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**SPECIFIC GROUPS AND INDIVIDUALS: OTHER  
VULNERABLE GROUPS AND INDIVIDUALS**

**The protection of human rights in the context of human immunodeficiency  
virus (HIV) and acquired immune deficiency syndrome (AIDS)**

**Report of the Secretary-General**

**Summary**

In its resolution 2003/47, the Commission on Human Rights recognized the need for intensified efforts to ensure universal respect for and observance of human rights and fundamental freedoms for all so as to reduce vulnerability to HIV/AIDS and to prevent HIV/AIDS-related discrimination and stigmatization. The present report provides an overview of action taken by Governments, specialized agencies, international and non-governmental organizations, and national human rights institutions on the implementation of the Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37, annex I).

**CONTENTS**

	<i>Paragraphs</i>	<i>Page</i>
Introduction .....	1	3
I. CONTRIBUTIONS FROM STATES .....	2 - 9	3
II. CONTRIBUTIONS FROM UNITED NATIONS BODIES .....	10 - 31	6
A. Department of Economic and Social Affairs .....	10 - 12	6
B. International Labour Organization .....	13 - 15	7
C. Office of the United Nations High Commissioner for Human Rights .....	16 - 18	8
D. Joint United Nations Programme on HIV/AIDS .....	19 - 25	9
E. United Nations Educational, Scientific and Cultural Organization .....	26 - 27	10
F. Office of the United Nations High Commissioner for Refugees .....	28 - 30	11
G. World Health Organization .....	31	12
III. NON-GOVERNMENTAL ORGANIZATIONS .....	32	12

## **Introduction**

1. In its resolution 2003/47, the Commission on Human Rights recognized the need for intensified efforts to ensure universal respect for and observance of human rights and fundamental freedoms for all so as to reduce vulnerability to HIV/AIDS and to prevent HIV/AIDS-related discrimination and stigmatization. The Commission invited States and other actors to take all necessary steps to ensure the respect, protection and fulfilment of HIV-related human rights as contained in the Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37, annex I) (the Guidelines). The Commission requested the Secretary-General to solicit comments from Governments, United Nations organs, programmes and specialized agencies and international and non-governmental organizations on the steps they have taken to promote and implement, where applicable, the Guidelines and this resolution. Information was received from the Governments of Azerbaijan, Finland, Greece, Lebanon, Mauritius, Mexico, Norway and Poland. Contributions were received from the Department of Economic and Social Affairs of the Secretariat, the International Labour Organization (ILO), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations High Commissioner for Refugees (UNHCR), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Health Organization (WHO). A contribution was also received from the non-governmental organization, the International Council of Nurses. The present report summarizes these replies. A number of replies also included information addressed to Commission resolution 2004/26 on access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria. A summary of this information is contained in the report of the Secretary-General (E/CN.4/2005/38); full texts of the replies are available for consultation at the Secretariat.

### **I. CONTRIBUTIONS FROM STATES**

2. The Government of Azerbaijan reported on its work with WHO on the implementation of a national protocol. It underlined the need for the economic situation of countries to be taken into account in evaluating their efforts in fighting the disease. In Azerbaijan, for example, the Government reports that the 2004 budget could only provide limited resources for the realization of its National Strategic Plan on HIV/AIDS. Of this, only approximately US\$ 20,000 was allocated to the National AIDS Centre for the purchase of HIV-testing equipment, which would only allow for 1.5 to 2 per cent of the population to be tested.

3. The Government of Finland also reported on the statistics relating to HIV/AIDS in the country, noting that, of the 1,716 registered cases, one quarter were women and one quarter were foreigners. The number of new infections per year is currently relatively stable, yet higher than in the early 1990s. Sexual transmission accounts for two in three infections, with drug use by injection responsible for less than one in five. Finland does not have separate specific legislation relating to HIV/AIDS, rather the disease is dealt with under general legislation, such as that dealing with discrimination and the Contagious Diseases Act.

4. The Government of Greece reported a stabilization in the number of new cases of HIV in the country since the end of the 1990s. It referred to a number of State entities and their programmes dealing with HIV/AIDS. Programmes aimed at reintegrating people living with HIV/AIDS into the community and the workforce are implemented by the Hellenic Centre for

Infectious Diseases Control in collaboration with the Ministry of Health and the Greek Employment Organization. The Organization Against Drugs gives priority to HIV-positive intravenous drug users in its methadone programmes. The Hellenic Centre of Infectious Diseases Control also provides psychological support services, in particular through its psychological support guest house for HIV-positive persons with low incomes. The centre also provides free dental and stomatological care. People living with HIV/AIDS in detention are held in the prison hospitals and are released if during their detention they reach the final stage of their illness. If foreign economic migrants and refugees need health care, they are entitled to temporary residence and work status. The Government also reported on a number of initiatives of the European Union in which it is involved.

5. The Government of Lebanon reported on its national strategic plan, resources mobilization, prevention efforts and cooperation with the United Nations. The new national strategic plan covers the period 2004-2009. Among its guiding principles are those of ensuring respect of human rights, gender equality and non-discrimination, as well as ensuring confidentiality of testing. Human rights are identified as a priority area under the plan. A contribution to the resources required to implement the plan is currently being sought from the Global Fund to Fight AIDS, Tuberculosis and Malaria. Prevention efforts are coordinated with various ministries as well as United Nations agencies, and focus on youth, women and high-risk groups, namely men who have sex with men, sex workers and intravenous drug users. Through the United Nations Theme Group on HIV/AIDS, the Government is both assisting in the coordination of activities as well as benefiting from resources and technical expertise.

6. In its reply, the Government of Mauritius reported that specific legislation on HIV/AIDS is being drafted by the State Law Office with input from all stakeholders.

7. The Government of Mexico provided statistical information describing the recent evolution of the disease in the country. During the last three years the number of AIDS cases in the country has shown a mean annual increase of 3 per cent, and although the total number of new AIDS cases diagnosed in 2003 is higher than that of preceding years, the rate has remained relatively constant. The number of new HIV cases rose in 2003 by 10.5 per cent. Medical consultations relating to sexually transmitted infections also rose by 13.3 per cent between 2002 and 2003. The Government drew attention to a number of positive recent developments. Twenty million dollars has been made available for some 400 education campaigns nationwide targeting people most at risk of contracting HIV. In addition, an ongoing programme of condom distribution to those judged at greatest risk saw 16.5 million condoms distributed by the end of 2003. The Ministry of Labour and Social Planning has ongoing programmes to promote equal opportunities for entering and remaining in the world of work for people living with HIV/AIDS, among others. The Government also reports that four workshops on non-discrimination were held in the State of Chiapas, seeking to raise awareness about the problems of people living with HIV/AIDS in order to promote their acceptance and full inclusion into the labour and social environment, as well as to provide theoretical and practical tools aimed at highlighting the challenges faced by them.

8. The Government of Norway provided information on the country's strategic plan for the prevention of HIV and sexually transmitted diseases (STDs) and the Oslo Declaration on Health, Dignity and Human Rights of June 2003. The strategic plan is explicitly based on human rights principles and Commission on Human Rights resolution 1999/49 on the protection of human rights in the context of HIV/AIDS. The plan has two general objectives: the first is to reduce the number of new cases of HIV and STDs, the second is to ensure that everyone infected with HIV (and STDs) is given proper follow-up regardless of age, sex, sexual orientation, place of residence, ethnic background or financial situation. Attention was also drawn to the provisions of the Communicable Diseases Control Act of 1994. The Government also drew attention to the seventh conference of European health ministers, held in Oslo in June 2003, which resulted in a declaration on "Health, dignity and human rights". Although not referring specifically to HIV or AIDS, the Declaration affirms that "health-care services should function within a human rights framework ... keeping in mind that vulnerability is not necessarily the lot of certain social groups and restricted to certain age groups, but can hit anybody at any time". (The Oslo Declaration on Health, Dignity and Human Rights, adopted on 13 June 2003; see [www.coe.int](http://www.coe.int).)

9. The Government of Poland reported that there are an estimated 20-30,000 people living with HIV/AIDS in the country. Although drug use is the primary means of infection, cases of heterosexual transmission are increasing significantly. In terms of its legislative response to the disease, the Government notes that its focus is on preventing discrimination against people living with HIV/AIDS, with the principle of non-discrimination being enshrined in the Constitution, along with the right to life and the inviolability of human dignity. Specific laws proscribe HIV testing without the patient's consent, and guarantee the confidentiality of medical information. Cooperation between the legislative, executive and self-government authorities, together with the important role of non-governmental organizations, is fostered by Poland's democratic structures. The National AIDS Centre plays an important coordination role, as well as a protection role when it intervenes to protect individual's rights. The Government reports that it pays increasing attention to the equal status of women and men, in particular to their reproductive rights and health, including through the institution of the Plenipotentiary for the Equal Status of Women and Men. There is no compulsory testing for entry into employment, nor to schools nor for persons applying for any type of immigration permit. The Government's reply sets out a number of positive developments, such as the establishment of the National AIDS Centre, the raising of funds for AIDS treatment, supporting NGOs working in the area of HIV/AIDS prevention, and the appointment of regional coordinators tasked with the implementation of national policy at the regional level. A specific development referred to is a pilot programme aimed at facilitating the desire of HIV-positive couples to have children without passing on the disease, through artificial insemination using purified spermatozoa. The Government's response also outlines the contents and rationale of the national programme of prevention of HIV infections and care offered to people living with HIV/AIDS. The programme is mainly aimed at rationalizing the existing system of prevention of HIV infection, awareness-raising (especially on the rights of women), and promoting an integrated model of care for people living with HIV/AIDS. In respect of NGOs, the National AIDS Centre offers support, financial assistance, access to expertise, education, and professional advisory services. Priority is accorded to NGO activities relating to women with HIV/AIDS and their children. Finally, the Government reiterates the importance of international cooperation, and in particular to its initiatives with Eastern European countries.

## II. CONTRIBUTIONS FROM UNITED NATIONS BODIES

### A. Department of Economic and Social Affairs

10. The Division for the Advancement of Women (DAW) of the Department of Economic and Social Affairs (DESA) of the Secretariat drew attention to the work of the Committee on the Elimination of Discrimination against Women during 2004 (thirtieth and thirty-first sessions, January and July 2004). DAW reports that the Committee, in its constructive dialogue with States parties, highlighted positive developments in some States parties, such as the adoption of legislation, policies and strategic plans on HIV/AIDS, which also supported the goal of gender equality and the empowerment of women. In particular, however, the Committee was concerned about the high incidence and prevalence rates of HIV/AIDS among women, especially younger women, and the increase in infection rates of women, which was sometimes exacerbated by sexual exploitation. The Committee was especially concerned about the violation of the human rights of infected women, who were denied access to employment and adequate medical services. It was also concerned about the absence of strategic, gender-sensitive plans to address HIV/AIDS, or lack of adequate funding for existing plans. In its recommendations, the Committee urged States parties to implement article 12 of the Convention by using a holistic, life-cycle approach to women's health, in accordance with its general recommendation 24 on women and health. It called on States parties to take comprehensive measures to combat the spread of HIV/AIDS, to take strong preventive measures, as well as to allocate sufficient funds to combat it. The Committee insisted on the need to ensure that women and girls infected with HIV/AIDS were not discriminated against, to adopt measures to eliminate such discrimination, and to ensure that infected women and girls had appropriate assistance and medical treatment. The Committee called on States parties to ensure the effective implementation of HIV/AIDS laws and policies where they existed. The Committee also called for the promotion and wide availability of sex education with special attention to the prevention and further control of HIV/AIDS. The Committee also requested that future reports include specific data on HIV prevalence rates among women, and measures taken against the spread of the disease among women.

11. The Population Division of DESA reported that, since the emergence of the HIV/AIDS epidemic, it has integrated studies of the impact of HIV/AIDS into its work programme and publications and its activities undertaken in support of the Commission on Population and Development. That work includes, in addition to estimates of the epidemic's demographic impact, studies of policy responses and the epidemic's social and economic impact, including issues of stigma and discrimination. At the request of the Commission on Population and Development, the monitoring report for the next session in 2005 will address the topic "Population, development and HIV/AIDS, with special emphasis on poverty". The Division is also currently preparing an updated issue of a wall chart highlighting the population and policy impact of HIV/AIDS. An expert meeting in 2003 that focussed on HIV/AIDS and adult mortality included many participants from African countries with serious HIV/AIDS epidemics. Other relevant publications include *The Impact of AIDS* (2004), *Population, Reproductive Rights and Reproductive Health, with Special Reference to HIV/AIDS* (2003), and *HIV/AIDS Awareness and Behaviour* (2002). In addition, recent monitoring reports in the areas of health and mortality

and gender featured the issue of HIV/AIDS. The United Nations estimates and projections of population include special attention to the past and projected demographic impacts of HIV/AIDS, and Governments' views and policies with respect to the epidemic are included in the Division's publications and databank on population policies.

12. In its response, the Division for Sustainable Development of DESA drew attention to the twelfth session of the Commission on Sustainable Development, held in April 2004, in particular its in-depth review of the thematic cluster of water, sanitation and human settlements. The Division reported that many delegations noted that developing countries are still facing serious challenges and constraints, including the pandemic of HIV/AIDS and other communicable diseases. These constraints have negatively affected developing countries with regard to the provision of shelter and improvement in the conditions in slum settlements. It was also pointed out that restrictions on women's access to land and inheritance rights have often precluded their access to credit. The HIV/AIDS pandemic has heightened the urgency of addressing the inheritance rights of female household members in many countries. Delegations further emphasized that current official development assistance (ODA) and foreign investment flows are not sufficient to meet the large capital investment needs of developing countries in housing, basic services and infrastructure. Neither are national government resources, especially in countries where heavy fiscal demands are being made by the health cost of the HIV/AIDS pandemic and other pressing problems. In discussing the particular challenges facing small island developing States, delegations stressed the unique characteristics that result in the vulnerability of small island developing States and highlighted new and emerging issues confronting these States, such as HIV/AIDS and security concerns.

### **B. International Labour Organization**

13. In its reply, the International Labour Organization stressed the rights-based approach of the Organization's involvement in the global effort against HIV/AIDS, referring in particular to the principles of social justice and equality, the process of tripartism, the core labour standards and the ILO Code of Practice on HIV/AIDS and the world of work. The Code of Practice forms the cornerstone of ILO's response, and is now being used by policy makers and workplace partners in over 60 countries as a basis for their own national programmes, enterprise policies and collective bargaining.

14. The ILO provides advisory services to member States on integrating a workplace component in national HIV/AIDS policies and including the social partners in national planning and coordination mechanisms. The Organization also supports the adoption and revision of legislation to cover HIV/AIDS and employment issues, particularly to protect workers against discrimination, breaches of confidentiality and mandatory testing. For example, legislation has been revised in Tanzania, Mozambique and the Bahamas with several more in the works.<sup>1</sup> A handbook has been produced on addressing HIV/AIDS in the workplace through employment and labour law,<sup>2</sup> and guidelines developed for labour judges and magistrates who need to rule on discrimination cases related to HIV/AIDS.

15. ILO activities also include the development of information and education materials designed to combat discrimination as well as promote prevention; policy guidance and technical assistance in the development of enterprise policies providing for prevention, care and treatment of workers; and the implementation of behaviour change and communication programmes,

including peer education. Furthermore, the ILO Committee of Experts on the Application of Conventions and Recommendations has on several occasions - when considering reports submitted by States who have ratified the International Labour Organization Discrimination (Employment and Occupation) Convention (No. 111) of 1958 - noted with interest the enactment of HIV-related legislation and requested States to supply information on the application of their legislation in practice.<sup>3</sup>

### **C. Office of the United Nations High Commissioner for Human Rights**

16. The Office of the United Nations High Commissioner for Human Rights (OHCHR) supports the work of the United Nations treaty bodies and special mechanisms in the integration of HIV/AIDS issues. These mechanisms, through their consideration of States' reports, concluding observations and recommendations, and general comments, provide States with direction and assistance in the implementation of HIV-related rights. OHCHR provides regular briefings to the United Nations treaty bodies, with information on the background and status of the epidemic in priority countries; analysis of the links between HIV/AIDS and the core international human rights treaties; and identification of particular issues of concern. Support is provided towards the development by the treaty bodies of interpretive texts on HIV/AIDS and related issues such as the draft general comment on HIV/AIDS and the rights of the child. The treaty bodies continue to address the issue of HIV/AIDS, and in particular the issues of stigma and discrimination, and access to treatment. Information on the latter is contained in the report of the Secretary-General E/CN.4/2005/38. Specific reference is made to General Comment No. 3 on HIV/AIDS and the rights of the child adopted in 2003 by the Committee on the Rights of the Child. The General Comment recognizes that "all children can be rendered vulnerable by the particular circumstances of their lives, especially (a) children who are themselves HIV-infected; (b) children who are affected by the epidemic because of the loss of a parental caregiver or teacher and/or because their families or communities are severely strained by its consequences; and (c) children who are most prone to be infected or affected" (CRC/GC/2003/3, para. 3).

17. OHCHR also supports the work of the special procedures of the Commission on Human Rights in addressing HIV/AIDS in the context of their respective mandates. Among others, the special rapporteurs on the question of torture,<sup>4</sup> on the right of everyone to the enjoyment of the highest available standard of physical and mental health,<sup>5</sup> and on the sale of children, child prostitution and child pornography<sup>6</sup> have devoted specific attention to the question of HIV/AIDS in their respective mandates. In its resolution 2003/47, the Commission requested its special procedures to integrate protection of HIV-related human rights within their respective mandates. In support of this request, OHCHR and UNAIDS convened a meeting of special procedures mandate-holders in June 2003 with the aim of exploring ways in which the special procedures can integrate HIV issues into their mandates. The meeting resulted in a number of recommendations, including the desirability of mandate-holders: liaising with UNAIDS before country missions, meeting with NGOs and government actors concerned with HIV/AIDS during missions; examining the situation of those affected by the pandemic; and making HIV/AIDS-specific recommendations in their reports to the Commission.

18. OHCHR continues to pursue joint work with UNAIDS in following up on the Guidelines. Current initiatives include a handbook on HIV/AIDS and human rights for national human rights institutions, a best-practice publication and a simplified version of the Guidelines themselves.

Recently completed work includes the cartoon aimed at youth and entitled “Stand up for human rights” (also with WHO) launched in December 2003. The organizations have also collaborated at the regional level with the joint project to develop recommendations for Governments in Asia-Pacific on how best to address stigma, discrimination and other human rights issues relating to HIV/AIDS. Following a consultative process led by the Regional Office of OHCHR, a regional expert meeting was held in Bangkok on 23-24 March 2004 with the aim, inter alia, of identifying the challenges as to why the Guidelines have not been implemented in the region. A number of recommendations formulated by the meeting were adopted and disseminated, including via the web site of the OHCHR Regional Representative, and a press launch during the World AIDS Conference in Bangkok.

#### **D. Joint United Nations Programme on HIV/AIDS**

19. The Joint United Nations Programme on HIV/AIDS (UNAIDS) noted that, in resolution 2003/47, the Commission on Human Rights encouraged the continuation of national regional and international consultations in the field of AIDS and human rights. Under the leadership of the nationally-based United Nations Theme Groups on HIV/AIDS, national and regional consultations on HIV/AIDS and human rights have been conducted in 2004 in Cambodia, Nepal, Thailand and Fiji. The recommendations have been forwarded to the Asia Pacific Leadership Forum on HIV/AIDS and Development, and it is intended that these meetings will be followed by further training and guidance in support of national action against the epidemic.

20. UNAIDS also reported on the programme’s collaboration with other United Nations agencies (some of which are reported elsewhere in this report). UNAIDS and UNESCO have undertaken five training sessions at the national level on issues of youth and HIV/AIDS. They also published *Human Rights and HIV/AIDS: Young People in Action*. The two organizations have also established a Small Grants Facility to support implementation of projects addressing HIV-related discrimination and related intolerance, which have been developed by young people during various training sessions. In 2003, small grants were approved for projects in Bangladesh, Malawi, Mozambique, Sri Lanka and Zambia.

21. Examples of collaboration between UNAIDS and NGOs included a training workshop in the United Republic of Tanzania in May 2004 in collaboration with the African Council of AIDS Service Organizations (AFRICASO) and the Eastern African National Networks of AIDS Service Organizations (EANNASSO). This workshop involved 65 representatives from various non-governmental organizations, AIDS service and community-based organizations and associations of people living with HIV. Recalling the concern expressed by the Commission that people infected with and affected by HIV, as well as those presumed to be infected, continue to be discriminated against in law, policies and practice, UNAIDS reported on its efforts to continue to strengthen networks on HIV, human rights, ethics and law, including strong partnerships with the International Council of AIDS Service Organizations and its regional members. In 2004, UNAIDS supported a two-year project with EANNASSO and AFRICASO to increase the capacity of NGOs to advance human rights. UNAIDS also continued to support organizations of people living with HIV, such as financial and technical support provided to the Asia Pacific Network of People Living with HIV/AIDS to provide peer education and training to research and document HIV-related discrimination. Specific assistance was rendered when, in August 2004, 39 members of the Nepali NGO Blue Diamond were arrested. UNAIDS provided

advocacy and legal support to Blue Diamond, including information on the NGO's work and advocacy on human rights issues. UNAIDS also supported the placement of legal and human rights experts in local NGOs and community-based organizations in Burkina Faso, Ghana and Tanzania. In India, UNAIDS supported a process involving the NGO Lawyers' Collective and various sectoral, national and regional consultations to draft a law on HIV.

22. UNAIDS reports that it also gave support for the development of legislation on HIV in China and Cambodia, with the latter adopting a law on HIV in January 2003. UNAIDS provided comments on a draft law, as well as undertook technical missions, with regard to the development of legislation in the Russian Federation in 2004. In January 2004, a rights-based policy on HIV in Malawi was adopted by parliament, and was launched by the President of Malawi, together with the Executive Director of UNAIDS. UNAIDS continued to monitor the implementation of HIV-related legislation where such a law already exists, e.g. the Philippines.

23. UNAIDS has continued to support States to take all necessary measures to eliminate stigma and discrimination, as urged by the Commission. For example, UNAIDS Botswana has been involved in the fight against stigma and discrimination through: providing technical support to workplace programmes in developing non-discriminatory HIV policies; facilitating media training workshops on routine testing, and stigma and discrimination; mobilizing resources mobilization for a project on combating stigma and discrimination in health-care settings and surrounding communities; and training health-care workers and community members on identifying forms of, and dealing with, stigma and discrimination.

24. With regard to the treaty bodies, HIV-related human rights country briefing documents have been prepared for their consideration. For example, in 2003, reports were submitted to the Committee on the Elimination of All Forms of Discrimination against Women on Brazil, Belarus, Kyrgyzstan, Nigeria and the United Kingdom of Great Britain and Northern Ireland. Furthermore, UNAIDS continued to promote the integration of HIV-related human rights issues into its work, particularly with regard to: revised reporting guidelines; general comments; thematic days (such as Committee on the Rights of the Child Thematic Day on Children and HIV/AIDS); and concluding observations/recommendations. General Comment No. 3 of the Committee on the Rights of the Child, adopted in January 2003, is the first General Comment on AIDS issued by a treaty body and represents a vital tool to assist in monitoring HIV-related rights with regard to children.

25. UNAIDS reports that it has continued to promote the Guidelines by facilitating dialogue and providing policy support to Governments with regard to issues raised by the Guidelines. For instance, in Thailand in the context of the campaign by the Royal Thai Government against illegal drugs, UNAIDS has supported policies that would reduce the HIV-related harms associated with drug use and increase access by drug-users to health and social services and to legal and human rights protection. UNAIDS has supported the policies contained in the Guidelines in other countries as well, such as China, Indonesia and Pakistan.

#### **E. United Nations Educational, Scientific and Cultural Organization**

26. The United Nations Educational, Scientific and Cultural Organization (UNESCO) drew attention to its joint work with UNAIDS in supporting youth-led initiatives, which has been outlined in UNAIDS response above. UNESCO reports that within the framework of

this initiative, in 2004-2005 it plans (together with UNAIDS) to extend the activities in the Latin American and Caribbean and the Moscow Cluster regions. In 2005, a subregional training workshop on HIV/AIDS and Human Rights for young people and youth organizations will be organized in Latin America. To this end, the Latin American and the Caribbean Council of AIDS Services Organizations (LACASSO) and Acción Ciudadana Contra el SIDA (ACCSI) co-hosted in June 2004, in Caracas, Venezuela, a preparatory regional consultation meeting with the main stakeholders and youth representatives to look at the key issues from the regional perspective. In the spirit of the priorities for joint United Nations action in 2004 set by the United Nations country team theme group on HIV/AIDS in the Russian Federation, and particularly goal No. 5 (“Intensify efforts to reduce stigma and discrimination”) and, within the framework of the UNESCO and UNAIDS “Youth Initiative on HIV/AIDS and Human Rights”, a joint mission was undertaken to Moscow in May 2004, to consult with the theme group to explore possibilities of launching the initiative in the Moscow Cluster region.

27. UNESCO also reported that through its Division for the Promotion of Quality in the Education Sector, the Organization has been taking tangible action in support of the Guidelines on HIV/AIDS and Human Rights, particularly in fulfilment of guidelines 5, 7, 8 and 9. UNESCO’s work towards the fulfilment of the goals of Education for All, includes efforts to strengthen anti-discrimination for learners affected or infected by HIV, along with measures to protect confidentiality and to ensure respect for diversity (guideline 5). UNESCO supports member States that work with communities and other parts of civil society to promote supporting and enabling environments for women, children and others vulnerable to HIV/AIDS (guidelines 7 and 8). Within the context of its mandate, UNESCO promotes creative education designed to change stigmatizing and discriminatory attitudes towards people with HIV/AIDS (guideline 9), within the context of promoting quality education. A rights-based approach underpins the quality education framework that is a cornerstone of the Division for the Promotion of Quality Education, very much in line with the Guidelines on HIV/AIDS and Human Rights.

#### **F. Office of the United Nations High Commissioner for Refugees**

28. The Office of the United Nations High Commissioner for Refugees (UNHCR) drew attention to its work under its protection mandate, particularly in closely monitoring the situation of refugees living with HIV/AIDS and working to prevent and respond to any related incidents of stigma and discrimination. Over the past few years, UNHCR has supported scientific, evidence-based studies which have demonstrated that in many settings, refugees have lower HIV prevalence rates than their surrounding host communities. This information has helped combat the myth that refugees always “bring HIV” to countries of asylum; a misperception that has been widely disseminated in scientific forums, through the media and to host Governments. It has resulted in a more balanced approach to HIV/AIDS regarding refugees and their surrounding communities.

29. The right to appropriate care, support and treatment for refugees, particularly for women, orphans and other vulnerable refugee children, has been promoted by UNHCR and its partners at the country, regional and international levels. UNHCR also supports programmes aimed at increasing knowledge among refugee communities about their rights related to HIV/AIDS, and provides legal and community-based support to ensure that refugees are able to realize these rights.

30. UNHCR reports that it maintains and promotes its position of strict opposition to mandatory HIV testing of refugees in any setting. In addition, implementing partners and UNHCR staff have been sensitized as to the need to maintain confidentiality when assisting refugees affected by HIV/AIDS. UNHCR is working together with countries which accept refugees for resettlement to ensure that, when HIV testing is required as part of the resettlement process, it is done in line with international best practice and standards, including the confidential management of information and the provision of adequate pre- and post-test counselling and support. In the context of voluntary repatriation, UNHCR works with Governments and other partners to ensure that the HIV status of any returnee does not influence the right of return in safety and dignity.

### **G. World Health Organization**

31. The World Health Organization (WHO) drew attention to the activities of the WHO/UNAIDS Global “3 by 5” Initiative to have 3 million people living with HIV/AIDS in developing and middle-income countries on antiretroviral treatment (ART) by the end of 2005. The initiative is underpinned by a number of guiding principles, including “treatment and human rights” and “equity”. Under the first, the initiative will advance the United Nations goals of promoting human rights as set out in the Universal Declaration of Human Rights, and clarified (as far as dealing with HIV/AIDS is concerned) the Declaration of Commitment of the General Assembly Special Session on HIV/AIDS in 2001. Under the principle of equity, special efforts are being made to ensure access to ART for people who risk exclusion because of economic, social, geographical or other barriers.

### **III. NON-GOVERNMENTAL ORGANIZATIONS**

32. The International Council of Nurses (ICN) drew attention to its focus on rights-based approaches to health, including through its Code of Ethics for Nurses and Ethical Guidelines for Nursing Research. The Council reported on a number of specific activities in promoting a rights-based approach to HIV and AIDS. The first are activities targeting health workers for access to antiretroviral therapy (an example is a programme for health-care workers in Zambia). Second, the Council develops positions and policy guidelines for national nurses associations. These are designed to help nurses to: lobby for access to treatment, care and support; fight discrimination and stigma; ensure that health-care providers have sufficient training in HIV/AIDS issues; create safer health-care settings; safeguard the human rights of people living with HIV/AIDS and ensure confidentiality. Third, the Council develops guidelines and training materials. These include: a tool kit for combating HIV/AIDS-related stigma and discrimination; factsheets on prevention, care and counselling; guidelines for reducing the impact of HIV/AIDS on nursing and midwifery personnel; and a poster entitled “Bridging the gap in HIV care”. Fourth, the Council disseminates its publications, statement and training materials widely. Fifth, the Council undertakes lobbying and advocacy work, seeking to increase resources for HIV/AIDS prevention, promoting compassionate care, and awareness-raising among national nurses’ associations and the public. Finally, training and capacity-building activities are undertaken, including training for nursing personnel in tackling HIV/AIDS-related stigma, strengthening home-based care and access to treatment, building partnerships with community groups, introducing changes in nursing practice and education to include human rights issues, and providing health education to the public on prevention measures.

**Notes**

<sup>1</sup> Including: Kenya, Barbados, Lesotho, Saint Lucia, Nigeria, Cape Verde, India, Zambia, and the 16 member States of OHADA (Organisation pour l'harmonisation en Afrique du droit des affaires).

<sup>2</sup> J. Hodges, ILO, January 2004.

<sup>3</sup> For example, Mozambique, Angola, Romania and Costa Rica were requested to provide further information on the application of their HIV-related legislation.

<sup>4</sup> E/CN.4/2004/56.

<sup>5</sup> E/CN.4/2003/58.

<sup>6</sup> E/CN.4/2003/79/Add.1-2.

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