Declaration on the TRIPS Agreement and Public Health*, WTO Doc. WT/MIN(01)/DEC/2 (14 November 2001), online: https://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_trips_e.htm.

[44] 2011 Political Declaration, para. 71.

[45] E.g., Human Rights Council Resolution 12/24 (2009) (referring to states' rights to use TRIPS flexibilities), Resolution 12/27 (2009) (reaffirming that TRIPS should be interpreted to promote production of generic ARVs and other medications to treat people living with HIV); Resolution 15/22 (2010) (extending that reaffirmation beyond HIV medications); Resolution 16/28 (2011) (on HIV and human rights, including reaffirming use of TRIPS flexibilities and objective of universal access to treatment); and Resolution 23/14 (2013) (urging states to take various measures to promote access to medicines, including using TRIPS flexibilities to the full), all online via www.ohchr.org.

[46] UNAIDS, *Invest in advocacy: Community participation in accountability is key to ending the AIDS epidemic* (2016), p. 6, online: http://www.unaids.org/sites/default/files/media_asset/JC2830_invest_in_advocacy_en.pdf.

The views of the Reference Group do not necessarily reflect the views or positions of the UNAIDS Secretariat or the Co-sponsors of UNAIDS.

programmes to address HIV among key populations.[47]

30 Yet many of the very community organizations that have been such key contributors to successful HIV prevention, treatment and human rights advances are facing a serious crisis, both of funding and of efforts to prevent or restrict their work — particularly in the case of those organizations that identify human rights barriers to an effective HIV response and seek to change those structural factors driving the epidemic, and particularly those working with various key populations that are often stigmatized, discriminated against and/or criminalized.[48]

31 The Reference Group is deeply concerned about the unacceptable disappearance of funding for community-based advocacy and other grassroots mobilization, which have made the difference between access to and absence of life-saving services around the world. Fast-tracking HIV prevention and treatment targets cannot be achieved without attention to human rights, and the history of AIDS to date has shown us that adequate resources to community organizations — including for community mobilization and various human rights programs and interventions — are essential in this regard. In particular, the Reference Group also highlights that some of the most important community-delivered programs, including for key affected populations and addressing human rights challenges, are facing a rapidly growing funding gap in those places where national-level funding commitments to sustain those programs are non-existent, weak or unclear — including in those settings where some existing or previous sources, such as the Global Fund, may soon no longer be available as countries "graduate" out of eligibility for such funding.

32 In their last Political Declaration on HIV, adopted in 2011, Member States explicitly reaffirmed a commitment to various human rights interventions.[49] UNAIDS has subsequently provided more detailed guidance about those key programmes, in seven key areas:

- Stigma and discrimination reduction;
- HIV-related legal services;
- Monitoring and reforming law, regulation and policies relating to HIV;
- Legal literacy ("know your rights");
- Sensitization of law-makers and law enforcement agents;
- Training for health-care providers on human rights and medical ethics related to HIV; and
- Reducing discrimination against women in the context of HIV.[50]

33 Such human rights programmes have proved successful in addressing vulnerability to HIV and barriers to access to HIV services, but they are too often absent or of negligible scale. They need to be scaled-up and adequately funded by national governments through their domestic funding commitments, through bilateral funding programs, and through multilateral financing mechanisms such as the Global Fund to Fight AIDS, Tuberculosis and Malaria.

34 The Reference Group recommends to Member States that the 2016 Political Declaration should reaffirm the centrality of human rights in the HIV response. This includes ensuring that HIV prevention, testing and treatment services are implemented in a manner that respects and protects human rights, as well as the

---

[47] *Policy brief: Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations* (Geneva: WHO, 2014), p. 3, online: http://www.who.int/hiv/pub/toolkits/keypopulations/en/.

[48] UNAIDS, *Sustaining the Human Rights Response to HIV: Funding Landscape and Community Voices* (UNAIDS, 2015), online: http://www.unaids.org/sites/default/files/media_asset/JC2769_humanrights_en.pdf.

[49] *Political Declaration on HIV/AIDS: Intensifying our Efforts to Eliminate HIV/AIDS*, UNGA Resolution A/RES/65/277 (2011), para. 80, online: http://www.unaids.org/sites/default/files/sub_landing/files/20110610_UN_A-RES-65-277_en.pdf.

[50] UNAIDS, *Guidance Note: Key programmes to reduce stigma and discrimination and increase access to justice in national HIV responses* (Geneva: UNAIDS, 2012), online: http://www.unaids.org/sites/default/files/media_asset/Key_Human_Rights_Programmes_en_May2012_0.pdf.

The views of the Reference Group do not necessarily reflect the views or positions of the UNAIDS Secretariat or the Co-sponsors of UNAIDS.

investment in scaling up concrete human rights programs and interventions such as the key programmes identified by UNAIDS.

No time for backsliding

35 We all want to achieve the end of AIDS, but in speaking of an end, we must speak boldly and honestly not only of the successes of the HIV response, but also of the failures — including the ongoing human rights failures. Both successes and failures offer key lessons to galvanize future commitment and action, not only to end AIDS eventually but also to transform and advance global health more broadly, in keeping with the Sustainable Development Goals.

36 The HIV response has been exceptional compared to other health and development issues — in the degree to which communities have been mobilized, resources have been invested, and realization of human rights has had a central role in achieving results for people, including those most at the margins. The lessons learned already from this exceptional response, and why and how that exceptionalism has been necessary, must be carried through right to the end of the epidemic and beyond. Otherwise, we risk falsely declaring "the end of AIDS" with the epidemic becoming another disease of those who are poor and marginalized.

37 The human rights approach has brought great success and saved millions of lives. Now is not the time for national governments, donors or the United Nations to betray the fundamental principles of human rights. The future of the HIV response depends not on altering the human rights approach, but on extrapolating that approach into a global movement for the right to health more broadly, recognizing that the real human rights violation is not that the HIV response receives "too much," but that other elements of the right to health do not receive what it takes to realize them. Any retrogression in respect for the human rights of those living with, affected by or vulnerable to HIV will have an immediate and undesirable impact on the HIV epidemic and on the societies and economies of the nations in which those persons live.

The views of the Reference Group do not necessarily reflect the views or positions of the UNAIDS Secretariat or the Co-sponsors of UNAIDS.

ANNEX: Specific recommendations on provisions to include in the 2016 Political Declaration

Removing punitive, and enacting protective, laws, policies and practices

Reaffirm that the full realization of all human rights and fundamental freedoms for all is an essential element in an effective global and country-level response to the HIV epidemic, including in the areas of prevention, treatment, care and support, and recognize that addressing stigma and discrimination against, and the criminalization of, people living with, presumed to be living with or affected by HIV, including their families, is also a critical element in combating the HIV epidemic;

Commit to fast-tracking the response to HIV among key populations most affected by HIV by specifically committing to working with regional organizations, people living with and affected by HIV, relevant UN and civil society organizations and other stakeholders to achieve the following targets by 2020:

- a 75% reduction in new HIV infections among people who inject drugs, among gay men and other men who have sex with men, among transgender people, among sex workers and among people in prisons or other closed settings;
- 90% of persons belonging to each of these key populations have access to services for HIV prevention, diagnosis, treatment and care in accordance with WHO guidelines;
- the repeal, if applicable, of discriminatory laws and policies against people living with HIV (including laws that criminalize HIV transmission, exposure or non-disclosure beyond instances of intentional transmission, consistent with best-practice international guidance from UNAIDS), and laws that criminalize or discriminate against gay men or other men who have sex with men, sex workers, people who use drugs, transgender people, and women and girls; and
- effective legal protections are in place against discrimination, violence or other violation of human rights for people vulnerable to, living with or perceived to be living with HIV, and for key populations affected by HIV, including protection against gender-based violence and violence targeting persons based on their real or perceived sexual orientation, gender identity or expression, involvement in sex work, or their drug use or possession for personal use;

Commit to monitoring and reporting progress with respect to the removal of punitive laws, policies and practice and the implementation of effective legal protections against infringements of human rights, including discrimination and violence, and commit to measuring the harmful impact on health of such punitive laws, policies and practices and, conversely, of the positive impact of laws that protect and promote human rights and of human rights programs and interventions;

Recognize that incarcerating people increases their risk of drug use, HIV infection and other health conditions, and take steps to reduce the number of people being incarcerated for non-violent drug offences, including the adoption of a range of measures such as decriminalizing and depenalizing drug use or possession of drugs for personal use, while also improving access to health services, including for HIV prevention and treatment, for people in prisons and other closed settings and ensuring that these are equivalent to those services available outside of prisons;

Ensure that all people who inject drugs, including people in prison and other closed settings, have access to harm reduction services to prevent HIV infection, including needle and syringe programs, opioid substitution therapy and antiretroviral medicines, and recognize the importance of the removal of legal barriers to ensure equitable access to harm reduction services;

Call on states to take concrete steps toward the decriminalization of sex work and the elimination of the unjust application of non-criminal laws and regulations against sex workers, and, in collaboration and consultation with

The views of the Reference Group do not necessarily reflect the views or positions of the UNAIDS Secretariat or the Co-sponsors of UNAIDS.

sex workers, the development and implementation of occupational health and safety standards that make sex work safer, as well as the alignment of sub-national laws (e.g., municipal laws and policies) with these actions; and

Pledge to intensify meaningful participation of, and provide support, training and funding to, community-based organizations and civil society organizations (including organizations of members of key populations most affected by HIV) in designing and implementing services and human rights programs for key populations;

Ensuring access to treatment

Urge countries to interpret and implement the TRIPS Agreement, if applicable to them, in a manner supportive of WTO members' right to protect public health and, in particular, to promote access to medicines for all, including optimizing the use, to the full, of flexibilities in the agreement specifically geared to promoting access to and trade of medicines, including the right of least-developed country members to make full use of their TRIPS-related transition periods *[Sources: Doha Declaration on TRIPS and Public Health, para. 4; 2011 Political Declaration, para. 71]*;

Reaffirm that access to medications is an essential element to the full realization of the right to the highest attainable standard of health, and of the right to a standard of living adequate for health and well-being as recognized in the *Universal Declaration of Human Rights* (Article 25), and that this fundamental right is universal, and therefore steps must be taken to progressively achieve its full realization for all persons, regardless of country of residence or nationality;

Call on countries to adopt a simpler, more straightforward, and more effective mechanism to enable countries with insufficient domestic pharmaceutical manufacturing capacity to make effective use of compulsory licensing, in addition to or in lieu of the mechanism regarding Article 31 of the TRIPS Agreement adopted by the WTO General Council in its Decision of 30 August 2003 and subsequently as an amendment to the Agreement in its Decision of 6 December 2005;

Call on countries to support the development of mechanisms that will assist countries in making use of the TRIPS flexibilities to promote access to treatment;

Call on countries to commit to the removal of TRIPS-plus provisions in bilateral and multilateral trade agreements, and to refrain from pursuing or agreeing to any such provisions in such agreements, and to further commit to ending diplomatic or other pressure on any other country regarding its adoption and use of TRIPS-compliant flexibilities;

Encourage use of mechanisms such as the Medicines Patent Pool to increase access to affordable HIV-related medicine and other health technologies, while ensuring that such mechanisms do not interfere with the use of TRIPS flexibilities; and

Note that the Secretary-General has convened an eminent High-Level Panel on Access to Medicines, as recommended by the Global Commission on HIV and the Law, and urge Member States, UN agencies and others to give careful consideration to implementing the recommendations forthcoming from this Panel.

Scaling up human rights programs

Call upon all States and relevant United Nations funds, programmes and specialized agencies and international and non-governmental organizations to continue to take all steps necessary to ensure the respect, protection and fulfilment of human rights in the context of HIV/AIDS, as referred to in the *[International] Guidelines [on HIV/AIDS and Human Rights],* as an essential part of efforts to achieve the goal of universal access to HIV prevention, treatment, care and support *[Source: adopted by consensus at the Human Rights Council shortly in*

The views of the Reference Group do not necessarily reflect the views or positions of the UNAIDS Secretariat or the Co-sponsors of UNAIDS.

advance of the 2011 High-Level Meeting[51]];

Reaffirm the critical importance of civil society organizations, including those working with and representing key HIV-affected populations, to an effective response to HIV, including their programs and initiatives for HIV prevention, treatment, care and support and for the protection and promotion of human rights, and hence affirm the importance of their ability to deliver such programs and services without undue restriction on their freedom to operate autonomously;

Commit to national HIV and AIDS strategies that promote and protect human rights, including programmes aimed at eliminating stigma and discrimination against people living with and affected by HIV, and their families, including by sensitizing the police and judges, training health-care workers in non-discrimination, confidentiality and informed consent, supporting national human rights learning campaigns, legal literacy and legal services, as well as monitoring the impact of the legal environment on HIV prevention, treatment, care and support *[Source: 2011 Political Declaration, para. 80]*;

Urge States, multilateral or bilateral funding mechanisms, and relevant United Nations funds, programmes and specialized agencies to ensure that where women and girls make up half or more of those infected with HIV, half or more of the resources budgeted for the HIV response should be allocated to programmes benefiting them by addressing the full range of women's and girls' needs and rights over their life cycles; and

Commit to ensuring that, in fast-tracking the response to HIV, prevention, testing and treatment services will be implemented without discrimination and otherwise in conformity with human rights standards, and invite UNAIDS and relevant agencies and experts to develop appropriate guidance to assist in this regard.

---

[51] UN Human Rights Council, "The protection of human rights in the context of the human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS)," Resolution 16/28, UN Doc. A/HRC/16/28 (2011), para. 4.

The views of the Reference Group do not necessarily reflect the views or positions of the UNAIDS Secretariat or the Co-sponsors of UNAIDS.