

HIV/AIDS & Human Rights In Southern Africa

An Advocacy Resource
& Training Manual

ARASA
AIDS & Rights
Alliance
for Southern Africa

2008

 **Irish Aid**
Government of Ireland
Rialtas na hÉireann

 **Sida**

About ARASA

Who are we?

Established in 2002, the AIDS and Rights Alliance for Southern Africa (ARASA) is a regional partnership of non-governmental organisations working together to promote a human rights approach to HIV/AIDS in Southern Africa through capacity building and advocacy. It is constituted in the form of a trust and all partner organisations are members of the trust. Three steering committees, comprising trust members, act as advisory boards for the three ARASA programme areas: training and awareness raising, advocacy and lobbying and regional treatment literacy and advocacy.

What do we do?

- ∅ Advocacy and lobbying;
- ∅ Training and awareness raising; and
- ∅ Capacity building for access to HIV/ AIDS & TB treatment and prevention.

Central to all of the programme areas is the recognition that the protection of human rights remains critical to a successful response to HIV and AIDS. HIV-related stigma and discrimination remain major obstacles to meeting the target of universal access to HIV prevention, care and treatment. Protection of human rights, both of those vulnerable to HIV infection and those already infected, is not only a right, but also produces positive public health results against HIV. The denial of human rights such as the rights to non-discrimination and gender equality, information, education, health, privacy and social assistance increases both vulnerability to infection as well as the impact of the epidemic.

ARASA's central operational strategy is to utilise the ARASA partnership to build and strengthen the capacity of civil society, with a particular focus on PLWA organisations, to effectively advocate for a human rights approach to HIV/AIDS & TB in southern Africa.

Vision

A Southern Africa in which human rights are at the centre of all responses to HIV/AIDS and in which the rights of PLWA are respected and protected and socio-economic rights, the denial of which fuels the epidemic, are respected, protected and fulfilled.

Mission

To promote a human rights approach to HIV/AIDS & TB in Southern Africa through capacity building and advocacy.

For further information about ARASA please contact:

Michaela Clayton or Maggie Amweelo

ARASA
P O Box 97100, Maerua
Windhoek, Namibia

Tel: 264 61 300381
Fax 264 61 227675

Email: michaela@arasa.org.na / maggie@arasa.org.na
Web: www.arasa.info

For further information on related organisations, please refer to Chapter 9: Networking.

Acknowledgements:

The AIDS and Rights Alliance for Southern Africa (ARASA) would like to give special thanks to the Swedish International Development Agency (SIDA) and Irish Aid for making the development of this manual possible.

Furthermore ARASA would like to thank the authors as well as the following people for their valuable contributions and comments in the development of this manual:

- Michaela Clayton, ARASA Director
- ARASA Training Advisory Committee
- Jacob Segale, ARASA Training Officer
- All the participants at the 2007 Namibia workshop on HIV and human rights

Finally, the authors would like to acknowledge the following important resources for providing an invaluable framework for the development of this manual:

AIDS Law Project & AIDS Legal Network (2003) HIV/AIDS and the Law: A Resource Manual

Office of the United Nations High Commissioner for Human Rights and the Joint United Nations Programme on HIV/AIDS (1996) HIV/AIDS and Human Rights International Guidelines on HIV/ AIDS and Human Rights.

Credits:

Authors:

Kitty Grant
Michelle Lewis
Ann Strode
Liesl Gertholtz

Editors:

Kitty Grant
Michaela Clayton

Design & Layout:

brownpaperbag

Printers:

John Meinert Printing

About this Manual:

This manual is divided into two parts - Part A and Part B.

Part A is an Advocacy and Resource Manual which is designed to give readers practical information about HIV/ AIDS and human rights in southern Africa as well as ways of strengthening a human rights based response to HIV/ AIDS in the region.

Part B is a Training Manual which has been developed for use in conjunction with Part A. It provides trainers with practical exercises to train participants on the way in which laws and policies can protect and promote human rights and how the laws and policies in SADC have met this challenge.

Contents

of

Manual

Part A: Advocacy & Resource Manual

1. Introduction
2. Background: HIV and AIDS in Southern Africa
3. Introduction to Human Rights
4. HIV/AIDS as a Human Rights Issue
5. Human Rights Instruments
6. The HIV/AIDS and Human Rights International Guidelines
- 6A Structures and Partnerships
- 6B Health Rights
- 6C HIV/AIDS at Work
- 6D Legal Support Services
- 6E Women, Children & Other Vulnerable Groups
7. Monitoring and Enforcement
8. Advocacy
9. Networking

Part B: Training Manual

- B. Training Modules
- B1. Handouts
- B2. Presentations
- B3. Appendices (CD Rom)

Part A: chapter 1

Introduction

Contents

- 1.1 Overview
- 1.2 Purpose
- 1.3 How to use the Manual
 - 1.3.1 Finding Information
 - 1.3.2 Numbering
 - 1.3.3 Understanding Terms
 - 1.3.4 Cross References
 - 1.3.5 Resources and References
 - 1.3.6 End Notes
 - 1.3.7 Appendices
- 1.4 Glossary
- 1.5 Abbreviations & Acronyms



1.1 Overview

The Manual is a plain language guide to HIV/AIDS and human rights in the Southern African region. It is aimed at a wide range of people, such as paralegals, lawyers, social workers, counsellors, people working in AIDS Service Organisations (ASOs) and Non-Governmental Organisations (NGOs), educators and trade union members. It gives readers practical information on how law and policy can protect and promote human rights in the context of HIV/AIDS, and how the laws and policies in the Southern African Development Community (SADC) countries have met this challenge. It also looks at ways to strengthen a rights-based response to the Human Immuno-Deficiency Virus (HIV) and the Acquired Immune Deficiency Syndrome (AIDS) in Southern Africa, where the response still needs work.

Chapter 1 of the Manual is an introductory chapter, containing information on the background to the Manual and its aims and objectives. It explains how to use the Manual, and sets out a glossary of terms, acronyms and abbreviations used in the Manual.

Chapters 2 to 5 of the Manual contain background information on HIV/AIDS and human rights in Southern Africa. Chapter 2 includes basic information about HIV and AIDS, with a focus on HIV and AIDS in sub-Saharan Africa. In Chapter 3, we look at human rights – what are they, where do they come from, why are they important? Chapter 4 examines the link between HIV/AIDS and human rights, and explains why HIV and AIDS is a human rights issue. It shows how human rights abuses impact on HIV and AIDS, and also how HIV/AIDS policies, programmes and practices can impact on human rights. Finally, Chapter 5 shows how human rights instruments, such as national Constitutions that include a Bill of Rights as well as international human rights treaties, can be a useful tool for responding to HIV and AIDS.

Chapter 6A – 6E of the Manual are structured around the Joint United Nations Programme on HIV/AIDS (UNAIDS) HIV/AIDS and Human Rights International Guidelines. They look at ways that countries can develop a rights-based response to HIV and AIDS through effective structures and partnerships, appropriate laws and policies, awareness and education around HIV/AIDS and human rights, and monitoring and enforcement of rights in relation to HIV and AIDS. The chapter looks in particular detail at areas of HIV/AIDS and human rights law, such as health rights, research laws and ethics, workplace rights, and the rights of women, children and other vulnerable groups.

Chapters 7-9 of the Manual look at ways in which we can strengthen the rights-based response to HIV and AIDS in the SADC region. Chapter 7 discusses ways to monitor and enforce HIV/AIDS-related human rights, law and policy within countries, and at a regional level. Chapter 8 looks at advocacy as a way to challenge regional and country-based responses to HIV and AIDS. It sets out various advocacy strategies, as well as common advocacy issues for the region like routine HIV testing, testing in the armed forces, HIV-related research and gender issues. Finally, Chapter 9 looks at networking as a way to strengthen responses to HIV and AIDS in Southern Africa.



1.2 Purpose

The purpose of the Manual is to set out information on HIV/AIDS and human rights, with a focus on Southern Africa, in an accessible and user-friendly format.

In this way the Manual hopes to:

- give its readers an idea of the link between HIV/AIDS and human rights
- set out ways in which law and policy can and should promote an effective response to HIV and AIDS in Southern Africa
- give examples of how Southern African countries have used rights-based law and policy to respond to HIV and AIDS, and
- provide readers with ideas on how to strengthen a rights-based response to HIV and AIDS within their own countries and within the region.



1.3 How to use the Manual

1.3.1 Finding Information

The Manual is broken up into 9 chapters.

Use the Contents section above to find a chapter in the Manual.

Use the Chapter Contents section at the front of each chapter to find details on sections and sub-sections in that chapter.

Use the Key Points section at the beginning of the Chapter to identify key issues raised in that Chapter.

1.3.2 Numbering

Each chapter is numbered, from Chapter 1 through to 9. Main sections and sub-sections are also numbered.

For example this Introduction is numbered Chapter 1.

Main sections in the chapter are numbered 1.1, 1.2, 1.3 etc.

For example this section dealing with how to use the manual is section 1.3.

Sub-sections are numbered 1.3.1, 1.3.2, 1.3.3 etc.

For example, this sub-section in section 1.3 dealing with understanding the numbering in the Manual is sub-section 1.3.2.

1.3.3 Understanding Terms

Abbreviations and acronyms are used in the manual.

The first time they are used in a chapter, they are **highlighted in bold** and explained in full. Afterwards, the abbreviation or acronym is used in place of the full word.

There is a list of abbreviations and acronyms in this chapter. You can refer to the list to check for the full meaning.

The Manual also makes use of key words and concepts.

The first time key words and concepts are used in a chapter, they are highlighted in bold, and sometimes they are explained in brackets after the word. There is also a glossary of key words and concepts in this chapter. You can refer to this glossary to check for a full explanation of all key words and concepts.

1.3.4 Cross References

Sometimes a subject is dealt with again, or in more detail, in another part of the Manual.

We use cross-references to direct you to another Chapter, section or sub-section of the Manual for more details on a subject.



For example the Manual may say: See Chapter x, section x sub-section x topic for more information on topic.

1.3.5 Resources and References

At the end of each chapter there is a list of useful resources and references that may help you to find out more about information in the Manual.

The Resources and References section includes:



Useful Contacts: contact details for organisations that can assist you with HIV/AIDS and human rights issues. Only web sites are given.

Useful Web Sites: web sites where you can find more information on HIV/AIDS and human rights issues

Useful References: documents that were useful in developing the Chapter and that can give you more information on HIV/AIDS and human rights issues. They include laws, policy documents, research reports, case law, manuals etc.

1.3.6 End Notes

At the end of each Chapter, there is an open section for you to make your own notes.

1.3.7 Appendices

At the end of the Manual, there is an appendix that sets out in full selected important documents for your own reference purposes.

1.4 Glossary

Acquired Immune Deficiency Syndrome is the last stage of HIV infection. When a person can no longer fight off infections and diseases, they may become ill with any number of a group of medical conditions known as AIDS.

Advocate; Advocacy means working for change. Advocacy is actions aimed at changing the policies and practices of an organisation. For example, AIDS service organisations can advocate for change in government policy, to improve health care for people living with HIV/AIDS (PLHAs).

Antibodies are made by the immune system to fight off a disease or infection.

Bill of Rights is a list of human rights set out in a country's constitution.

CD 4 Cell Count is a test that measures the strength of the immune system.

Circumcision is the surgical removal of the end of the covering fold of skin of the penis.

Commercial Sex Workers are people who trade sex, usually for money.

Confidentiality (right to) is the right to keep information private. For example, in most cases all people have the right to confidentiality with regard to their HIV status, and should not be forced to tell others their HIV status.

Customary laws are usually unwritten laws that develop through the fixed practices and customs of a community.

Dignity (right to) is the right to be treated with respect and as an equal human being.

Discrimination; Unfair Discrimination happens when people are either treated in a way that results in burdens being imposed on them (makes life more difficult), or denies them benefits simply because they belong to a particular group.

Equal; Equality (right to) is the right to be treated in the same way as others. It means that no one should be unfairly discriminated against because they are a different sex, a different skin colour, speak a different language, think different things, believe in another religion, own more or less, are born in another social group or come from another country.

Ethical-Legal Framework is made up of the laws and ethical guidelines that regulate research in a country.

First Generation Rights are the human rights that protect the civil liberties (freedoms) of individual people. For example, the right to freedom of expression is a first generation right. It prevents the government from passing laws that limit people's right to speak out.

Gender is a person's sex. In other words it refers to whether someone is either male or female.

Gender Inequality is unfair discrimination on the basis of a person's sex (male or female) or on the basis of the social characteristics that are given to men and women.

Generic drugs are copies of patented drugs. Although generic drugs are cheaper, they are safe and effective.

HIV Test is the test to tell if a person is infected with HIV. Most Southern African countries use a blood test that can tell whether there are HIV antibodies in a person's blood.

HIV Positive - a person tests HIV positive when they are infected with HIV. The standard



HIV test shows an HIV positive result when there are HIV antibodies in a person's blood.

Human Immuno-Deficiency Virus is the virus that causes AIDS. The virus slowly attacks and destroys a person's immune system.

Human Rights are universal, fundamental, inalienable rights, to which all human beings are entitled regardless of their race, gender, age, social class, national origin, occupation, talent, religion or any other personal factor.

Immune System is the system in the body that fights off infections and diseases.

Informed Consent is agreement (to treatment, such as an HIV test), based on full information and understanding.

International Customary Law is made up of principles that are accepted throughout the world as being standards that should be followed by all states.

Intravenous / Injecting Drug Users are drug users who use substances that can be injected in the body to change their state of consciousness, such as heroin.

Legal Rights are rights laid down by the law of a country that can be defended in a country's courts.

Liberty (right to) is the right to freedom.

Marginalised groups are people living 'outside' of society for various reasons. For example, people like sex workers and drug users often live 'outside' of society because their activities are criminal.

Microbicides are a substance (for example, like a cream) that can be put into a person's vagina or anus during sex to reduce the risk of getting an infection through body fluids. For example, researchers hope to find a microbicide that will prevent HIV from being passed during sex.

Moral Rights are rights based on general principles of fairness and justice. Moral rights reflect what people think are right and wrong. They are not legal rights and cannot always be enforced by a court of law.

Multi-Sectoral responses to HIV/AIDS involve all sectors and all levels of society. For example, a country's multi-sectoral programme to fight HIV/AIDS involves all government departments, civil society (like NGOs) and the private sector working together.

Notification is a public health strategy that says that doctors and nurses must report to health authorities if they diagnose a patient with a notifiable illness.

Occupational Infection is when a person becomes infected with HIV at work.

Opportunistic Infections (OIs) are infections caused by a germ that doesn't usually cause diseases in people with healthy immune systems. They can cause serious illness in people whose immune systems are weak. For example, PLHAs often get OIs like tuberculosis (TB) and pneumonia.

Palliative Care is care given to patients who are dying, to relieve pain.

Partner Notification takes place when a sexual partner is told of a patient's HIV status.

Post-Exposure Prophylaxis (PEP) is anti-retroviral therapy that is given to a person after an exposure to HIV, to reduce the risk of HIV infection. For example, some countries have programmes to provide PEP to rape survivors, to reduce their risk of becoming infected with HIV.

Post-test counselling is the counselling given when a person gets their HIV test results. It gives patients information on how to deal with the test result, both positive and negative.

Pre-employment HIV testing takes place when a person applying for a job is made to take an HIV test. This often results in a job applicant who tests HIV positive being discriminated against (being offered different terms and conditions of employment to others), or being denied the job.

Pre-test counselling is counselling given to a person before an HIV test to make sure the patient has enough information to make an informed decision about whether to take the test, and to cope with the test result.

Prejudice is a negative way of thinking about a person because of one of their personal characteristics, like their skin colour or sexual orientation.

Prevention of Mother-to-Child Transmission (PMTCT) is anti-retroviral therapy given to a mother during the period before childbirth, to reduce the risk of HIV infection from mother to the unborn child.

Privacy (right to) is the right to keep certain information to oneself and to have your own quiet space. For example, the right to privacy protects people from having their homes searched.

Second Generation Rights are social and economic rights. For example, these rights say that government must make sure that everyone has an adequate (decent) standard of living, and has access to health care services.

Security; security of the person (right to) is the right to be protected from unlawful acts against a person's body or mind, such as imprisonment or torture. It also includes the right to make your own decisions about what happens to your body – such as whether to have medical treatment.

Sexually Transmitted Infections; sexually transmitted diseases are infections that are passed from one person to another during sex.

Social Grants are a form of assistance (money) given by the government to people in need. For example, some countries give social grants to people who care for orphaned children. Others give social grants to people who are disabled and can't work.

Stigma takes place when a person attaches a negative social label to another person. For example, someone with an STI may be labelled as being promiscuous (having many partners).

Termination of Pregnancy is a medical process to end a pregnancy before birth.

Third Generation Rights are rights that deal with the rights to peace and development. They require the government to ensure, for example, there are laws in place protecting the environment.

Universal Precautions are basic steps you can take to reduce the risk of HIV infection when dealing with blood or body fluids. They include things like wearing rubber gloves and cleaning up blood with bleach.

Vaccine is a substance (for example, it can be an injection) that teaches a person's immune system to recognise and fight off a disease. For example, researchers hope to find an HIV vaccine that will prevent HIV infection by teaching a person's immune system to fight the virus.

Vulnerable Groups are people who are at high risk of HIV infection or people for whom the impact of HIV and AIDS is especially difficult. They may be vulnerable for various reasons such as their gender, their marginalised (excluded) position in society, or their socio-economic circumstances. The HIV/AIDS and Human Rights International Guidelines lists the following groups of people especially vulnerable to HIV and AIDS: women, children, sex workers, men having sex with men, injecting drug users, minorities, migrants, indigenous peoples, refugees and internally displaced persons, people with disabilities and prisoners.

Window Period is the period of time (usually lasting up to 3 months) when a person is newly infected with HIV, but their blood has not yet made enough HIV antibodies to show on an HIV test. This means they may test HIV negative on an HIV antibody test, although they are in fact HIV infected, and able to pass on HIV to others.



1.5 Abbreviations & Acronyms

African Charter.....	African Charter on Human and Peoples' Rights
ACRWC.....	African Charter on the Rights and Welfare of the Child
AIDS.....	Acquired Immune Deficiency Syndrome
ALP.....	AIDS Law Project
ALU.....	AIDS Law Unit
ARV.....	Anti-Retroviral Therapy
ASO.....	AIDS Service Organisation
ARASA.....	AIDS and Rights Alliance for Southern Africa
AU.....	African Union
BONELA.....	Botswana Network on Ethics, Law and HIV/AIDS
CBO.....	Community Based Organisation
CEDAW.....	Convention on the Elimination of All Forms of Discrimination Against Women
CRC.....	Convention on the Rights of the Child
CSW.....	Commercial Sex Worker
FBO.....	Faith Based Organisation
GIPA.....	Greater Involvement of People Living with or Affected by HIV/AIDS
HIV.....	Human Immuno-Deficiency Virus
ICCPR.....	International Covenant on Civil and Political Rights
ICESCR.....	International Covenant on Economic, Social and Cultural Rights
IDU.....	Injecting / Intravenous Drug Users
ILO.....	International Labour Organisation
NGO.....	Non-Governmental Organisation
OIs.....	Opportunistic Infections
OVC.....	Orphans and Vulnerable Children
PEP.....	Post-Exposure Prophylaxis
PLHAs.....	People Living with HIV or AIDS
PMTCT.....	Prevention of Mother to Child Transmission
SADC.....	Southern African Development Community
SANAC.....	South African National AIDS Council
SAHRC.....	South African Human Rights Commission
STD.....	Sexually Transmitted Disease
STI.....	Sexually Transmitted Infection
TB.....	Tuberculosis
UDHR.....	Universal Declaration of Human Rights
UN.....	United Nations
UNAIDS.....	Joint United Nations Programme on HIV/AIDS
UNGASS.....	United Nations General Assembly Special Session
VCT.....	Voluntary Counselling and Testing
WHO.....	World Health Organisation
ZARAN.....	Zambia AIDS Law Research and Advocacy Network

Part A: chapter 2

Background:

HIV & AIDS in Southern Africa

Contents

- 2.1 Introduction
- 2.2 What are HIV and AIDS?
 - 2.2.1 What are HIV and AIDS?
 - 2.2.2 How is HIV spread?
 - 2.2.3 How do you know if you have HIV or AIDS?
 - 2.2.4 Can you prevent HIV?
 - 2.2.5 Can you treat or cure HIV or AIDS?
- 2.3 HIV and AIDS in Southern Africa
 - 2.3.1 What is the HIV and AIDS situation in Southern Africa?
 - 2.3.2 What is the impact of HIV and AIDS on Southern African countries?
 - 2.3.3 How have Southern African countries responded to HIV and AIDS?
- 2.4 Resources and References
 - 2.4.1 Useful Web Sites
 - 2.4.2 Useful References
- 2.5 End Notes



Key Points

- Understanding more about HIV and AIDS helps us to understand a rights-based response to the epidemic.
- HIV is the virus that causes AIDS.
- HIV infection can be picked up with a blood test, called an HIV test.
- AIDS is the last stage of HIV infection, when a person's body becomes too weak to fight off illnesses and they become sick with a number of medical conditions.
- AIDS is diagnosed by blood tests and by checking for certain medical conditions.
- HIV can be prevented in a number of ways. For example, HIV can be prevented by:
 - changing sexual behaviour
 - treating sexually transmitted infections (STIs)
 - taking post-exposure prophylaxis (PEP)
 - taking anti-retroviral treatment to stop HIV being passed from mother to child
 - using universal precautions
- Research is taking place on other prevention methods like:
 - a vaccine to prevent HIV infection
 - a medicine to prevent HIV infection
 - a microbicide to kill the virus
- HIV infection and AIDS can be cared for and treated by:
 - promoting a person's health
 - providing counselling and support
 - using medicine to prevent and treat common infections
 - taking anti-retroviral treatment
- The prevalence of HIV and AIDS in Sub-Saharan Africa is extremely high
- HIV/AIDS is impacting on the lives of people in Southern Africa in terrible ways. It increases illness and death and lowers life expectancy. It increases poverty and hunger amongst households. It puts strain on services like health care and education.
- The impact of HIV and AIDS on women and girl children is especially hard.
- Southern African countries have all responded to HIV and AIDS. However, there is a need to strengthen the rights-based response to HIV and AIDS in most countries to:
 - actively involve communities in the response to HIV and AIDS
 - develop stronger laws to protect the rights of PLHAs
 - review laws that continue to make certain groups in society vulnerable to HIV and AIDS, and
 - strengthen enforcement of the rights of PLHAs.



2.1 Introduction

In this chapter, we look at some basic information about HIV and AIDS. Understanding HIV and AIDS is an important first step to understanding the laws and human rights issues around HIV and AIDS.

For example, knowing what HIV and AIDS is helps us to understand the needs of people living with HIV and AIDS, and how the law can respond to these needs. Understanding how HIV is spread between people tells us what kinds of laws or human rights principles help to protect people from HIV in various settings.

Other important things to know about HIV and AIDS, to understand HIV/AIDS and human rights issues are:

- how you find out if you have HIV or AIDS
- how you can prevent HIV infection
- how you can treat or cure HIV infection or AIDS, and
- how HIV and AIDS affects people in Southern Africa

The important question of what makes people vulnerable to HIV and AIDS is dealt with in more detail later.



See Chapter 4 HIV/AIDS as a Human Rights Issue for more information on the link between HIV/AIDS, human rights and vulnerability.



2.2 What are HIV and AIDS?

2.2.1 What are HIV and AIDS?

HIV is the Human Immuno-Deficiency Virus, the virus that causes AIDS. It is called HIV because:

- it is a virus
- it is found in humans, and
- it attacks and slowly destroys a person's immune system (the body's system for fighting off diseases and infections).

AIDS is the Acquired Immune Deficiency Syndrome, the last stage of HIV infection. It is called AIDS because:

- as a result of HIV infection
- the immune system becomes so damaged that it can't fight off infections and diseases, and
- this leads to a person becoming ill with a group of medical conditions.

2.2.2 How is HIV spread?

HIV is passed from person to person through:

- blood
- body fluids like semen (sperm) or vaginal fluids
- breast milk.

In Southern Africa, most HIV infection is passed through unprotected sexual intercourse (sex without a condom), or from a mother to her child during birth or breastfeeding.

HIV is not passed from person to person through:

- every day contact (like at school or in the workplace)

- kissing
- toilet seats
- mosquitos
- shared cups, plates and spoons.

2.2.3 How do you know if you have HIV or AIDS?

HIV Infection

You can't tell by looking at someone that they are infected with HIV. People living with HIV look no different to any other person. Also, people living with HIV can be healthy and strong for many years without showing any signs of HIV infection or AIDS.

But changes are taking place inside a person living with HIV.

A short while after a person first becomes infected with HIV their body starts to make HIV antibodies (antibodies are made by the immune system to try to fight off a disease or an infection). Some people will also get symptoms similar to flu (fever, sore throat, muscle aches) at that time.

The HIV antibodies aren't able to fight off the virus, so HIV slowly starts to damage a person's immune system. Over the years, people living with HIV may start to get mild illnesses, like skin rashes or chest infections. Later, they can start to get more serious illnesses like tuberculosis (TB) and thrush.

The only real way to tell if a person is infected with HIV at this time is by doing an HIV test. The standard HIV test used in most Southern African countries tells us whether there are HIV antibodies in a person's blood. If the test finds HIV antibodies in a person's blood, it shows an HIV positive result.

Definition: Window Period

- Most people who are infected with HIV will test positive for HIV antibodies within a few weeks of becoming infected.
- In a few cases, a person may not test HIV positive for up to 3 months. These people are still in the window period – the period of time when their body hasn't made enough HIV antibodies for the standard HIV test to pick up. During the window period, a person can have high levels of HIV in their blood (and be able to infect other people). But because they don't yet have HIV antibodies, they will test negative on an HIV antibody test.

Most Southern African countries have national programmes to promote voluntary counselling and testing (VCT). This is because it is important for people living with HIV to know their HIV status so that they can look after their health, get treatment, prevent further infections and make important life decisions.

AIDS

As HIV damages the immune system, the body becomes less able to fight off diseases and infections. When a person living with HIV starts to become ill with very serious infections they may be reaching the stage where we say they have AIDS.

It is not always easy for a doctor to diagnose exactly when a person has AIDS. But there are various tests, as well as common signs and infections that can point to AIDS.

Definition: WHO Definition of AIDS

The World Health Organisation (WHO) lists the 3 major signs of AIDS as being:

- severe weight loss
- bad diarrhoea that goes on for a month or longer, and
- ongoing fever.

Minor signs include illnesses like cancer, brain infections, bad pneumonia and severe skin rashes.

WHO says that a doctor should diagnose a person with AIDS if:

- he or she tests HIV positive, and
- has 1 or more of the illnesses and signs common to AIDS

If HIV testing is not available, WHO recommends that AIDS be diagnosed if:

- 2 of the 3 major signs of AIDS are present, and
- 1 of the minor signs of AIDS is present.

Some countries also use a test called a CD 4 cell count (a test that measures the strength of the immune system) to help decide when a person has AIDS. If a person has a CD 4 cell count lower than 200, this may be a sign that the person has AIDS.

2.2.4 Can you prevent HIV?

Yes, HIV can be prevented. There are many ways to prevent infection, such as:

- Changing sexual behaviour
- Treating sexually transmitted infections (STIs)
- Taking post-exposure prophylaxis (PEP) after being exposed to HIV
- Taking anti-retroviral therapy (ARVs) to prevent HIV being passed from mother to child. This is often called PMTCT – prevention of mother-to-child-transmission
- Using universal precautions when dealing with blood or body fluids.

Changing Sexual Behaviour

Since HIV is mainly passed on through sex, changing your sexual behaviour can help to prevent HIV infection. For example, you can:

- abstain from (not have) sex
- have one faithful sexual partner
- use a condom every time you have sex
- have sex without penetration (like 'thigh sex')

Treat Sexually Transmitted Infections (STIs)

Research shows that people with sexually transmitted infections (infections passed from one person to another during sex, such as gonorrhoea – sometimes called 'the clap') are at high risk of becoming infected with HIV during sex. So, treating all STIs can help to prevent HIV infection.

All Southern African countries include behaviour change strategies and STI treatment in their HIV/AIDS prevention programmes.

Providing Post-exposure prophylaxis (PEP)

Post-exposure prophylaxis is anti-retroviral treatment that is given to a person after an exposure to HIV. PEP can be used after an exposure to HIV, such as:

- during rape or sexual assault, and
- through an accident or injury, like a needlestick injury where a health care worker pricks him or herself with a used needle.

To be effective, research shows that PEP must be given to a person as soon as possible (and no later than 72 hours) after the accident or injury. If this is done, it can greatly reduce the chances of a person becoming infected with HIV from the exposure.

At the time of writing this manual, very few Southern African countries have implemented PEP for rape survivors. In South Africa and Botswana, hospitals and clinics provide VCT and ARVs to rape survivors to prevent transmission of HIV after a sexual assault. Malawi and Namibia also have a PEP programme, although implementation of the programme in Namibia has been reported to be slow. Other SADC countries have now begun to prioritise PEP for rape survivors as an important programme.

Preventing Mother-to-Child Transmission

Anti-retroviral therapy given to a mother before childbirth can greatly reduce the chances of the baby becoming infected with HIV. As a result, a number of Southern African countries have now started PMTCT programmes that include:

- providing voluntary counselling and testing services (VCT) to pregnant women
- advising pregnant women of the benefits of taking ARVs, and
- providing ARVs to pregnant women during the last stage of pregnancy.

All SADC countries have, or are in the process of developing PMTCT programmes that provide ARVs to pregnant women to reduce the risk of transmission of HIV to their children.

Universal Precautions

Universal precautions are standard steps taken to prevent HIV infection when you come into contact with blood or body fluids. Universal precautions are cheap and easy to use, and can be used in all settings, like:

- hospitals
- playgrounds
- sports fields
- workplaces etc.

Universal precautions include steps like:

- wearing rubber gloves when touching blood or body fluids
- covering open wounds
- cleaning up blood with bleach, and
- throwing away cloths soaked with blood or body fluids.

Ongoing prevention research

Scientists are still researching a number of other ways to prevent HIV infection, through:

- a preventive HIV vaccine (an injection to prevent HIV infection during your lifetime)
- a preventive medicine (a drug to prevent HIV infection during your lifetime), or
- a microbicide (a gel that a person can put into the vagina or anus during sex to reduce HIV transmission through body fluids).

These prevention methods may be especially important for women. In many Southern African cultures and societies, women do not have control over their sexual behaviour. They can't make the necessary changes to their sexual behaviour (eg using a condom during sex) because men control how and when sex happens. So research on prevention methods that women can control (like microbicides) is needed.

Another area of ongoing research is male circumcision and HIV infection. A recent South African study found that circumcision can lower a man's risk of becoming infected with HIV. However, the research findings are still very new and will need further testing.



See Chapter 6B Health Rights for more information on prevention programmes in SADC.

See Chapter 6E Women, Children and Other Vulnerable Groups for more information on laws and policies to protect the rights of women

See Resources and References at the end of this Chapter for useful web sites to find information on HIV/AIDS prevention, and ongoing prevention research.

2.2.5 Can you treat or cure HIV or AIDS?

At the moment, there is no medicine that can completely prevent or cure HIV and AIDS, although research is ongoing.

But there are some very helpful life choices, treatments and support for people living with HIV and AIDS:

- People living with HIV can slow down the progression to AIDS through healthy living. For example, they may choose to reduce stress, eat well, give up smoking and take steps to prevent infections. It is well known that people in poorer, developing countries often develop AIDS more quickly than those in richer countries, because of poor living conditions and poor nutrition.
- People living with HIV can get counselling to help them to deal with the huge emotional impact HIV has on their lives, and the lives of their families.
- Most of the opportunistic infections (OIs) caused by HIV, like Tuberculosis (TB), can be treated.
- People living with HIV can take anti-retroviral therapy to reduce the amount of HIV in the blood. ARVs have shown great success in many people living with HIV, and have led to a huge drop in the number of deaths from AIDS in countries where the treatment is easily available.

At the moment, very few Southern African countries have comprehensive treatment plans to provide ARVs to the general population. At the time of writing the manual, only South Africa, Botswana, Mozambique and Namibia had national policies and/or plans on ARV treatment, although other countries are developing plans.



See Resources and References below, for useful web sites to find more information on HIV/AIDS treatment.

2.3 HIV and AIDS in Southern Africa

2.3.1 What is the HIV and AIDS situation in Southern Africa?

At present, there are about 25 million people living with HIV in Sub-Saharan Africa.

The most recent United Nations Joint Programme on HIV/AIDS (UNAIDS) report shows that in 2004 there were nearly 5 million new HIV infections, and over 3 million deaths from AIDS throughout the world.

Sub-Saharan Africa is home to around 10% of the world's population. Yet almost 3 of the 5 million new HIV infections, and over 2 of the 3 million deaths from AIDS in the world happened in Sub-Saharan Africa.

Although the HIV and AIDS epidemic may be quite different in African countries, there are some common features across Southern Africa:

- Southern African countries show very high HIV prevalence (the number of people living with HIV in the country at a certain time), with Botswana and Swaziland showing HIV prevalence over 35%.
- African women are at greater risk of HIV infection than men, and become infected at an earlier age.



2.3.2 What is the impact of HIV and AIDS on Southern African countries?

HIV and AIDS is having a severe impact on Southern African countries in various ways that slow down development:

- Death from AIDS is having a huge impact on the populations of Southern African countries. For example, research shows that in Swaziland, Zambia and Zimbabwe life expectancy (the number of years the average person can expect to live) will drop to 35 years unless ARV programmes are brought in.
- HIV/AIDS impacts heavily on women and girls. We know that women and young girls are vulnerable to (at high risk of getting) HIV infection. They are also usually responsible for taking care of the sick and the orphaned. Girl children often leave school to care for sick family members. Grandmothers nurse their dying children and then take care of the orphaned grandchildren.
- AIDS increases poverty and hunger in households. When working family members become ill from AIDS this means lost income for a family, as well as extra costs - like medical and funeral costs. When the family members responsible for producing food become ill and die, this means less food for households, and for the country as a whole.
- AIDS has a huge impact on education in Southern Africa. Huge numbers of teachers are dying from AIDS. Children living in households affected by AIDS, and children orphaned by AIDS, often drop out of school. This may be because they need to work for the family, do housework or look after sick family members. It may also be because they become too poor and hungry to go to school.
- The health sector is hard hit by AIDS. There are extra needs for care, with the large numbers of people living with HIV and AIDS. At the same time, health care workers themselves are becoming ill and dying from AIDS.
- Illness and death from HIV/AIDS affects the working population. This increases costs and decreases productivity for business.

2.3.3 How have Southern African countries responded to HIV and AIDS?

Structures and Partnerships

All Southern African countries have developed a national, multi-sectoral (using different sectors) plan to address HIV and AIDS. These plans are based on the idea that all sectors of government and society (like non-governmental organizations (NGOs) as well as private companies) need to join to fight HIV and AIDS. However, most countries still need to work on leadership commitment to HIV and AIDS at various levels, as well as on involving communities in partnerships to fight AIDS.



See Chapter 6A Structures and Partnerships for more information.

Law Review and Reform

Southern African countries have been slow to implement a rights-based response to HIV and AIDS in their laws and policies. Although many countries do refer to the importance of human rights and HIV/AIDS in their policies and plans, there are still some problems:

- Most countries include HIV/AIDS and human rights issues in policies, not laws. Policies are not legally binding and can't always be enforced by a court of law.
- In many countries the only HIV/AIDS laws that have been developed are criminal laws to criminalise acts that lead to HIV infection (such as rape by a person who is living with HIV). Some of these laws are unhelpful in stopping the spread of HIV, and they discriminate against vulnerable groups in society.

- Besides South Africa, most countries have few, if any laws to protect the rights of people living with HIV/AIDS. A number of countries (like Zimbabwe, Namibia and Botswana) have developed rights-based workplace laws and policies. Health policies around HIV testing are also in place in many countries. But for the most part the rights of people living with HIV or AIDS (PLHA) are unprotected, and in many countries there are high levels of stigma and discrimination against PLHA.
- Enforcement mechanisms need strengthening, as PLHA are not easily able to use and enforce their rights in many countries.



See Chapters 6B – 6D for more information on law review and reform around HIV and AIDS in Southern Africa.

Creating a supportive environment for vulnerable groups

SADC countries need to strengthen their response to HIV and AIDS to protect vulnerable groups. The HIV/AIDS and Human Rights International Guidelines includes the following especially vulnerable groups:

- women
- children
- commercial sex workers (CSW)
- men having sex with men
- injecting drug users (IDUs)
- minorities
- migrants
- indigenous peoples
- refugees and internally displaced persons
- people with disabilities, and
- prisoners.

Research shows that:

- Very little has been done to protect and promote women’s rights in relation to HIV and AIDS. For example, few countries have policies on PEP for rape survivors. Many countries still have laws and policies (including customary laws) that promote gender inequality.
- There is a need to protect children’s rights around HIV and AIDS, especially vulnerable children orphaned by AIDS.
- Many countries have criminal laws that target vulnerable groups like men who have sex with men, sex workers and IDUs. This makes HIV/AIDS work with these groups difficult.



See Chapter 6E Women, Children and Other Vulnerable Groups for more information.

See Chapter 8 Advocacy for more information on how you can advocate for change.



2.4 Resources and References



2.4.1 Useful Web Sites

African AIDS Vaccine Programme
www.who.int/vaccine_research/diseases/hiv/aavp/en

AIDS Law Project
www.alp.org.za

Centre for the Study of AIDS
www.csa.za.org

Microbicides Conference 2006
www.microbicides2006.org

South African AIDS Vaccine Initiative
www.saavi.org.za

Southern African HIV and AIDS Dissemination Service
www.safaids.org.zw

Treatment Action Campaign
www.tac.org.za

UNAIDS
www.unaids.org

2.4.2 Useful References

AIDS Law Project and AIDS Legal Network (2003) *AIDS and the Law: A Resource Manual*.
Extracts available from www.alp.org.za

Centre for the Study of AIDS and Centre for Human Rights HIV/AIDS and Human Rights in
South Africa; Botswana; Malawi; Mozambique; Namibia; Swaziland; Zambia; Zimbabwe

Available from www.csa.za.org

UNAIDS 2004 Report on the Global AIDS Epidemic

Available from www.unaids.org/bangkok2004/report.html

UNAIDS/WHO Epidemic Update: December 2005

Available from www.unaids.org/epi/2005/index.asp

Part A: chapter 3

Introduction to Human Rights

Contents

- 3.1 Introduction
- 3.2 What are Human Rights?
 - 3.2.1 What are human rights?
 - 3.2.2 How are human rights different from legal rights?
 - 3.2.3 Are human rights really universal?
 - 3.2.4 Are all human rights the same?
- 3.3 Where do human rights come from?
 - 3.3.1 What is the UDHR?
 - 3.3.2 Why is the UDHR important?
 - 3.3.3 What has changed since the UDHR?
- 3.4 Can human rights be limited?
- 3.5 How can we enforce our human rights?
- 3.6 Resources and References
 - 3.6.1 Useful Web Sites
 - 3.6.2 Useful References
- 3.7 End Notes



Key Points

- Human rights are based on the principle that every person is equal and equally entitled to dignity.
- Human rights are universal, fundamental, inalienable rights, which all human beings are entitled to regardless of their race, gender, age, social class, national origin, occupation, talent, religion, or any other personal factor.
- All people are entitled to human rights simply because they are human.
- Human rights have eight key characteristics: they only apply to humans, they are universal, they are fundamental, they treat all persons as equal, they protect individuals from the power of the state, they are inalienable, they are inter-dependant and inter-related.
- Human rights are different to legal rights.
- Human rights can be grouped into first, second and third generation rights.
- The idea that humans have certain basic rights comes from the world's religions, humanitarian philosophy and the struggle for freedom.
- The Universal Declaration of Human Rights is a milestone in the struggle to protect human rights because it was the point when it became universally accepted that all people are born free and equal.
- Human rights can only be limited in special circumstances.
- There are many different ways of enforcing human rights, including using litigation, complaining to national human rights commissions, using advocacy and lobbying strategies and taking mass action.



3.1 Introduction

This chapter is an introduction to human rights. It explains what human rights are, where they come from and how they can be used.



3.2 What are human rights?

3.2.1 What are human rights?

Human rights are a special kind of rights. They are based on the idea that every person is equal and entitled to be treated with dignity and respect regardless of their race, gender, age, disability or any other characteristic.

There are lots of definitions of human rights including:

- Human rights are generally accepted principles of fairness and justice.
- Human rights are universal (they apply to everyone) moral rights that belong equally to all people simply because they are human beings.
- Human rights are universal, fundamental, inalienable rights, which all human being are entitled to regardless of their race, gender, age, social class, national origin, occupation, talent, religion, or any other personal factor. All individuals are entitled to human rights simply because they are human.

All these definitions have one thing in common – they are based on the idea that all humans have certain basic rights simply because they are human.

Human rights are important as they:

- Allow every human to reach their full potential

- Recognise that every person is entitled to be treated with respect
- Allow different countries and people to live together peacefully
- Improve human well-being, and
- Protect people from the power of the state (and sometimes from the power of other institutions or organisations).

Eight characteristics (features) of human rights

Human rights have many special features that make them different from other rights. The table below sets out the eight key characteristics of human rights and explains what they mean.

Table: What the characteristics of human rights mean

Human	Only human beings are entitled to human rights. Other legal entities (eg, businesses), animals or the environment are not entitled to human rights
Universal	They apply to all persons throughout the world
Fundamental	They are important basic rights and should be given special protection by law
Treat all as equal	Human rights recognise that all humans are born free and equal in dignity and rights
Protect individuals from the state	States can't take away these rights; they must respect, protect and fulfil human rights
Inalienable	They cannot be forfeited (given up), transferred or lost
Inter-related and inter-dependent	Human rights are linked and dependant on each other. The use and enjoyment of a human right is dependent on an individual having all other rights as well
Recognise the principle of humanity	Certain rights are absolute, for example, the rights to life, freedom from torture and freedom from slavery cannot be limited. Other human rights can only be limited in specific circumstances

3.2.2 How are human rights different from legal rights?

Human rights are different to legal rights.

A legal right is a right laid down by the law of a country that can be defended in a country's courts.

Legal rights are not universal – they differ from society to society. They depend on many factors, like the history of the country, the time that they are made and the values of the society. For example, in fundamentalist Islamic countries the law says that adultery is a crime that is punished by death. The laws of most of the Western world say that adultery is no longer a crime.

A moral right is a right based on general principles of fairness and justice. Moral rights reflect what people think are right or wrong. They are not legal rights and they cannot always be enforced by a court of law.

A human right is a universal, moral right that everyone has simply because they are human. But human rights are not always protected by the laws of a country (that is, they are not always legal rights), and so they can't always be enforced by a court of law.

For example, black South Africans all have the universal human right to freedom of movement and freedom of association. But under Apartheid in South Africa black people could only live in and own property in certain places. The law did not protect their human right to freedom of movement and freedom of association.

Table: Human vs Legal Rights

CHARACTERISTICS OF HUMAN RIGHTS	CHARACTERISTICS OF LEGAL RIGHTS
Apply to humans only	Applies to legal entities not just humans
Apply universally	Not universal
Fundamental rights	Only fundamental if given this status by the legal system
Treat all as equal	Do not necessarily treat all as equal
Protects individuals from the state	Do not focus on the relationship between individuals and the state. Also regulate the relationship between individuals
Inalienable	May be waived (given up)
Inter-related and inter-dependent	Not necessarily inter-dependent
Recognise the principle of humanity	May be limited in certain circumstances

3.2.3 Are human rights really universal?

Different cultures throughout the world value different things. Because of this, some legal writers argue against the universality of human rights. They say that there are no human rights that apply to everyone because:

- Our cultures are all so unique (different)
- Human rights are specific to a community.

So, they argue that only the rights that are recognised by that community should be respected.

Case Study: Double standards - Women's property rights violations in Kenya



Customary law on inheritance (the law on who property passes to after a person dies) unfairly discriminates against women in Kenya. This means that women cannot inherit or own property. Human Rights Watch has been lobbying the Kenyan Government to remove these customary law practices. But there is great opposition to this, because these inheritance customs are seen as an important part of the cultural history of Kenya.

- Double standards: Women's property rights violations in Kenya, Human Rights Watch (March 2003)

The United Nations rejects the argument that human rights are not universal. It says that in spite of cultural differences, there is general agreement about certain basic values. These values are the basis of human rights. These values include:

- Respect for human life
- Respect for every individual's dignity
- Tolerance (acceptance) for those with different views
- Limiting the use of force or violence within the society, and
- Imposing penalties (punishment) on those who break society's rules.

“It was never the people who complained of the universality of human rights, nor did the people consider human rights as a Western or Northern imposition. It was often their leaders who did so”

- *Kofi Annan, Secretary General, United Nations*

3.2.4 Are all human rights the same?

Sometimes people divide human rights into three groups, to show that human rights have different qualities:

- First generation
- Second generation and
- Third generation rights.

First Generation Rights protect the civil liberties (freedoms) of individual people. For example, the right to freedom of expression is a first generation right. It prevents the government from passing laws that limit people’s right to speak out.

Second Generation Rights are socio-economic rights. They protect people’s social and economic rights. For example, these rights say that government must make sure that everyone has an adequate (decent) standard of living, and has access to health care services.

Third Generation Rights deal with rights to peace and development. For example, they require the government to put laws in place to protect the environment.

FIRST GENERATION RIGHTS	Civil and political rights - protect the individual from the state	Eg, right to equality and privacy	State must take immediate steps to provide these rights
SECOND GENERATION RIGHTS	Socio-economic rights - make sure that individuals have a right to a decent standard of living	Eg, right to education, right to highest attainable standard of health	State must take ongoing steps within the available resources to provide these rights
THIRD GENERATION RIGHTS	Solidarity rights - can only be achieved by regions / world working together	Eg, right to peace, right to a clean environment	State must take steps to work together (for example through international agreements) to provide these rights

But these rights are still inter-dependent and indivisible. In other words civil and political rights cannot be separated from socio-economic rights. Also, no generation of rights is more important than other. For example civil and political rights and socio-economic rights are equally important.

Case study



In the South African Constitutional Court case of Government of the Republic of South Africa & Others v Grootboom & Others the court said that the rights in the South African Bill of Rights are inter-linked and mutually supporting.

In this case, a number of squatters were waiting for the municipality to give them low cost housing. While they were waiting, they were evicted from the site where they had been living. They had nowhere to go, so they moved temporarily to some sports fields. Here they were forced to shelter as best they could in the cold, wet and windy winter in the Cape. In most cases the squatters were living in poverty and earned less than R 500 (80 US dollars) per month.

The court said, amongst other things, that human rights are inter-dependent. When people lived without socio-economic rights like shelter, food or water, this also infringed their civil and political rights, like their rights to dignity, equality and freedom. So, the courts argued that promoting socio-economic rights allowed people to enjoy their other rights.

The court also said that the different socio-economic rights (like the right to housing, health care, education) cannot be separated from each other. The state must take steps to meet the needs of people living in poverty; these needs include housing, health and nutrition. In other words the court cannot interpret (understand) the right to housing without looking at the state's obligation to help people living in poverty to achieve a decent standard of living through having shelter, enough food to eat and access to health care.

www.concourt.gov.za



3.3 Where do human rights come from?

Human rights are not new. The idea that all humans have certain basic or natural rights has been around since the earliest times. Early ideas of human rights can be found in:

- The world's religions: For example, ideas of equality are found in Christianity and in Hinduism. In the Bible it says "There is no such thing as Jew and Greek, slave and free man, male and female: for you are all one person in Christ Jesus" (Galatians 3; 28). In Hinduism the whole world is seen as one family.
- Humanitarian philosophy (essays and writing on the relationships between individuals and society): For example, the philosophers living in the 17th and 18th centuries argued that everyone was born equal and that they should have certain basic rights like the rights to life, liberty and property.
- The struggle for political freedom: For example, early advocacy (actions aimed at change) for the abolition of slavery were based on the idea that all people were equal and entitled to dignity and respect.

But human rights were only really protected in law after the Second World War, with the Universal Declaration of Human Rights (UDHR).

3.3.1 What is the UDHR?

During World War II, the genocide (extermination) policy of Nazi Germany led to the deaths of 6 million Jews. The world was horrified by these human rights abuses, and was determined that they should not happen again. In 1948, this led to 14 countries of the world getting together to draft a document protecting the human rights of all people – the UDHR. Countries hoped that by doing this, they could stop massive human rights abuses ever happening again.

The UDHR was adopted by the United Nations General Assembly on December 10th 1948. It includes 30 articles (sections) protecting:

- Civil and political rights
- Economic, social and cultural rights, and
- Fundamental freedoms.

It is not legally binding but it aims to be a “common standard of achievement for all peoples and all nations”. So, it aims to encourage countries to achieve these rights for all people. Many people also argue that the UDHR is now part of international customary law and so it is enforceable.

Definition: International Customary law

is made up of principles that are accepted throughout the world as being standards that should be followed by all states. As these principles are so widely accepted they are seen as being part of international customary law which is binding on all states. For example, in the American case of *Filartigo v Pena Irala* (1980) 2d 876 (2d Cir. 1980) the court held that the prohibition against torture in the Universal Declaration of Human Rights is so widely accepted that it is now part of international customary law.



See Chapter 5 Section 2 International Human Rights Instruments for more information.

3.3.2 Why is the UDHR important?

The UDHR is important because:

- It is the first international agreement that said that all people “are born free and equal in dignity and rights”
- It is the first international document that describes the basic human rights of all human beings
- It has been widely accepted, has been translated into 300 languages and is widely available through out the world
- It sets a gold standard for human rights, and can be used by the United Nations to measure the conduct of countries
- It has led to the development of other important international treaties, like the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)
- It has led to the development of important regional treaties, like the African Charter on Human and People’s Rights
- It has served as a model for many national bills of rights.



See Chapter 5 Human Rights Instruments for more information on international, regional and national human rights documents.

3.3.3 What has changed since the adoption of the UDHR?

There have been a number of shifts and changes in the way we think about human rights since the adoption of the UDHR. Most importantly:

- There is a move away from a narrow focus on civil and political rights to a broader focus on civil, political and socio-economic rights.

- There is an increased focus on ensuring that human rights become enforceable legal rights – that is, that they are adopted into every country’s legal system so that they can be enforced in every country.
- In the past, human rights focused on the relationship between individuals and the state. For example, they protected the state from interfering with individual freedom by prohibiting detention (jailing) without trial. Nowadays there is more of a focus on using human rights to protect the rights of individuals against institutions and corporations (businesses).

Case study: Protection from large corporations



In the case of Hazel Tau & Others v Glaxo Smith Kline & Brehringer Ingelheim, brought by the AIDS Law Project in South Africa, a complaint was made to South Africa’s Competition Commission. Tau argued that private drug companies were abusing people’s rights to health care by charging excessive (too high) prices for certain ARVs. This case dealt with the human right to health care and the duties of drug companies to charge affordable prices for life saving medicines.

www.alp.org.za

- Finally, there is an increasing focus on the duty of states to not only protect, but also promote human rights. This means that states have both a duty to:
 - Protect human rights: This is sometimes seen as a negative duty because the state must make sure that they and other citizens do not abuse rights. For example, there is a duty to make sure that people are not unfairly discriminated against.
 - Promote human rights: This is sometimes seen as a positive duty because the state must take steps to realise the rights (make them effective). For example, there is a duty to put measures in place to promote the right to equality and non-discrimination, like by running mass media campaigns.

In Africa, the UDHR has been adapted into the African Charter on Human and People’s Rights (African Charter). The drafters of this Charter have taken the fundamental principles in the UDHR and developed them so that they reflect the history, values and aspirations of Africans.



See Chapter 5 Section 2.4 Important International Human Rights Instruments for more information on the African Charter.



3.4 Can human rights be limited?

Very few rights are absolute. Most rights can be limited in specific situations. International law gives us information about how and when rights can be limited.

- Some rights can never be limited (for example, the right to freedom from torture may never be limited, even in times of war).
- Other rights can be limited, but only in keeping with standards set out by international law. So, this means that if rights are going to be limited then the limitation must comply with international law obligations.

The UDHR says in Article 29(2) that rights may only be limited if the limitation:

- Is created by law
- Is only for the purposes of recognising and respecting the rights and freedoms of others, and
- Meets the just requirements of morality, public order and the general welfare in a democratic society.

The Siracusa Principles (a set of principles for limiting rights, set out in the ICCPR) say that a right may be limited as a last resort. A limitation is only permitted if it is:

- Provided for in law
- To achieve a legitimate objective (an acceptable goal)
- Needed to achieve that objective
- The only alternative (choice), and
- Not be imposed arbitrarily (without good reason).

A case study: Using the Siracusa Principles



Imagine that a country responds to HIV by passing a new law called the Public Health Amendment Act No. 25 of 2006. This law says that any person who is infected with HIV must be removed from the community, and kept in a hospital in a rural area.

Would this be a lawful limitation of a right, in terms of the Siracusa Principles? The table below takes each principle and applies it to the facts of this case study. It shows that the new Act does not meet most of the requirements set out in the Siracusa Principles. The Act is therefore an unlawful limitation of the rights of people living with HIV or AIDS (PLHAs).

EXAMPLE	REQUIREMENT	APPLICATION
Public Health Amendment Act, No. 25 of 2006	The limit must be set out in law	Yes, the limit meets this requirement - it is a law that has been passed to take away a right
Aims to reduce the spread of HIV	The limit must achieve a legitimate purpose (an acceptable goal)	Yes, the limit meets this requirement. Limiting the spread of HIV is an important health goal.
By keeping PLHAs away from others	The limit must be necessary (needed) to achieve the goal	No, the limit doesn't meet this requirement. HIV is not an infectious disease that is spread through social contact. So, isolating (removing) people is not really necessary.
It only uses this strategy	The limit must be the only alternative - that is, the only reasonable choice - to achieve the goal	No, the limit doesn't meet this requirement. There are many public health strategies that could achieve the same goals. For example, promoting condom use.
It only targets PLHAs	The limit must not be arbitrary that is, it should apply to all and not discriminate against certain groups	No, the limit doesn't meet this requirement. It only targets PLHAs. It doesn't target people at risk of infection, and it doesn't target people with other diseases which are more infectious (like SARS)



3.5 How can we enforce our human rights?

There are many different ways of enforcing (using) human rights. Human rights can be enforced through:

- **Litigation:** within a country the courts can be used to enforce human rights. For example, if human rights are protected in the Constitution or national law, people can use the courts to make sure that the government or others respect their human rights.
- **Complaining to national human rights bodies** – the Constitution or national law of a country may set up a human rights commission or other bodies to enforce rights. These bodies may be able to investigate and take action against human rights abuses. For example, the following countries have national human rights commissions that have the power to investigate, hold hearings and make recommendations about human rights abuses:
 - Malawi
 - Namibia
 - South Africa
 - Tanzania, and
 - Zambia.
- **Advocacy and lobbying** – Non-governmental organisations (NGOs) and civil society organisations can enforce human rights through advocacy.
- **Mass action** – NGOs and civil society can enforce human rights through mobilising the community and engaging in mass action.



See Chapter 7 Monitoring and Enforcement and Chapter 8 Advocacy for more information and examples of how human rights can be used in these ways.



3.6 Resources and References



3.6.1 Useful Web Sites

Amnesty International
www.amnesty.org

Centre for Human Rights
www.chr.up.ac.za

Human Rights Watch
www.hrw.org

Lawyers for Human Rights
www.lhr.org.za

Office of the United Nations High Commissioner for Human Rights
www.ohchr.org

3.6.2 Useful References

25 questions and answers on health and human rights
Available from www.Who.int/hhr

African Charter of Human and People's Rights
Available from www.chr.up.ac.za

Government of the Republic of South Africa & Others v Grootboom & Others Available from
www.concourt.gov.za

Heyns C (2004) Human Rights Law in Africa (Volume 1 & 2), Martinus Nijhoff Publishers,
Leiden, Netherlands

International Convention on Civil and Political Rights
Available from www.ohchr.org/english/law/index.htm

International Convention on Economic, Social and Cultural Rights can be Available from www.ohchr.org/english/law/index.htm

Mann JM, Gruskin S, Grodin MA and Annas GJ (eds) (1999) Health and human rights,
Routledge, New York

Siracusa Principles
Available from www1.umn.edu/humanrts/instatee/siracusaprinciples.html

Universal Declaration of Human Rights
Available from www.ohchr.org/english/law/index.htm

Part A: chapter 4

HIV/AIDS

as a Human Rights Issue

Contents

- 4.1 Introduction
- 4.2 The link between health and human rights
- 4.3 HIV/AIDS as a Human Rights Issue
 - 4.3.1 Lack of human rights increases vulnerability to HIV/AIDS
 - 4.3.2 Discrimination and limits to the rights of PLHAs increase vulnerability
 - 4.3.3 HIV/AIDS policies, programmes and practices that deny rights increase vulnerability
- 4.4 A Human Rights-Based Response to HIV
 - 4.4.1 What is a human rights-based response to HIV?
 - 4.4.2 What are the criticisms of a human rights-based response to HIV?
- 4.5 Resources and References
 - 4.5.1 Useful Web Sites
 - 4.5.2 Useful References
- 4.6 End Notes



Key Points

- There is a critical link between health and human rights
- Failing to protect human rights affects a person's health. For example, if a person's right to clean air is not being met they may become sick from pollution.
- Poor health can also affect human rights. For example, a sick person can't use or enjoy their other rights (like the right to education, the right to vote or even the right to dignity) if they are too ill to even get out of bed.
- Lastly, health policies and programmes can affect basic human rights. For example health policies that exclude gay men abuse their right to equality and their right to health care services.
- We see this link very clearly in the case of HIV/AIDS and human rights. For this reason, HIV and AIDS is often described as a human rights issue.
- This is because:
 - People whose rights we fail to protect seem to be the ones who are most vulnerable to HIV infection.
 - PLHAs and people affected by HIV and AIDS lose many of their basic human rights through stigma and discrimination, and because of the impact HIV has on their day to day lives.
 - Some HIV/AIDS health policies and programmes use methods (like force) that abuse people's rights.
- A human rights response uses human rights as a framework for health policies and programmes, and considers the human rights implications of any action.



4.1 Introduction

This chapter looks at HIV as a human rights issue. It describes the link between health and human rights and shows how:

- A lack of human rights, and human rights abuses, makes people vulnerable to (at risk of) HIV infection.
- People living with HIV or AIDS (PLHAs) and people affected by HIV and AIDS face stigma and discrimination – this in turn affects their ability to enjoy their other rights, and makes it harder for them to cope with the disease. The impact of illness on their lives also affects their ability to use their other basic rights.
- HIV and AIDS health policies and programmes can discriminate and deny rights to people infected with, or affected by HIV and AIDS and other vulnerable groups.

The chapter ends by showing the importance of a human rights response to HIV.



4.2 The link between health and human rights

In the past, health and human rights were seen as separate issues.

Public health was seen as a community or collective (group) approach to health care that:

- Aimed to improve the collective well-being of the community
- Even if this sometimes meant abusing the rights of individuals.

Human rights was seen as an individual approach to well-being that:

- Aimed to improve the well-being of the individual

- By protecting the individual from the community and from the government.

Now, we understand more about the link between health and human rights, and the link between individual and community rights and freedoms. For example, we know that a person may take care of his or her own health (like by eating well) but may still get sick from a polluted environment.

The new approach to health recognises this link between health and human rights. It aims to balance community and individual needs, and stresses the common links and goals between health and human rights:

- A lack of, or an abuse of human rights can affect a person's health
- Health problems can lead to discrimination and further human rights abuses, or to people struggling to use or benefit from human rights
- The way that governments respond to health problems through health policies and programmes can affect other human rights.

Table: The Link between Health and Human Rights

PRINCIPLE	RIGHT	HEALTH ISSUE	OUTCOME
A lack of human rights can affect health	The right to a safe and healthy environment	People denied right to safe environment where no access to clean water	Results in sickness such as cholera, diarrhoea
Health problems can lead to discrimination	The right to equality and non-discrimination	A person has a history of mental illness	Results in lead to discrimination in the workplace, and denial of right to fair labour practices
Health problems can make it difficult to use other rights	The right to a basic education	A child is bedridden with a chronic long-term illness	Results in inability to use right to basic education as the child is too ill to go to school
Health policies and programmes can deny rights to certain groups of people	The right to get health; the right to make your own decisions about health care	Health policy prohibits (stops) women from having an abortion	Results in denial of right to health care and freedom to make health care choices; may result in further risk to health when women go outside of health care system for help



4.3 HIV/AIDS as a human rights issue

HIV and AIDS is often spoken of as a 'human rights issue'. In this section we look at the link between HIV/AIDS and human rights (in the past and in present times), using the principles outlined above. We show how HIV/AIDS is a human rights issue because in many cases:

- The people who are most vulnerable to HIV and AIDS around the world are also those whose human rights are limited
- Once people become infected with, or affected by HIV and AIDS, they faced stigma, discrimination and denial of human rights
- HIV/AIDS health policies and programmes often discriminate against PLHAs and vulnerable groups in society.

4.3.1 Lack of human rights increases vulnerability to HIV/AIDS

Human rights protect the dignity of all people. When human rights are not protected, people can't achieve their full potential. In a public health context when people's rights are not protected, it becomes difficult for them to make choices that will lead to a healthy lifestyle. This can make people more vulnerable to HIV.

For example, when HIV first began to spread around the world, it was seen that vulnerable and marginalised groups (people living 'outside' of society), such as:

- Gay men
- Injecting drug users (IDU)
- Refugees
- Prisoners and
- Sex workers

were more at risk of HIV infection. Even today, HIV infection is highest in less developed countries of the world, where people experience human rights abuses like poverty, war and displacement (removal) from families, homes and communities.



See Chapter 2 section 3 HIV and AIDS in Southern Africa for more information.

Women are often more vulnerable to HIV infection because of their limited access to human rights. For example:

- a woman's unequal position in society may mean that she doesn't have access to resources like education and health information
- Poor women may be forced to rely on men for survival, and
- Some women have inequalities in their relationships due to cultural practices.

All of these factors can limit their power to make decisions about their sexual health and to protect themselves against HIV.

Table: Human Rights and Vulnerability

Vulnerable group	Factors that cause vulnerability	Link between vulnerability and HIV infection
People living in poverty	Limited access to with HIV health care information	More likely to get infected access as don't have and services to information and means of prevention
	May be required to do migrant or sex work	More likely to get infected through work circumstances
Widows	Cultural practices that require "cleansing" of widow through sex with a male relative or marriage to a male relative	More likely to be exposed to unprotected sex
	Cultural practices that prevent widow from inheriting family land or property	More dependent on male relatives for support which can limit sexual choices; increased poverty which increases vulnerability (see above)

4.3.2 Discrimination and limits to the rights of PLHAs increase vulnerability

The first AIDS cases were found in gay men in the USA. This led to a belief that AIDS was a disease that only affected gay people. It caused public hysteria which led to further prejudice and discrimination against gay men. Some newspapers even described AIDS as a 'gay plague'. This was the start of many of the myths and misunderstandings about HIV.

Stigma and discrimination against PLHAs continues to this day, and takes many forms. As we have seen, vulnerable and marginalised groups in society are most affected by HIV and AIDS. Their position in society also means they may be more likely to be unable to use good health care services. Discrimination and stigma make this problem worse.

Table: PLHA face discrimination

RIGHT	DISCRIMINATION AGAINST PLHA	STORY	OUTCOME
Right to equality	Unfair discrimination within the community	In South Africa, Gugu Dlamini disclosed her HIV status to her community as part of an "Openness and Acceptance" campaign. She was later murdered for bringing shame on her community.	Being discriminated against lead to Gugu's death.
Right to equality	Unfair discrimination in the workplace	In Namibia, Haindongo Nanditume applied to the Namibian Defence Force (NDF). He was forced to test for HIV, and when he tested positive the NDF refused him a post.	He was unable to get work. This could have led to more stress. It would also mean less money for things like medicine, good food, shelter etc.

- Stigma and discrimination against PLHAs makes PLHAs feel responsible and 'to blame' for the epidemic and for being infected with HIV.
- Stigma and discrimination discourages PLHAs from getting the services they need (for example, discrimination in the health care setting discourages PLHAs from getting necessary treatment and care).
- Stigma and discrimination can take much needed income and benefits away from PLHAs (for example, discrimination in the workplace can mean a loss of income for PLHAs and their families).

Case Study: Multiple Impacts of Stigma & Discrimination



An HIV positive woman who survived the genocide in Rwanda tells her story:

"My first husband was killed during the genocide. I had a three month old infant, but I was still raped by militia ... Since I learned that I was infected with HIV, my [second] husband said he would not live with me. He divorced me and left me with three children, so now I don't know

how to pay for food, rent, and school"

ARASA Train the Trainers Workshop (November 2005)



See Chapter 6E section 3 General Anti-Discrimination Laws for more information on protecting PLHA from stigma and discrimination.

Even without stigma and discrimination, HIV and AIDS can impact on whether a person can use their other rights. HIV and AIDS bring illness, poverty and death to families and communities, and this affects basic rights.

Table: HIV impacts on other rights

RIGHT	IMPACT OF HIV	OUTCOME
Every child has the right to a basic education	Need to care for sick family members	Children (especially girl children) stay home from school to care for sick
Every person has a right to a decent standard of living	Increased medical and funeral costs; loss of income due to illness	Increased poverty in household and drop in standard of living
Every child has the right to family care	Death of parents and guardians	Children lose family care and are forced to find other caregivers

4.3.3 HIV/AIDS policies, programmes and practices that deny rights increase vulnerability

HIV/AIDS policies and programmes can abuse human rights by the:

- Way they are designed
- Problems they prioritise (put first)
- Way they are delivered, and
- Methods they use.

For example, in the beginning many government responses to HIV/AIDS were coercive (forceful). Governments introduced programmes to limit the rights of vulnerable groups because they were believed to be the “carriers” of HIV. For example, laws were passed which made sex between men illegal, as it was believed that stopping “gay sex” would stop the epidemic. These programmes were based on the view that:

- “High risk” groups such as gay men, sex workers and PLHAs put the community at risk, and so
- It was reasonable to take harsh steps against people who were possible “carriers” of HIV.

Many countries also passed laws that allowed health departments to:

- Test people thought to have HIV without their consent, and
- Quarantine (remove) them.

These laws were used to discriminate against marginalised groups in society. They led to prejudice and discrimination around HIV and often violated human rights. They did not help to prevent the spread of HIV.

(See table overleaf)



Table: Policies that limit rights increase vulnerability

RIGHT	HEALTH POLICY or PROGRAMME	LIMIT TO RIGHT	OUTCOME
Right to get health care services	HIV/AIDS programme designed around household survey of health needs	Information on health needs of those living outside household (prisoners, mentally disabled, street children) not collected etc	No programme developed for these groups mean no services, increased risk to HIV/AIDS for marginalised groups
Right to get health care services	HIV/AIDS prevention programmes prioritised	PLHAs needing treatment and care programmes not helped	PLHAs face illness and death
Right to get health care services	HIV/AIDS prevention programmes for youth available weekday mornings	Youth attending school find it difficult to use health care services	Youth at school are at greater risk of HIV infection
Right to privacy	HIV/AIDS policy requires health care workers to record a person's HIV status, notify authorities.	Right to privacy is limited. Also limits to right to equality, if information is used to discriminate	PLHAs don't like to use health care services. This puts them at greater risk of illness and death



4.4 A human rights based response to HIV

4.4.1 What is a human rights based response to HIV?

Gradually health experts began to understand that human rights abuses were not an effective response to HIV and AIDS because they did not prevent the spread of HIV and AIDS. For example, HIV policies and programmes that use force (like compulsory HIV testing) infringe rights and also discourage people from getting prevention and care services.

So, if anything, these programmes made the problem worse by making:

- People more vulnerable to HIV infection, and
- Coping with HIV and AIDS so much harder for those affected.

Table: Responses to HIV and AIDS

HIV/AIDS STRATEGY	HIV/AIDS POLICY	RIGHT	OUTCOME
Test all people	Compulsory HIV testing	Right to freedom to make health decisions	People live in fear, go 'underground'
Remove PLHAs to prevent new infections	Quarantine those testing positive	Right to freedom of movement; association	PLHAs in 'window period' spread HIV
Encourage people to know their HIV status	Promote voluntary counselling and testing (VCT)	Right to freedom to make health choices	All people encouraged to come forward for HIV testing and to use services.
Provide services for PLHAs	Provide health care for PLHAs	Right to get health care services	

As a result, the World Health Organisation (WHO) and Joint United Nations Programme on HIV/AIDS (UNAIDS) began to encourage governments to adopt a human rights-based

response to HIV/AIDS. A human rights based response to HIV is now regarded as the gold standard of all responses to HIV/AIDS.

Human rights based responses to public health problems recognise that:

- The goals of human rights and public health are the same – to promote human well-being
- The main causes of disease are social problems like poverty and gender inequality
- There is a need to deal with these underlying problems, in order to promote human development and well being.

A health and human rights response:

- Uses human rights as a framework for health development. This approach asks us to look at the real human rights problems behind HIV infection. For example, the reason that women are more vulnerable to HIV than men is mainly due to the fact that they are unequal to men. A human rights approach means the government must address women's right to equality in all their policies and programmes.
- Addresses the human rights implications of any health policy or programme. This means that policy makers must consider the effect HIV/AIDS policies and programmes will have on human rights. If a policy of routine HIV testing is adopted, policy makers must consider how the policy will affect the right to privacy and the right to liberty (freedom) and security of the person.
- Makes human rights a key element of the design, implementation, monitoring and evaluation of health-related policies and programmes. This requires countries to think carefully about how policies and programmes are developed to make sure they protect and promote the health care rights of all people. In addition, people affected by policies and programmes should be involved in the design, implementation and monitoring and evaluation of these programmes. Thus an HIV/AIDS policy should be developed, implemented and evaluated in consultation with PLHA.

Example: Rights-based response

A rights based HIV/AIDS response for orphans and vulnerable children bases all policies and programmes on the rights of children affected by HIV/AIDS, as set out in the Convention on the Rights of the Child (CRC). This means that all policies and programmes will:

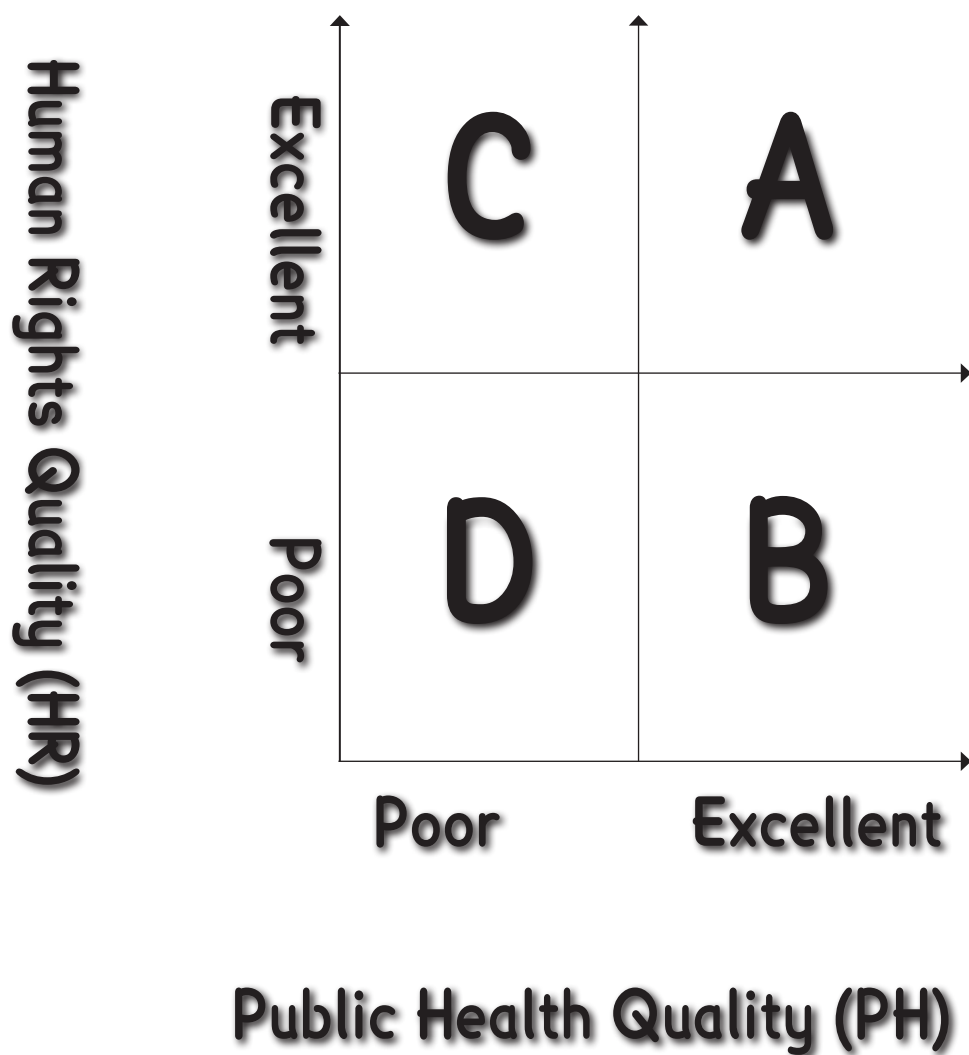
- Consider the best interests of children
- Ensure children's survival and development needs are met
- Protect children against unfair discrimination
- Provide for child participation and take into account the views of children

The Public Health Human Rights Impact Assessment Instrument (developed by Harvard University School of Public Health) helps to assess whether a policy meets both public health and human rights needs. It asks important questions like:

- Is there a law or policy in place allowing the programme?
- Is it an effective public health strategy?
- Is there evidence showing it's an effective strategy?
- Are there structures and resources to implement the programme?
- Are any rights affected by the programme?
- Will any rights have to be limited?

The Instrument can help to measure the Human Rights Quality and the Public Health Quality of a policy or programme. An ideal policy that meets both public health and human rights goals should be in Block A.

Figure 1



4.4.2 What are the criticisms of human rights-based responses to HIV?

Recently some people have started to criticise the human rights based approach to HIV/AIDS. Many of the criticisms argue that prevention and treatment programmes have failed to stop the spread of the epidemic. They argue that:

- We need to go back to a more public health centred approach to HIV, even if it means limiting the rights of some individuals to protect the entire community. Those in favour recommend strategies like routine testing so that more people know their HIV status.



See Chapter 6B section 2 HIV Testing for more information on routine testing

- We need to stop protecting human rights around HIV and AIDS, as it makes AIDS into a 'special' case. This increases the stigma around HIV and AIDS instead of making it a disease like any other. Those in favour of this approach argue that HIV responses should not give special protection to HIV and AIDS, but should treat the disease like flu or chicken pox.
- We need to stop including human rights concerns into health policies, as they are stopping people from getting services. For example, some people argue that getting informed consent to test for HIV is too long and complicated, and discourages people. They argue that we should limit rights to allow as many people as possible to be tested and put onto HIV treatment programmes.

Most of the criticisms are based on concerns about the low numbers of people coming forward for HIV testing and treatment. But this is not necessarily a good reason to say that we should drop the human rights-based approach. There may be a number of reasons why people are not testing and getting treated. We need to understand why HIV policies and programmes are failing before we blame human rights.



4.5 Resources and References



4.5.1 Useful Web Sites

AIDS Law Project
www.alp.org.za

Human Rights Watch
www.hrw.org

Office of the High Commissioner for Human Rights
www.ohchr.org

World Health Organisation
www.Who.int/hhr

4.5.2 Useful References

25 questions and answers on health and human rights
Available from www.who.int/hhr

Albertyn C and Heywood M Human rights and HIV/AIDS in the Commonwealth Available from www.alp.org.za

Kirby M (2004) "The never-ending paradoxes of HIV/AIDS and human rights" African Human Rights Law Journal Vol. 4 No. 2 : 163 – 180

Mann JM, Gruskin S, Grodin MA and Annas GJ (eds) (1999) Health and human rights, Routledge, New York.

4. 6 End Notes



Part A: chapter 5

Human Rights

Instruments

Contents

- 5.1 Introduction
- 5.2 International Human Rights Instruments
 - 5.2.1 What are international human rights instruments?
 - 5.2.2 How are they made?
 - 5.2.3 How are they monitored and enforced?
 - 5.2.4 Important international and regional human rights instruments
 - 5.2.5 Important international and regional HIV/AIDS and human rights instruments
- 5.3 National Human Rights Instruments
 - 5.3.1 Introduction
 - 5.3.2 What is a national Bill of Rights?
 - 5.3.3 How is it made?
 - 5.3.4 How is it monitored and enforced?
 - 5.3.5 National Bills of Rights and rights protected
- 5.4 Which Human Rights are important for people infected with and affected by HIV/AIDS?
- 5.5 Using human rights as a tool to respond to HIV and AIDS
- 5.6 Resources and References
 - 5.6.1 Useful Web Sites
 - 5.6.2 Useful References
- 5.7 End Notes



Key Points

- There are many different kinds of human rights instruments. Important human rights instruments to consider for a rights-based response to HIV and AIDS include:
 - international and regional agreements on human rights
 - international and regional agreements on HIV/AIDS and human rights, and
 - national agreements on human rights.
- International human rights agreements are agreements made by countries around the world on human rights issues.
- Where the agreements are made between countries of a region in the world (like Africa), we call them regional human rights agreements.
- Countries sign and ratify agreements when they agree with the purpose of the documents, and want to be bound by the principles.
- International and regional agreements are monitored and enforced by bodies set up to receive country reports as well as complaints.
- Although enforcement of these agreements is argued to be weak, they can also be used to pressure governments for change. They are also useful guidelines for national courts of law to consider when interpreting their own rights.
- International human rights instruments that protect the rights of all people (like the UDHR) and the rights of vulnerable groups (like the CRC) are useful for HIV/AIDS.
- There are also a number of important international and regional agreements specifically dealing with HIV/AIDS. The most important of these are the Abuja Declaration and the Maseru Declaration.
- National human rights agreements are often formed as a Bill of Rights, within a country's constitution.
- A national Bill of Rights is enforced by national bodies like courts of law, and human rights commissions.
- Many SADC countries have a Bill of Rights that protects fundamental rights in their constitutions.
- The human rights in international, regional and national human rights instruments are important for HIV and AIDS because they:
 - list human rights important to protect people from HIV infection
 - list human rights important to provide for the needs of PLHAs, and
 - list human rights to protect PLHAs from stigma and discrimination.
- For this reason, human rights instruments are an important tool for a rights-based response to HIV and AIDS.

5.1 Introduction

HIV/AIDS is a human rights issue. Countries need to make sure that their response to the epidemic is based on human rights principles.

This chapter looks at human rights instruments (documents). It discusses what they are and how they can be used to develop and promote a rights-based response to HIV and AIDS.

We look at different kinds of human rights agreements (like conventions, treaties, declarations and codes), including:

- International and regional human rights documents (such as the Universal Declaration of Human Rights (UDHR))
- International and regional human rights documents dealing with HIV and AIDS (such as the Southern African Development Community (SADC) Code on HIV/AIDS and Employment), and
- National human rights documents (such as a national Bill of Rights in a country's constitution).



See Chapter 4 HIV/AIDS as a Human Rights issue for more information on the link between HIV and human rights.

5.2 International Human Rights Instruments

5.2.1 What are international human rights instruments?

International human rights instruments are:

- Agreements
- Made by states or international organisations (such as the International Labour Organisation (ILO))
- To deal with human rights issues
- That bind (hold responsible in law) a number of countries throughout the world.

International human rights agreements can also be signed by countries in a region of the world (like Africa). These are known as regional human rights instruments.

There are many different names given to international human rights agreements:

Table: International Human Rights Agreements

NAME	DESCRIPTION
A Convention	Is an oral or written legally binding agreement between states. The term convention is often used inter-changeably with treaty. A convention is normally negotiated by an international organisation. An example of a convention is the Convention on the Rights of the Child (CRC) which was adopted by the General Assembly on the United Nations.
A Treaty	Is a written legally binding international agreement between states or international organisations. A treaty is governed (ruled) by the principles of international law. An example of a treaty is the International Convention on Civil and Political Rights (ICCPR).
A Declaration	Is not a legally binding document, but it does have strong moral force. An example of a declaration is the UDHR made by the General Assembly of the United Nations.
A Charter	Is a legally binding agreement between states. Charter has a similar meaning to treaty and convention, but the term is usually kept for very formal or important agreements. An example of a charter is the African Charter on Human and People's Rights (African Charter).
A Code or Guideline	Is a document setting out principles or standards on a particular issue to guide states. An example is the SADC Code on HIV/AIDS and Employment.

Human rights agreements also deal with different subjects. For example, some human rights instruments deal with:

- Human rights generally (for example, the UDHR)
- Specific types of human rights (for example, the International Covenant on Economic, Social and Cultural Rights (ICESCR) deals with socio-economic rights)
- Special human rights issues (for example, the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) deals with gender inequality.
- Vulnerable groups (for example, the African Charter on the Rights and Welfare of the Child (ACRWC) focuses on rights and duties towards African children).

Countries must:

- Respect
- Protect
- Promote, and
- Fulfil

the rights set out in the human rights instruments that they have signed.

Table: Respect, protect, promote & fulfil right in ICCPR

OBLIGATION	MEANING eg of a person's right to equality and non-discrimination
RESPECT	This means that states must not allow these human rights to be taken away from people. So, for example, the state must make sure that all people are given the right to equality and to non-discrimination
PROTECT	States must make and enforce laws to protect these human rights. So, for example, the State can make sure that employment laws also ensure that all employees have the right to equality and to non-discrimination, and that they enforce this right against employers who break the law.
PROMOTE	States must take positive steps to ensure that the rights in the international agreement become known and become meaningful. Fo example, the state can hold awareness campaigns on Human Rights Day to promote the right to equality and to non-discrimination.
FUFIL	States must allocate resources to bodies and programmes for human rights. For example, the state can create, and give funds to a Human Rights Commission that helps people to protect their right to equality and to non-discrimination.

5.2.2 How are they made?

Heads of countries from around the world come together to negotiate (discuss and debate) a human rights agreement on a particular subject.

The agreement is drafted and redrafted until the parties reach agreement on the core (main) principles. To encourage countries to agree, international law allows countries to agree to the convention as a whole, even if they disagree with some parts. Countries then make reservations to (agree not to hold to) certain parts of the agreement, as long as these are not core principles of the agreement.

After the agreement is drafted there is a long process that is followed before it becomes binding on each state. The steps that must be followed are:

Signing

Every state that agrees with the purpose of the document can sign the agreement. Signing does not make the agreement legally binding on that country

Ratifying

After signing the agreement, a state that wants to be bound in law to the agreement must get permission to do so. The process for getting this permission is usually set out in each country's laws. Once a country gets this permission, the country signs a copy of the agreement and sends it back to the body in charge of the agreement. This is called ratifying the agreement. This means that the country agrees to become a party to the agreement. All the rights and duties in the agreement become binding on that country.



See section 5.2.3 How are they monitored and enforced? below, for more information on bodies that monitor international human rights instruments.

Incorporation

Every state that ratifies the agreement must take steps to make the agreement part of their law. Countries must follow the procedure set out in their constitution or in other laws to make the agreement part of their legal system.

Example

CEDAW aims to get rid of all discrimination against women, and to give all women opportunities to develop and advance.

Namibia ratified CEDAW in 1995. The following laws are examples of the steps the Namibian government has taken to meet its obligations under CEDAW:

- Married Persons Equality Act No 1 of 1996. One of the important aspects of this Act is that it ends the marital power that men had within marriage. Marital power was power given to men to make important decisions in marriage.
- Combating of Rape Act No 8 of 2000. The Act protects women who bring a complaint of rape by setting out rules about when evidence on her character (how she behaves) can be used in a trial
- Combating of Domestic Violence Act No 4 of 2003. The Act gives women the right to apply for protection orders to protect women from partners who abuse them.
- Maintenance Act No 9 of 2003. An important part of this Act is that it places an obligation on both parents to contribute towards the needs of their children

5.2.3 How are they monitored and enforced?

Most international human rights instruments provide for monitoring:

- Some agreements create a monitoring body. For example the ICCPR creates the Human Rights Committee, a body to monitor how states are implementing (carrying out) the Convention.
- Some agreements say that countries must send regular reports to these bodies to show whether they have been following the agreement. For example, the CRC says that states must submit reports to the Committee on the Rights of the Child every five years. Many monitoring committees also accept shadow reports - these are reports written by civil society (like non-governmental organisations (NGOs)) that may give a different view of how the government is protecting rights in that country.

Example: ICESCR Monitoring Body

The ICESCR sets up a monitoring body called the Committee on Economic, Social and Cultural Rights. Countries that have ratified this covenant send regular reports for the committee. The Committee then makes comments on the reports, and recommendations for improvement.

- Some agreements allow complaints from individuals, countries or NGOs to be sent to the monitoring body. For example, the Committee on the Elimination of Discrimination against Women can receive complaints from individual women who have been discriminated against. These complaints can be used by the monitoring body to find out if the agreement is being implemented (followed) in the country.

Example: NGO complaints to monitoring body

The African Commission which has been established in terms of the Charter on Human and People's Rights has given the Botswana Centre for Human Rights observer status. This means the Centre can assist individuals in bringing complaints of human rights abuses to the Commission.

International human rights instruments also provide for enforcement. However, international law should only be used to enforce a human rights complaint if there have been efforts to solve the problem using local law first. Some ways to enforce international human rights instruments are:

- **Reports:** When a monitoring body gets a report or a complaint from a country, it can send comments and recommendations back to that country. It can also make recommendations

to all countries based on trends that it finds in various country reports. This helps to enforce the agreement because the country will need to explain what it will do to implement the comments and recommendations.

- **Inter-State Complaints:** Many international agreements allow states to lay complaints against other states regarding human rights. For example, the African Charter creates an African Commission that can accept complaints regarding the behaviour of other governments. The Commission tries to resolve (fix) these complaints in a friendly and peaceful way.
- **Individual Complaints:** Some international agreements allow complaints from individuals against governments to be brought to the monitoring body. In this case the monitoring body can make a recommendation to the government on the steps it should take to rectify (fix) the problem identified in the complaint.

Case study: Individual women approach Human Rights Committee



In *Aumeeruddy-Cziffra & Others v Mauritius (2000) AHRLR 3 (HRC) (1981)* individual women complained to the Human Rights Committee. They said that the government of Mauritius had breached the rights of families in the ICCPR, by passing a law that gave residence rights to the foreign wives of Mauritian men, but not to foreign husbands of Mauritian women. The Committee investigated the matter and recommended that the Mauritian government change its law so that it did not discriminate against Mauritian women.

- **Courts:** Cases can be brought before a court (like the International Court of Justice) against other states if they have breached international agreements. However states have to agree to the Court deciding the matter, and the Court's finding will only bind them if they have agreed to this.

Some argue that enforcement of international human rights instruments by international (and regional) bodies is weak. It is true that there are very few ways in which countries can be forced to obey the decisions of monitoring bodies. But the instruments can be useful and enforceable in other ways:

- Breaches of international and regional human rights law, and comments or recommendations by monitoring bodies, can be used to advocate (push) for change in the country.
- Monitoring bodies can refer human rights issues to international organisations like the General Assembly of the United Nations. This body can ask the country to give an explanation, and can recommend that certain steps be taken against that country, such as economic sanctions (recommending that countries stop trading with those countries).
- NGOs and other organisations can advocate for issues to be placed on the agenda of forums (such as SADC or the African Union, in Southern Africa). These forums can discuss and make recommendations or resolutions which the member states should follow.
- National courts place importance on international and regional human rights law when deciding human rights cases in the country. Courts can also use the principles in declarations or in codes to help them interpret rights in their own constitutions or laws.

Examples: International law used by national courts

In *State v D Taye Wolde Semayai and Others* (29 Hamle 1988 (EC) Federal High Court PC No. 4780/88) the Ethiopian Federal High Court held that the right of an accused person to speak to their lawyer was a right in international law and the Ethiopian Constitution. They ordered the prison authorities to stop their practice of not allowing accused persons to meet with their lawyers.

In the *S v Makwanyane* case (1995 (3) SA 391 (CC) at para. 35) the South African Constitutional Court said that international law can be used to help a court interpret (understand) a right in the Constitution. This case dealt with whether the death penalty was constitutional. The court looked at how various treaties and convention such as the ICCPR had described and interpreted this right.



See Chapter 7 Monitoring and Enforcement for more information on monitoring and enforcement of human rights.

See Chapter 8 Advocacy for more information on advocacy for human rights

5.2.4 Important international and regional Human Rights Instruments

There are many international human rights agreements that set out human rights of all. These rights also apply to PLHAs and people affected by HIV and AIDS.

Table: Useful international human rights instruments

INSTRUMENT	PURPOSE	USEFUL FOR PLHAS	ENFORCEMENT
Universal Declaration of Human Rights (UDHR) 1948	Describes the basic on human rights of all people	These basic human rights also apply to PLHAs. They may not be denied these rights on the basis of their HIV status Protection of all people's basic human rights also makes people less vulnerable to (at risk of) HIV infection.	Although it is a declaration (and so not legally enforceable) many people argue that it has become part of international customary law and can be enforced that way. The General Assembly can also raise problems related to the declaration. This puts political pressure on states.
International Covenant on Civil & Political Rights (ICCPR) 1966	Describes the civil and political rights of individuals	PLHAs are often denied civil and political rights (like the right to equality, privacy and freedom of movement on the basis of HIV status). The ICCPR protects them from this kind of discrimination.	The Human Rights Committee monitors and enforces this Convention.

INSTRUMENT	PURPOSE	USEFUL FOR PLHAS	ENFORCEMENT
International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966	Describes the social, economic and cultural rights of individuals	Where people are denied their socio-economic rights (like the right to education) they are more vulnerable to HIV infection. Also, if PLHAs are denied these rights (like the right to health) it becomes even harder for them to cope with HIV and AIDS.	The Committee on Economic, Social and Cultural Rights monitors and enforces this Convention.
African Charter on Human and People's Rights 1986	Adapts the UDHR to an African context, reflecting the history, values and aspirations of Africans	Southern Africa is especially hard hit by HIV and AIDS. The Charter helps to make sure that all people have basic human rights. Protection of rights makes them less vulnerable to HIV infection, and protects PLHAs in Africa from discrimination.	The African Commission monitors and enforces this Charter.
Convention on the Rights of the Child (CRC) 1989	Describes the rights of all children	Children infected and affected by HIV and AIDS are a vulnerable group and are also protected by the rights in the CRC. Protection of their rights helps to lessen vulnerability to HIV and AIDS, as well as protect from discrimination and denial of rights.	The Committee on Rights of the Child monitors and enforces this Convention.
African Charter on the Rights and Welfare of the Child (ACRWC) 1999	Describes the rights and duties of children as well as the duties of others towards children	As set out above, children in Africa are especially vulnerable to HIV and AIDS. This Charter protects the rights of all African children, including those infected with and affected by HIV/AIDS.	A Committee of Experts monitors and enforces this Charter.
Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) 1979	Describes the rights of all women to be protected from unfair discrimination	Women are a vulnerable group. Protecting their rights helps to make them less vulnerable to HIV and AIDS, as well as to protect those infected with and affected by HIV and AIDS.	Committee on the Elimination of Discrimination against Women monitors and enforces this Convention.



See Chapter 4 HIV/AIDS as a Human Rights Issue for more information on the link between HIV/AIDS and human rights. See section 5.5 below for more information on important rights for PLHAs.

Table: Conventions and Treaties ratified by SADC

COUNTRY	ICCPR	ICESCR	CEDAW	CRC	ACHPR	ACRWC
BOTSWANA	08.01.00	-	12.09.96	13.04.95	17.07.86	-
MALAWI	22.03.94	22.03.94	11.04.87	01.02.91	17.11.89	16.09.99
MOZAMBIQUE	21.10.93	-	16.05.97	26.05.94	22.02.89	15.07.98
NAMIBIA	28.02.95	28.02.95	23.12.95	30.10.90	03.07.92	13.07.99*
SOUTH AFRICA	10.03.99	03.10.94*	14.01.96	16.07.95	09.07.96	07.01.00
SWAZILAND	-	-	-	06.10.95	15.09.95	29.06.92*
ZAMBIA	10.07.84	10.07.84	21.07.85	05.01.92	19.01.84	28.02.92*
ZIMBABWE	13.08.91	13.08.91	12.06.91	11.01.90	30.05.86	19.01.95

* SIGNED ONLY – NOT RATIFIED

5.2.5 Important international and regional HIV/AIDS and Human Rights Instruments

There are a number of international human rights instruments that deal specifically with HIV and AIDS. Although they are not legally binding, they encourage states to prioritise HIV/AIDS and promote a human rights based response towards HIV and AIDS.

HIV/AIDS and Human Rights International Guidelines

The International Guidelines were published in 1996 by the Office of the High Commissioner for Human Rights (OHCHR) and the Joint United Nations Programme on HIV/AIDS (UNAIDS). These Guidelines have had the most influence in promoting a rights-based response to HIV/AIDS that:

- Prevents the spread of HIV
- Reduces the impact of HIV and AIDS, and
- Promotes human rights and fundamental freedoms.

The guidelines say that a human rights response to HIV should be based on three main strategies:

- Developing structures and partnerships to co-ordinate a national response to HIV and AIDS at all levels and in all sectors
- Reviewing and reforming laws and promoting legal support services to promote a rights-based public health response, and
- Creating a supportive environment, especially for women, children and other vulnerable groups.

(See table overleaf)

Table: Other important HIV/AIDS agreements

NAME	CONTENT	AVAILABLE FROM
SADC Code on HIV/AIDS and Employment	This Code aims to prohibit HIV/AIDS discrimination in the workplace. It describes the rights and responsibilities of all parties - employers, trade unions and employees.	www.alp.org.za www.sadc.org
UN Commission on Human Rights Resolution 1999/49	This resolution says that responses to HIV/AIDS must be based on respect for human rights, Governments must also promote access to treatment.	www.ohchr.org
UNGASS Declaration of Commitment on HIV/AIDS and Human Rights	This Declaration by the General Assembly of the United Nations describes the HIV/AIDS and human rights goals for UN member states to achieve	www.ohchr.org www.un.org
Abuja Declaration	This Declaration of the African Union (AU) commits African nations to taking priority actions to fight HIV/AIDS, TB and other related infections. It prioritises human rights, and recognises that "stigma, silence, denial and discrimination against people living with HIV/AIDS increases the impact of the epidemic"	www.un.org
Grand Baie Declaration	This Declaration of the AU recognises the urgency of dealing with human rights issues in Africa. It encourages African governments to take steps to promote and protect human rights.	www.un.org
29 th Ordinary Session of the African Commission Resolution on HIV/AIDS	This Resolution deals with the impact of HIV and AIDS on the human rights of Africans. It sets out key human rights issues around HIV/AIDS, and makes recommendations. It prioritises the need to address human rights abuses against women and children	www.achpr.org
SADC Maseru Declaration	This Declaration by SADC Heads of State outlines multi-sectoral strategies (involving all sectors) to respond to HIV/AIDS	www.arasa/info



5.3 National Human Rights Instruments

5.3.1 Introduction

Countries include human rights in their national laws and policies in different ways. Some countries adopt:

- Special human rights charters
- A chapter on human rights in their Constitution, usually called a Bill of Rights
- Human rights laws.

In this section, we look at a Bill of Rights in more detail.

5.3.2 What is a national Bill of Rights?

Every country has a set of fundamental (important) laws or rules by which to govern the country. These rules are often collected together into one document called the Constitution.

Some Constitutions include a Bill of Rights. A Bill of Rights is a document that sets out and protects the human rights of every person in the country. The rights in a Bill of Rights belong to all people, and must be respected by all, including government, the courts and all the people within the country.

A Bill of Rights in a Constitution is one of the best ways of protecting human rights at a national level as it often entrenches (protects) these rights so that governments and other organisations cannot take them away.

Case Study: Malawian Bill of Rights



Malawi has ratified a number of international human rights agreements. The Malawian Constitution has a Bill of Rights that includes the fundamental human rights set out in these international instruments. Rights from the ICESCR such as the rights to physical and mental health, the right to work and the right to education are in the Bill of Rights. Rights set out in the ICCPR such as the right to life, equality, liberty and security of the person are also provided for in the Malawian Constitution.

5.3.3 How is it made?

A Bill of Rights is made by a law-making body within each country. Countries take the rights and freedoms set out in international instruments (eg the UDHR) and include these rights and freedoms into their national laws, through a Bill of Rights.

5.3.4 How is it monitored and enforced?

A Bill of Rights can be monitored and enforced through different bodies in a country:

- The Constitution sometimes sets up bodies (like a Human Rights Commission or an ombudsperson) to monitor human rights. These bodies can often receive and investigate human rights complaints, and make findings.
- Government and NGOs can monitor (check on) human rights and advocate for changes if governments are not respecting rights.
- Courts can enforce human rights. People and organisations (like NGOs) can bring complaints about human rights abuses to the courts. The courts hear the complaint, and make a decision.



See Chapter 7 Monitoring and Enforcement for more information.
See Chapter 8 Advocacy for more information.

5.3.5 National Bills of Rights and rights protected

Many countries in the SADC region have a constitution within which human rights are protected. Even a country like Swaziland which is a sovereignty (it is ruled by a king), is in the process of discussing and developing a constitution.

Most countries do not have laws that specially mention HIV and AIDS. But there are general rights in Bills of Rights that are still important for PLHA. These rights are often broad enough to protect PLHA.

Overleaf is a table of some human rights that are important to PLHA that are protected in the constitutions of some SADC countries. It lists the section or article in the constitution that protects the particular right.

Table: Important Rights for PLHA

	Life	Equality	Dignity	Health	Liberty	Privacy	Fdm Of Movement	Work	Educa-tion
Angola	22	18	20	47	25	-	-	46	49
Botswana	4	15	-	-	5	9	14	-	-
Lesotho	5	18	-	-	6	11	7	29	28
S.Africa	11	9	10	27	12	14	21	23	29
Namibia	6	10	8	-	-	-	-	-	20
Malawi	16	20	-	-	18	21	39	29	25
Mauritius	4	16	-	-	5	9	15	-	-
Mozambique	70	66	-	94	96	-	-	88	-
Zambia	12	23	-	-	13	17	22	-	-
Zimbabwe	12	23	-	-	13	-	22	-	-



5.4 Which human rights are important for people infected with or affected by HIV/AIDS?

All the rights in international, regional or national instruments relate to all members of society (or all members of the vulnerable group they deal with). Although many of these agreements don't mention HIV and AIDS, they are important because:

- They are general human rights that also protect PLHAs from stigma, discrimination and human rights abuses
- The vulnerable groups they protect are also those especially vulnerable to HIV and AIDS.

Table: Important rights for HIV and AIDS:

HUMAN RIGHT	WHAT DOES IT MEANS FOR PLHAs	SOUTHERN AFRICAN EXAMPLE
Right to equality, right to dignity	A person can't be discriminated against, or treated disrespectfully, because of HIV or AIDS.	In Hoffmann v SAA the Constitutional Court in South Africa said that refusing to employ a PLHA person was unfair discrimination. It also infringed the dignity of PLHAs
Right to liberty and security of the person	A person has the right to control, and to make their own decisions about what happens to them. For example, no person can be forced to have medical treatment or to have an HIV test.	In the Zimbabwean HIV/AIDS and Human Rights Charter it says that effective pre and post test counselling must be provided with all HIV testing
Right to privacy	PLHAs have the right to keep their medical information (including HIV status) confidential.	In Mozambique in Article 5 of Law 5/2002 it says that medical staff must keep a person's HIV status confidential. If a medical practitioner breaches this obligation they can be fined.
Right to freedom of movement	PLHAs should be free to move around the country and to travel outside of it without limits based on their HIV status. They can't be forced to live separately from others because of HIV/AIDS.	Many African countries do not allow soldiers living with HIV to come into their countries as peace-keeping forces. This infringes the right to freedom of movement.
Right to health	PLHAs have the same right to access health care services as all other people. They may not be denied health care services, and should be given services that address their needs.	In a South African constitutional court case, the court examined the right to access health care services for PLHAs. It said that government must provide prevention of mother-to-child transmission (PMTCT) services for all pregnant women.
Right to work	PLHAs have the same right to work as all people. They may not be denied this right simply on the basis of HIV or AIDS.	The SADC Code on HIV/AIDS and Employment is based on non-discrimination against HIV/AIDS. It says that pre-employment HIV testing is discriminatory
Right to go to school	A child can't be denied the right to education on the basis of HIV or AIDS.	The Namibian National Policy on HIV/AIDS for the Education Sector provides for non-discrimination on the basis of HIV and AIDS.



5.5 Using human rights to respond to HIV and AIDS?

We can use human rights instruments to:

- See what human rights are important in our country, and our region.
- Find out which human rights are important in the national response to HIV and AIDS. That is:
 - See what human rights are important to make people less vulnerable to HIV and AIDS
 - identify which human rights are important to help people cope with HIV and AIDS
 - Find out what human rights are important for especially vulnerable groups in our society.
- Encourage countries to respect, protect, promote and fulfil these rights.

See section 2 above What are international human rights instruments? for more information on respecting, protecting, promoting and fulfilling rights.

The UNAIDS HIV/AIDS and Human Rights International Guidelines are particularly important as they have provided an excellent framework for a human rights-based response to HIV/AIDS. They:

- Give guidance on human rights important for the response to HIV and AIDS
- Provide a guideline or framework that's useful for measuring a country's response
- Help create international pressure to commit to HIV/AIDS and human rights

Checklist: A Health and Human Rights Response



WHO sets out ideal requirements for a health and human rights response. Although it's not HIV specific, it has good general principles to check if HIV/AIDS programmes are:

- Protecting human dignity
- Paying special attention to vulnerable groups
- Making services accessible to all, especially vulnerable groups
- Recognising and addressing gender issues
- Ensuring equality and freedom from discrimination
- Ensuring the full participation of those affected in developing policies and programmes
- Making the right to health the aim of policies and programmes
- Setting out the government's obligation to respect, protect and fulfil human rights
- Only limiting rights as a last resort
- Identifying ways of monitoring the implementation of human rights
- Being transparent and accountable
- Including safeguards to protect vulnerable groups such as, children, women, indigenous people, minorities (small groups in the society), refugees, people with disabilities, intravenous drug users, commercial sex workers and prisoners.



5.6 Resources and References



5.6.1 Useful Web Sites

African Union

www.africa-union.org

Centre for Human Rights, University of Pretoria

www.up.ac.za/chr

Centre for Study of AIDS, University of Pretoria

www.csa.za.org

UNAIDS

www.unaids.org

United Nations High Commissioner for Human Rights

www.unhchr.ch

5.6.2 Useful References

Centre for the Study of AIDS and Centre for Human Rights HIV/AIDS and Human Rights in Botswana; Malawi; Mozambique; Namibia; South Africa; Swaziland; Zambia; Zimbabwe

Available from www.csa.za.org

Centre for the Study of AIDS Whose Right? AIDS Review 2002

Available from www.csa.za.org

Heyns C, Strauss W and Padilla D (2003) "A schematic comparison of regional human rights systems" African Human Rights Journal, Vol 3, No. 1, p 76 - 87

UNAIDS Handbook for Legislators on HIV/AIDS, Law and Human Rights, Available from www.unaids.org

UNAIDS The UNAIDS Guide to the United Nations Human Rights Machinery

Available from www.unaids.org



5.7 End Notes

Part A: chapter 6

The HIV/AIDS and Human Rights

International Guidelines

- 6A Structures and Partnership
- 6B Health Rights
- 6C HIV/ AIDS at work
- 6D Legal Support Services
- 6E Women, Children & Other Vulnerable Groups



The United Nations (UN) is a world peace keeping organisation. It sets rules and standards for all countries to follow, to try to get co-operation between governments of the world. One aim of the UN is to stop human rights abuses. There are a number of treaties and conventions signed by governments about human rights.



See Chapter 3 Introduction to Human Rights for more information on human rights.

See Chapter 5 section 2 International Human Rights Instruments for more information.

The most important UN guidelines relating to HIV/AIDS and human rights are called the HIV/AIDS and Human Rights International Guidelines. They are made up of 12 guidelines for state action. The purpose of the international guidelines on HIV/AIDS and human rights is to use international human rights standards as practical guiding principles for countries to deal with HIV/AIDS issues. The International Guidelines are not legally binding but they are persuasive at an international level.

The guidelines suggest that the best practice approach to deal with HIV/AIDS as a human right issue is by:

- Improving governments' capacity to co-ordinate multi-sectoral (involving all sectors) structures and partnerships to respond to HIV and AIDS, including across ministries, with the private sector, non-governmental organisations (NGOs), and communities
- Reforming laws and building legal support services to promote human rights in the context of HIV and AIDS, and
- Creating a supportive environment, especially for vulnerable groups like women and children.

This chapter examines important guidelines set out in the International Guidelines. It looks at:

- Key issues raised by the each guideline
- The ideal implementation of the guidelines, and
- How these guidelines have been implemented in Southern African countries.

Part A: chapter 6A

Structures

and Partnership

Contents

6A.1 Introduction

6A.1.1 What do Guidelines 1 and 2 mean?

6A.1.2 Why the need for structures and partnerships?

6A.2 A National Framework

6A.2.1 Key Issues

6A.2.2 Guidelines on Implementation

6A.2.3 Examples from Southern Africa

6A.3 Community Partnerships

6A.3.1 Key Issues

6A.3.2 Guidelines on Implementation

6A.3.3 Examples from Southern Africa

6A.4 Resources and References

6A.4.1 Useful Web Sites

6A.4.2 Useful References

6A.5 End Notes



Key Points

- Guidelines 1 and 2 of the HIV/AIDS and Human Rights International Guidelines deal with important structures and partnerships in the national response to HIV.
- The guidelines give states direction on how to make sure that all levels of government, as well as important organisations and people outside of government are involved in HIV and AIDS.
- Southern African countries have good examples of bodies (like Inter-Ministerial and Inter-Departmental Committees) to co-ordinate the HIV/AIDS response across all branches of government.
- There are also a number of ministries across Southern Africa that have included HIV/AIDS and human rights issues into their plans, policies and laws, especially around HIV/AIDS at work.
- There are some good examples of community involvement in decision-making in Southern Africa. But this is an area where much improvement can still be made.
- Also, most Southern African governments support community programmes around HIV/AIDS (such as those providing home-based care and care for orphaned and vulnerable children). But there is not enough government support to NGOs and CBOs doing specific work around law, ethics, human rights and HIV/AIDS.

UNAIDS Guideline 1: National Framework

States should establish an effective national framework for their responses to HIV/AIDS which ensures a

- co-ordinated
- participatory
- transparent and
- accountable approach

integrating HIV/AIDS policy and programme responsibilities, across all branches of Government.

UNAIDS Guideline 2: Supporting Community Partnerships

States should ensure, through political and financial support, that

- community consultation occurs in all phases of HIV/AIDS policy design, programme implementation and evaluation, and that
- community organisations are enabled to carry out their activities, including in the fields of ethics, law and human rights, effectively.



6A.1 Introduction

6A.1.1 What do Guidelines 1 and 2 mean?

Guidelines 1 and 2 direct states on who to work with to manage HIV and AIDS well. They tell states how to:

- Create useful structures (for example, committees) that cut across all branches of government and that involve people in a meaningful way
- Make meaningful partnerships so that they involve communities outside of government in dealing with HIV and AIDS.

6A.1.2 Why the need for effective structures and partnerships?

A rights-based response to HIV/AIDS must include and build the capacity of key actors from all branches of government as well as from all sectors of society, especially communities themselves. This helps to:

- ensure that all levels of society are able to take responsibility for HIV and AIDS
- encourage committed leaders to be developed at all levels
- allow the experiences and knowledge of affected communities and vulnerable groups to be heard, and
- help communities to contribute to the national response to HIV and AIDS.



6A.2 A National Framework

6A.2.1 Key Issues

The Guidelines recognise that most countries do have structures to manage HIV and AIDS. However, these structures are often not effective because of:

- a lack of co-ordination between government bodies, and at lower levels of government
- a lack of attention to human rights, and
- politicisation of AIDS (making AIDS into a political issue) that divides people rather than encouraging partnerships.

6A.2.2 Guidelines on Implementation

The International Guidelines suggest ways to create effective structures and partnerships at all levels of government to promote a rights-based response to HIV and AIDS:

- Form committees between government ministries or departments (like an Inter-Ministerial Committee), to encourage a co-ordinated response to HIV and AIDS at the highest level
- Ensure that HIV/AIDS and human rights issues are included in all government programmes, like:
 - Education
 - Health
 - Law and Justice
 - Science and Research
 - Employment and the Public Service
 - Welfare, Social Security and Housing
 - Immigration and Refugees
 - Indigenous populations
 - Foreign Affairs and Development
 - Treasury and Finance
 - Defence
- Clearly define roles and responsibilities within government.
- Form committees represented by people from all political viewpoints.
- Form or strengthen advisory bodies to counsel governments on legal and ethical issues. Representatives on advisory bodies should include people living with HIV or AIDS (PLHAs), non-governmental organisations (NGOs) and AIDS Service Organisations (ASOs)
- Include HIV/AIDS and human rights issues in existing forums (discussion groups), such as regular gatherings of ministers of health, justice and social welfare, and

- Work with and get assistance from Joint United Nations Programme on HIV/AIDS (UNAIDS) and other important international organisations.

6A.2.3 Examples from Southern Africa

Most Southern African countries have made good progress towards creating a national framework that promotes a co-ordinated response to HIV and AIDS across government. For example:

- There are examples of committees that co-ordinate responses to HIV and AIDS across government in all Southern African countries. In some cases, these national bodies also include representatives from sectors outside government, to help form meaningful working partnerships.



See section 6A.3 below for more information on community partnerships.

Example: IMC in Mozambique

The Inter-Ministerial AIDS Commission was created in Mozambique in 1998. The objective of this Commission was to involve ministries in the fight against AIDS in their particular area of influence. It included representatives from the following government ministries:

- Ministry of Health
- Ministry of Culture, Youth and Sport
- Ministry of Planning and Finance
- Ministry of Justice
- Ministry for the Co-ordination of Social Affairs
- Ministry of Education
- Ministry of Labour
- Ministry for the Co-ordination of Environmental Affairs.

- Likewise, there are a number of examples that show how government ministries and departments in Southern Africa have taken on roles and responsibilities towards HIV and AIDS. In a number of countries, various branches of government besides Health have developed HIV/AIDS plans, policies and laws that include HIV/AIDS and human rights.

Example: HIV and Human Rights included across government

The Botswanan HIV/AIDS policy says that all government Ministries must get involved in HIV and AIDS at policy, as well as operational level. Each Ministry has defined roles. All Ministries are allocated funds to carry out HIV/AIDS activities through the National AIDS Co-ordinating Agency.

A good example of action across government around HIV/AIDS and human rights is in the area of workplace HIV/AIDS policies:

- The Botswana Ministry of Public Service has developed A Public Service Code of Conduct on HIV/AIDS in the public service
- Individual ministries (such as the Botswana Police Service, the Botswana Defence Force, the Botswana Power Corporation, Botswana Prisons, the University of Botswana, the Botswana College of Distance and Open Learning and the Department of Sports and Recreation) have developed workplace HIV/AIDS policies based on the public service code.



See Chapters 6B – 6E for more examples of HIV/AIDS related laws and policies developed by various ministries (such as Labour, Justice, Welfare) in Southern Africa.

- Although less so, there are also examples of Inter-Parliamentary Committees on HIV and AIDS, advisory bodies on HIV/AIDS, as well as the inclusion of HIV and AIDS issues into existing forums.



6A.3 Community Partnerships

6A.3.1 Key Issues

Guidelines 1 and 2 remind us of how important it is to create partners in the fight against HIV and AIDS, not only across government but with those outside of government, such as the private sector and communities. Guideline 2 focuses on how to create real working partnerships with communities.

Communities need to be included and supported by government in the response to HIV and AIDS for a number of reasons:

- The community has vital knowledge and experience to contribute to the national response to HIV/AIDS
- Communities are well placed to reach vulnerable groups within the community. They are either themselves affected by human rights problems, or they deal with people who are
- Communities need support (eg funds, capacity building) to help them to carry out their important work effectively.

6A.3.2 Guidelines on implementation

The International Guidelines recommend that countries consider:

- developing ways to allow for community discussions and input, for example through meetings with community representatives like
 - people living with HIV/AIDS (PLHAs)
 - Community based organisations (CBOs)
 - Non-governmental organisations (NGOs), including human rights NGOs
 - AIDS Service Organisations (ASOs)
 - representatives of vulnerable groups
- supporting community organisations (through funds and capacity building) to do HIV/AIDS work
- allowing communities to give regular reports, or to make written submissions, to official bodies
- holding joint workshops with communities on HIV/AIDS policy, planning and monitoring.

Definition: GIPA Principle

UNAIDS promotes the Greater Involvement of People Living with or Affected by HIV/AIDS Principle (GIPA Principle)

The GIPA Principle recommends that PLHAs should:

- help in shaping the response to HIV/AIDS
- be involved in a wide variety of activities at all levels of the fight against AIDS such as:
 - participating in major decision making and policy making activities
 - appearing in posters
 - giving personal testimony
 - supporting and counselling others
 - tackling stigma and discrimination issues

6A.3.3 Examples from Southern Africa

There are some very useful examples of community involvement in HIV/AIDS policy, planning, monitoring and evaluation in Southern Africa. However, it is generally accepted that this is an area for ongoing improvement in all countries.

Examples: Community involvement in AIDS bodies

In South Africa, the South African National AIDS Council (SANAC) is an advisory body that was set up to guide the implementation of the HIV/AIDS Strategic Plan 2000 - 2005. SANAC is represented by people from various sectors such as high-level ministers, representatives from government departments, as well as community representatives. Communities represented on SANAC include disabled people, women, PLHAs, labour, youth, faith based organisations (FBOs), NGOs as well as human rights organisations.

The Ugandan AIDS commission developed a Multi-Sectoral Approach to the Control of AIDS (MACA), including representation from parish leaders, village leaders, PLHA networks, NGOs and CBOs, cultural bodies, and the private sector.

There are also some useful examples of how Southern African countries have funded and supported community organisations to carry out HIV and AIDS work. Many of these examples are seen in the area of home-based care, as well as care for orphaned and vulnerable children. There are far less examples of government support to organisations doing law, ethics and human rights work.

Example: Support to FBOs

In Kenya, government and mission hospitals work together on the Diocese of Kitui HIV/AIDS Programme. The programme is carried out by mission hospitals at Mutumo and Muthale, and government hospitals at Kitui and Mwingi. It aims to reduce the number of people infected with HIV and help people infected and affected by AIDS to live positively, through

- encouraging behaviour change
- counselling, and
- care.



See Chapter 8 Advocacy for more information on how to advocate for change.



6A.4 Resources and References



6A.4.1 Useful Web Sites

Centre for Human Rights, University of Pretoria
www.chr.up.ac.za

Institute for a Democratic Alternative to South Africa
www.idasa.org

UNAIDS
www.unaids.org

6A.4.2 Useful References

IDASA / UNDP (2003) AIDS and Governance in Southern Africa: Emerging Theories and Perspectives
Available from www.idasa.org

Strode A (2005) A South African Examination Of The Institutional Arrangements Established To Address Challenges Of HIV/AIDS
Available from www.idasa.org

UNAIDS Best Practice Collection (1997) Community Mobilisation and AIDS: A Technical Update
Available from www.unaids.org

UNAIDS Best Practice Collection (2000) Summary Booklet of Best Practices: The International Partnership Against AIDS in Africa
Available from www.unaids.org

UNAIDS Best Practice Collection Handbook for Legislators on HIV/AIDS, Law and Human Rights
Available from www.unaids.org

UNAIDS HIV/AIDS and Human Rights International Guidelines
Available from www.unaids.org

Zungu-Dirwayi N, Shisana O, Udjo e, Mosala T, Seager J (2004) An Audit of HIV/AIDS Policies in Botswana, Lesotho, Mozambique, South Africa, Swaziland and Zimbabwe
Available in Africa from Blue Weaver Marketing and Distribution

Tel: 27-21-701 4477 Fax: 27-21-701 7302 Email: booksales@hsrc.ac.za

Part A: chapter 6B

Health Rights

Contents

- 6B.1 Introduction
 - 6B.1.1 What do Guidelines 3 and 6 mean?
 - 6B.1.2 Why the need for rights-based health laws and policies?
- 6B.2 HIV Testing
- 6B.3 Confidentiality
- 6B.4 HIV/AIDS Information
- 6B.5 HIV/AIDS Prevention
- 6B.6 HIV/AIDS Treatment, Care and Support
- 6B.7 HIV/AIDS Research
- 6B.8 Resources and References
 - 6B.8.1 Useful Web Sites
 - 6B.8.2 Useful References
- 6B.9 End Notes



Key Points

- Guideline 3 says that countries should review and reform public health laws to make sure that they do not infringe human rights.
- Public health laws should provide for:
 - Voluntary HIV Testing only with informed consent, and pre- and post-test counselling
 - Confidentiality regarding HIV status, and the limited cases when disclosure to a sexual partner is allowed
 - Non-coercive (non-forceful) laws and policies
- Many Southern African countries have laws and policies regarding VCT and confidentiality. But key human rights concerns are recent pressure on governments to use public health approaches that may abuse human rights (like routine HIV testing and partner notification without consent).
- Guideline 6 says that countries should provide a range of information, prevention and care programmes to respond to HIV/AIDS.
- Laws and policies should make sure that information, prevention and treatment programmes:
 - Aim to meet the needs of all
 - Target especially vulnerable groups
 - Provide safe and effective goods, services and information
 - Aim to increase access to treatment.
- Southern African countries have developed good policy frameworks to guide the implementation of prevention, treatment and care programmes. However, key problems include:
 - Implementation remains limited, under-resourced and fragmented
 - Misinformation and censored information programmes fail to provide all necessary information
 - Prevention programmes still fail to target the most vulnerable and marginalised groups
 - There is still a need for greater access to ARVs.
- Southern African countries have bodies to regulate research. They also have general laws that protect the rights of research participants
- However, research laws need strengthening. Research participants also need greater awareness of their rights, and how to enforce them.

UNAIDS Guideline 3: Public Health Legislation

States should review and reform public health legislation to ensure:

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

UNAIDS Guideline 6: Regulation of Goods, Services and Information

States should enact legislation to provide for the regulation of HIV-related goods, services and information, so as to ensure

- widespread availability of quality prevention measures and services
- adequate HIV prevention and care information and
- safe and effective medication at an affordable price.

State should take measures necessary to ensure for all persons, on a sustained and equal basis the availability and accessibility of

- quality goods, services and information for HIV/AIDS prevention, treatment, care and support including:
 - antiretroviral and other safe and effective medicines
 - diagnostic and related technologies for prevention, curative, palliative care of HIV/AIDS and related opportunistic infections and conditions.

States should take such measures at both the domestic and international levels, with particular attention to vulnerable individuals and populations.



6B.1 Introduction

This section looks at what laws and policies states can put in place to protect the health rights of people living with HIV/AIDS (PLHAs) and people at risk of HIV and AIDS, such as:

- Laws and policies to protect the rights of PLHAs to informed consent and confidentiality
- Laws and policies to prevent coercive (forceful) public health measures
- Laws to promote infection control
- Laws, policies and codes of ethics to promote human rights amongst health care workers
- Access to HIV/AIDS information for all
- Access to HIV prevention for all
- Laws and policies to promote access to treatment, care and support
- Laws and ethical guidelines protecting research participants (people who take part in research).

6B.1.1 What do Guidelines 3 and 6 mean?

Guidelines 3 and 6 set out ways for states to review their laws and policies, to make sure that they:

- have good public health laws that protect the rights of PLHAs and people at risk of HIV infection, while still promoting health, and
- have good health policies and programmes that provide health care goods (such as

condoms), services (such as counselling) and information (such as HIV education) to meet the needs of all people.

Public health laws around HIV and AIDS should aim to address the public health needs around HIV and AIDS, such as:

- Reducing (lessening) people's risk of becoming infected with HIV, and
- Giving treatment, care and support to those people who are infected with and affected by HIV and AIDS.

But, laws and policies should do so in a way that still protects the rights of all people. For example, these laws and policies should not use coercive (forceful) measures that would be applied to other highly infectious diseases that are not spread in the same way as HIV.

Example: Coercive public health laws

Coercive public health legislation still exists in many countries, even though it is not always used. For example, in Swaziland the Public Health Act 5/1969 allows for compulsory testing, quarantining (keeping away from others) and treatment of people with notifiable diseases (diseases that have to be notified). AIDS is listed as a notifiable disease.



See Chapter 4 section 3.3 HIV/AIDS policies, programmes and practices that deny rights increase vulnerability for more information on the link between HIV and human rights.

6B.1.2 Why the need for rights-based health laws and policies?

Human rights and public health share a common purpose - to promote and protect the rights and well-being of individuals. Health laws on HIV/AIDS should reflect a rights-based approach, to make sure that:

- people have access to proper prevention, treatment and care services for HIV/AIDS to protect and promote their right to health, and
- PLHAs are not denied their rights by discriminatory or coercive (forceful) health laws.



6B.2 HIV Testing

6B.2.1 Key Issues

Southern African countries still report high levels of stigma and discrimination against PLHAs and people affected by HIV and AIDS. For this reason, HIV testing is seen as a serious matter. An HIV positive test result may impact on a person's life in a number of ways. So, the Joint United Nations Programme on HIV/AIDS (UNAIDS) International Guidelines recommend HIV testing laws that protect the rights of PLHAs. They believe that rights-based strategies will encourage people to test for HIV.

These strategies are now being challenged, with many Southern African countries calling for 'routine testing'. This has become a key human rights issue in Southern Africa in recent years.



See section 6B.2.3 below for more information.

6B.2.2 Guidelines on Implementation

The UNAIDS International Guidelines recommend that countries review and reform (change) public health laws and policies to make sure that HIV testing is:

- Voluntary (by free choice)

- With informed consent (agreement), and
- With pre-test and post-test counselling

The right to informed consent is the right to be treated only if you give voluntary agreement to the treatment. It applies to all medical treatment – not only HIV testing. The key elements of informed consent are:

- Information
- Understanding, and
- (Voluntary) agreement, based on the information and understanding.

6B.2.3 Examples from Southern Africa

Some (but not all) countries in Southern Africa have developed laws or policies to provide for voluntary counselling and testing (VCT) for an HIV test. These laws or policies provide that:

- HIV testing may only be undertaken on the basis of voluntary and informed consent. This means:
 - o a person must give express permission to a test
 - o after they have been given enough information to make the decision.
- Every person has the right to pre-test counselling before an HIV test, as well as post-test counselling after an HIV test.

	Botswana	Lesotho	Mozambique	SA	Swaziland	Zimbabwe
VCT policy	X			X	X	X
VCT training curricula	X		X	X	X	X
HIV testing manual	X		X	X	X	

Source: Adapted from Zungu-Dirwaji, Shisana, Udjo, Mosala and Seager (2004) *An audit of HIV/AIDS policies in Botswana, Lesotho, Mozambique, South Africa, Swaziland and Zimbabwe*, Human Sciences Research Council.

Key problems in Southern African countries are:

- Many of these countries have begun to change their VCT practices by introducing routine HIV testing. But these changes are not yet written into HIV testing policies. This makes it unclear how routine HIV testing is implemented:
 - Is a routine offer of HIV testing made, or
 - Are patients simply routinely (as a matter of course) tested for HIV?

Examples: Routine testing

Botswana: No formal policy on routine HIV testing, but a programme of routinely offering HIV testing at health services is in place.

Zambia: HIV testing policy is based on informed consent, and pre- and post-test counselling

Malawi: HIV testing policy based on principles of VCT but all health services offer opt-out HIV testing services. This means everyone is routinely tested for HIV unless they ask not to be tested.

Zimbabwe: Policy focuses on VCT. The only patients who are routinely tested for HIV are pregnant women.

South Africa: HIV testing policy says patients must give informed consent for HIV testing and it must be accompanied by pre and post test counselling. No policy on routine testing except with pregnant women.

ARASA Regional Meeting on Routine Testing, Gaborone, Botswana, 13 March 2006

- Many countries have introduced laws to force a rapist to test for HIV. These laws usually also give rapists who knew they were HIV positive at the time of the rape longer jail sentences. Although many people argue that these laws help women who have been raped, they do also bring problems:
 - o An HIV test can tell us if a rapist is HIV positive. But it can't tell us if a rapist knew this at the time of the rape
 - o These laws have also led to calls for other strong laws against PLHAs. For example, some countries are thinking about criminal laws to charge PLHAs with a crime if they don't disclose their HIV status to their partners. These laws can be dangerous as they are often used to punish vulnerable or marginalised groups like sex workers.
- In many countries, children can't consent on their own to medical treatment. They need their parents to consent for them. This acts as a barrier to them accessing HIV prevention and care.

Examples: Age of consent to treatment

The list of ages of consent to medical treatment / HIV testing below shows the differences in laws allowing children to consent in Southern African countries:

Botswana: 21

South Africa: 14 (changing to 12)

Malawi: 13 (for HIV testing)

Zimbabwe: 18



See Chapter 6E Women, Children and Other Vulnerable Groups for more information on women's rights (including information on rape laws) and children's rights.

See Chapter 8 Advocacy for more information on how to advocate for change.



6B.3 Confidentiality

The right to confidentiality is the right to keep medical information private.

Most Southern African countries have laws or ethical (moral) guidelines that say all health care workers including doctors, dentists, nurses, welfare workers and counsellors, must keep patient information confidential. This means that they are not allowed to give out any patient information (for example, a patient's HIV status) to any other person.

Case Study: McGeary Case on Confidentiality



In the South African case of *Jansen van Vuuren and Another v Kruger (1993)* (the 'McGeary case') Dr Kruger told other doctors that Mr McGeary had tested positive for HIV. The court said that Mr McGeary did have a right to confidentiality. His right to confidentiality is set out in the medical law, as well as in the guidelines of the Health Professions Council of South Africa (HSPCA). The court decided that

Dr Kruger had not respected Mr McGeary's right to confidentiality. So Dr Kruger had to pay Mr McGeary for breaching (breaking) his right to confidentiality

6B.3.1 Key Issues

This right is often especially important for PLHAs and people affected by HIV and AIDS because:

- people face stigma and discrimination due to HIV and AIDS
- people are denied basic human rights when they are known to be HIV positive

- people may feel afraid to use health care services if they fear that their HIV status will become known – this does not help them to manage their health.

Important issues include:

- Putting laws and policies in place to protect the right to confidentiality
- Developing policies on partner notification (when to tell a partner about a person’s HIV status) that are based on respect for the rights of both PLHAs and their sexual partners, and
- Creating an environment that encourages voluntary disclosure (telling) of HIV status.

6B.3.2 Guidelines on Implementation

The UNAIDS International Guidelines recommend that countries review and reform public health laws and policies so that they:

- Make sure that there are strict rules about confidentiality in the health care setting, including when HIV and AIDS cases are reported
- Give health care workers the power to tell sexual partners that a patient is living with HIV only in very specific and limited circumstances.

6B.3.3 Examples from Southern Africa

A number of Southern African countries have confidentiality and disclosure policies, as shown in the table below:

Table: Confidentiality and Disclosure Policies

Countries	Namibia	Malawi	Botswana	Mozambique	Swaziland
Laws & Policy					
Legal right to confidentiality	X	No information	X	X	X
Policy giving right to confidentiality	X	X	X		X
Policy on partner notification	Voluntary disclosure	Proposed law to force disclosure	Policy of shared confidentiality with those who need to know		Policy of disclosure to sexual partners after patient is counselled.

Example: Namibian HIV/AIDS Confidentiality, Notification, Reporting and Surveillance Policy

The Policy says that health care workers are ethically and legally required to keep patient information confidential. They may only reveal information with the consent of the patient. If health care workers breach these rules they may be disciplined. Patients are encouraged to voluntarily disclose their HIV status to their partners. If they don’t then the health care worker must:

- Counsel them on the need to tell their partner
- Find out if their partner is at “real risk” of HIV infection
- Tell them in advance that if they do not tell their partner the health care worker will be under an obligation to disclose this information
- Provide follow up and support after the disclosure.

A key problem is the recent call for laws to force disclosure in some Southern African countries. Because very few people choose to disclose their HIV status, many countries want new laws to force disclosure:

- In Malawi their National HIV Policy says that the Public Health Act should be changed to force people with a sexually transmitted infection (STI) to tell their sexual partners of their infection.
- In Botswana, the principle of shared confidentiality has been put into the Medical and Dental Act. It says that doctors and dentists must inform each other about the HIV status of a patient.

These law reforms

- have not been shown to be an effective way to stop the spread of HIV
- often put a greater burden on women than men (women are more likely to know their HIV status when they fall pregnant and become tested)
- can result in domestic violence, eviction (being thrown out) from the family home or even in some cases death for women.



See Chapter 4 HIV/AIDS as a Human Rights Issue for more information on the link between health and human rights.
See Chapter 6C HIV/AIDS at Work for more information on protecting workers from HIV infection through universal infection control laws.
See Chapter 6D Legal Support Services for more information on human rights training for health care workers.
See Chapter 6E Women, Children and Other Vulnerable Groups for more information on women's rights.
See Chapter 8 Advocacy for more information on how to advocate for change.



6B.4 HIV/AIDS Information

6B.4.1 Key Issues

HIV/AIDS information refers to information about HIV/AIDS:

- Prevention
- Treatment
- Care, and
- Support services available to people.

Every person has the right to HIV/AIDS information, as this information helps them to protect their other rights – such as the right to health care.

6B.4.2 Guidelines on Implementation

Laws and policies should ensure that:

- HIV/AIDS information is given through the mass media.
- HIV/AIDS awareness and education is aimed at all groups in society.
- HIV/AIDS information is especially targeted at vulnerable groups that may find it difficult to get information – like women, widows, migrants, children, sex workers, men who have sex with men, injecting drug users (IDUs) and illiterate persons.
- HIV/AIDS information should not be censored (cut) as all important information must be provided. For example, religious groups may want to censor HIV/AIDS information on condom use so that only abstinence (not having sex) is promoted as a prevention measure.
- HIV/AIDS information must be gendered – it must meet the needs of both men and women.

6B.4.3 Examples from Southern Africa

The national HIV/AIDS policies and plans of all Southern African countries have HIV/AIDS information programmes. In many cases these policies and programmes also prioritise vulnerable groups, especially the youth. Also, in many countries NGOs provide information on prevention, treatment and care for HIV and AIDS.

Example: Treatment Information in South Africa

The Treatment Action Campaign (TAC) has developed many rights based information campaigns on rights to treatment, as well as 'treatment literacy' - understanding what the treatment is, and how it can be used.

www.tac.org.za

But there are still areas for improvement. Key advocacy issues around HIV/AIDS information in Southern Africa include:

- Getting rid of censorship to make sure that programmes give out all information.

Examples: Censorship of Prevention Information

Condoms

Some countries have strict censorship laws that do not allow pictures of condoms to be displayed in public. This hinders (blocks) condom promotion programmes. Governments should review and change laws and policies to make sure that accurate HIV/AIDS information can be given out.

Abstinence

It has been reported that US funded prevention programmes in Uganda are promoting abstinence (not having sex) and not other prevention options thus putting young people at risk of HIV infection

www.hrw.org

- Making sure that all information is accurate (truthful).

Case Study: Misinformation in South Africa



complaint.

In South Africa the Matthias Rath Foundation promotes vitamins and mineral supplements to treat HIV infection. The Foundation laid a complaint at the Advertising Standards Authority (ASA - a body to control advertising in the country) about the Treatment Action Campaign's anti-retroviral (ARV) advertisements. The Rath Foundation said that the information was inaccurate. But the ASA held that all the information in the advert had been proved. They rejected the

- making sure that all vulnerable groups get HIV/AIDS information that relates to their problems and needs.

Example: Injecting Drug Users

The UNAIDS International Guidelines list a number of vulnerable groups that need special attention. But very few countries pay attention to the needs of especially marginalised groups - like injecting drug users and men who have sex with men. Some people argue that IDUs are a growing problem in Southern Africa, and are especially at risk of HIV infection. But there are no examples of HIV/AIDS information programmes on injecting drug use.



See Chapter 8 Advocacy for more information on how to advocate for change.



6B.5 HIV/AIDS Prevention

6B.5.1 Key Issues

- Prevention programmes should aim to meet the needs of all people at risk of HIV infection.
- But, like HIV/AIDS information programmes, prevention programmes must also target vulnerable groups such as
 - women (especially widows)
 - children (especially orphans and vulnerable children)
 - men who have sex with men
 - refugees
 - IDUs
- Prevention programmes need to also be based on human rights. For example, prevention programmes should promote VCT rather than forcing people to take an HIV test, or doing routine testing.

6B.5.2 Guidelines on Implementation

The Guidelines say that states should:

- Develop laws and policies that make sure that vulnerable groups have equal access to prevention programmes.
- Strengthen the involvement of communities in prevention programmes.
- Make sure that prevention products like condoms are safe and effective before they are distributed for free or sold. There should also be on-going monitoring of prevention products that are on the market.
- Promote research into new prevention products. They should do this through allocating more funds to research and developing laws and policies that enable communities to benefit from research.

Best Practice: Botswana Harvard partnership

The Botswana government has entered into a research agreement with Harvard University in the USA. In terms of this agreement joint research will be undertaken into key health problems facing Botswana, such as HIV/AIDS. For example, one aspect of the partnership is research into an HIV vaccine.



See Chapter 6B.7 below for more information on HIV/AIDS research

- Include HIV/AIDS prevention and care into all aspects of development planning (like strategies to deal with poverty).



See Chapter 2 Background: HIV and AIDS in Southern Africa for more information on preventing HIV.

6B.5.3 Examples from Southern Africa

Most Southern African countries have HIV prevention policies and programmes that focus on Abstinence, Being faithful to one sexual partner and Condom use.

Case study: Prevention programmes in Mozambique



Some of the key parts of the HIV prevention programme in Mozambique are:

- Treatment for sexually transmitted diseases (STDs)
- VCT
- Distribution of condoms
- HIV/AIDS education
- Prevention of HIV transmission via blood
- Health care and social support for PLHAs
- Monitoring the spread of HIV

Another prevention success has been the rolling out of PMTC programmes for pregnant women which has taken place throughout the region.

Key problems with prevention programmes in Southern Africa include:

- The activities of many marginalised groups are made criminal by law. This makes prevention work with these groups very difficult. For example, in many African countries sex between men is unlawful. So, very few men are openly gay.

Table: Criminal laws against gay sex in Southern Africa

Country	Common law offence	Crime under the Penal Code
Botswana		X
Malawi		X
Mozambique		
Namibia	X	
Mozambique		X
Swaziland	X	
Zambia		X
Zimbabwe	X	

- Many countries still do not have programmes to give PEP to people who have been raped. This makes women and children especially vulnerable.

Example: Limited Access to PEP

Human Rights Watch and the AIDS Law Project undertook research into whether children who were raped in South Africa had access to PEP. They released an advocacy report in 2004 called *Deadly Delay*. This report is a very useful advocacy tool as the research shows that it is children in rural areas who suffer the most as they do not have access to life-saving PEP.

www.hrw.org

- Prevention programmes in many countries do not deal with broader problems that are making people vulnerable to HIV. For example, in many societies women are unequal to men and this makes them vulnerable to HIV. Some countries have failed to start a process of law reform to promote women's rights
- Communities still have limited input in the development or prevention programmes in many countries.



6B.6 HIV/AIDS Treatment, Care and Support

6B.6.1 Key Issues

Access to treatment is a key human rights issue for PLHAs. Without access to ARVs many thousands of people will die an early death and many thousands of children will be orphaned. Unfortunately most PLHAs are not able to access treatment. In 2003 it was estimated that only 1 % of the population who needed immediate ART in Sub-Saharan Africa were receiving it.

Table: Access to ARVs (2003)

Region	No. of people on treatment	Estimated need	Coverage
Africa	100 000	4 400 000	2 %
Americas	210 000	250 000	84 %
Europe (Eastern)	15 000	80 000	19 %
Europe (Central Asia) & Europe (Eastern Mediterranean)	5 000	100 000	5 %
South East Asia	60 000	900 000	7 %
Western pacific	10 000	170 000	6 %
WHO All Regions	400 000	5 900 000	7 %

Source: Kirby M (2004) "The never-ending paradoxes of HIV/AIDS and human rights" African Human Rights Law Journal Vol. 4 No. 2: 163 - 180

6B.6.2 Guidelines on Implementation

UNAIDS recommends that countries focus on developing laws and policies in following priority areas to support and provide treatment, care and support:

- Improving access to ARVs by, for example:
 - Developing national policies to provide ARVs
 - Creating laws and policies that allow for importing cheaper or generic drugs

Example: Importing Generic Drugs

Drug companies spend a lot of money developing new drugs. After a drug is developed intellectual property laws let drug companies patent that drug. This means that they are the only ones who can make it – sometimes for many years. But in recent years after lots of activism at an international level there have been moves to make sure that patent laws do not stop developing countries getting drugs. This has led to many countries using law reform to allow for example, the importing of cheaper copies of drugs.

- Creating links between VCT and treatment programmes so that people who test HIV positive can get treatment
- Making sure that enough staff are in place to support access to treatment programmes
- Encouraging the private sector to provide ARVs.

- Improving palliative care – this is care and support that is given to patients that are dying of AIDS, and
- Providing care for opportunistic infections (OIs)– such as TB, pneumonia and meningitis.

6B.6.3 Examples from Southern Africa

Countries within the region have adopted different strategies to try and increase access to cheaper drugs.

Example: Law Reform to Access Drugs

In 1997 South Africa passed the Medicines and Related Substances Control Act. This allowed the government to import cheaper copies of patented drugs. Big drug companies challenged this law in the Constitutional Court. They argued that it infringed their rights to make a profit. But civil society supported the government and protested against the court case. This gave lots of negative publicity to the drug companies. In the end because of this public pressure and advocacy the drug companies withdrew the case.



See Chapter 8 Advocacy for more information on advocacy for change.

Botswana was one of the first countries in the region to provide access to ARVs in the public sector. They adopted a policy in 2002 called the Guidelines on Anti-retroviral Treatment. It gives ARVs to patients who meet the medical requirements. Following pressure from many advocacy groups, several other Southern Africa countries have introduced or are developing national policies on ARVs.

Table: Examples of ARV programmes in Southern Africa

	Botswana	Lesotho	Mozambique	SA	Swaziland	Zimbabwe
National drugs policy	X	Being developed	Being developed	X	X	X
Essential drugs list	X	Being developed	Being developed	X	Being developed	X
Drug regulation	Being developed	-	-	X	-	X
HIV/AIDS drug policy	X	Being developed	Being developed	X	Being developed	Being developed

Source: Zungu-Dirwayi, Shisana, Udjo, Mosala and Seager (2004) *An audit of HIV/AIDS policies in Botswana, Lesotho, Mozambique, South Africa, Swaziland and Zimbabwe*, Human Sciences Research Council

Key problem areas relating to care and treatment include:

- Greater ARV roll out is needed. Only a small number of the people who need to be on ARVs are accessing treatment in the region.

Case Study: ARV roll out v the Need for ARVs



Zimbabwe: 16 000 persons on ARVs but estimated that 250 000 people need ARVs

South Africa: 220 000 on ARVs but estimated that 700 000 people need ARVs

Zambia: 51 000 on ARVs but estimated that 280 000 need ARVs

ARASA regional meeting on routine testing, 13 March 2005

- PLHAs are coming forward to access treatment at a very late stage. More opportunities for HIV testing need to be created.
- New social problems are emerging from ARV roll out programmes. For example, many PLHAs were accessing social grants because they were unable to work before they started treatment. After being on treatment they don't qualify for grants any longer as they are well enough to work. However because of high unemployment levels and being out of the job market they struggle to find work.
- Laws and policies do not always require private medical benefit schemes to cover HIV/AIDS treatment

Example: No laws for ARVs on medical aid

There is no law in Kenya that requires medical schemes to treat PLHAs in the same way as people with other illnesses. This has resulted in medical schemes not paying for HIV/AIDS related costs. But after advocacy from civil society some schemes have changed their rules. They allow members to spend up to a certain amount on medical costs every year. These schemes will pay out, whether the member is HIV positive or not.



6B.7 HIV/AIDS Research

6B.7.1 Key issues

HIV and AIDS research is increasing, particularly in African countries. However, in many African countries there are poor ethical-legal frameworks (laws and rules to regulate research). This makes research participants (people who take part in research) vulnerable to (at risk of) discrimination and abuse. So, protecting the rights of research participants is vital.

6B.7.2 Guidelines on implementation

Governments should develop laws to protect research participants to make sure that there is:

- Non-discrimination in the way that participants are chosen
- Informed consent (agreement) to take part in research
- Confidentiality
- Equal access to information and benefits (like new medicines) coming out of research
- Ethical review bodies to check that research is carried out in line with ethical guidelines, and
- Approval for products tested (like new drugs or vaccines).



See Chapter 6B section 2 HIV Testing and section 3 Confidentiality for more information on health laws around confidentiality and informed consent.

This can be done by:

- Reviewing the existing laws to find out how well they regulate research
- Developing new laws and policies, and
- Developing awareness on the rights of trial participants through capacity building.



See Chapter 6D Legal Support Services for more information on awareness and education around HIV/AIDS and human rights. See Chapter 8 Advocacy for more information on how to advocate for change.

6B.7.3 Examples from Southern Africa

In most African countries in the region there are various legal and ethical structures that have the capacity to regulate HIV/AIDS research. For example, most of the countries have a statutory (set up by law) or administrative body to regulate research, such as a national drug regulatory authority.

Example: Regulation of research in Tanzania

In Tanzania there are two key bodies that regulate research:

- The Tanzania Food and Drugs Authority is responsible for regulating clinical trials of drugs
- The National Research and Ethics Committee is responsible for approval and review of research, including HIV/AIDS research on humans.

In most Southern African countries there are basic laws and ethical guidelines to protect the fundamental rights of all people, including research participants. The most developed of these rights are rights relating to informed consent.

Table: Laws, policies & guidelines on informed consent in 5 African countries

(See table opposite)

Country	Constitution	Common law	Written laws	Research-specific written laws	Policies, Codes & Guidelines
Botswana	The Constitution protects the right of all people to security (safety) of the person – that includes the right to make their own decisions about taking part in research.	The common law protects the right of all people to bodily and psychological integrity – that includes the right to make their own decisions about taking part in research.			
Ethiopia	The Constitution gives every person the right to security of the person		The Ethiopian Civil Code provides for treatment only with consent, and for the right to refuse consent.	Proclamation 60/1999 provides for participation in clinical trials only with written consent.	National Health Research Ethics Guidelines and Procedures, 2003 provide for written informed consent for research.
Kenya	The Constitution gives every person the right to security of the person			The HIV and AIDS Prevention and Control Bill provides for written informed consent of the person, or the parent/guardian in the case of a child, for all HIV-related research.	The Code of Professional Conduct for medical practitioners provides for informed consent for medical treatment.
Tanzania				The Tanzania Food, Drugs and Cosmetics Act, 2003 protects trial participants from participation without free, informed consent.	The Guidelines on Medical Ethics and Human Rights in Tanzania provide for medical interventions only with informed consent. The Guidelines on Health Research in Tanzania also Provide guidance on consent
Uganda	The Constitution gives every person the right to security of the person.	The common law gives every person has the right to security of the person			

Grant, Lewis and Strode (eds) (2005) *The ethical-legal regulation of HIV vaccine research in selected African countries, African AIDS Vaccine Programme*

- However, there are key gaps in African countries with regard to protection for research participants:
- There are very few research-specific laws
- The law does not require ethical review (checking research proposals to make sure they are ethical) of research
- Research participants (people taking part in research) are not aware of their rights, and
- There are very few ways to monitor the rights of research participants



See Chapter 8 Advocacy for more information on how to advocate for change.



6B.8 Resources and References



6B.8.1 Useful Web Sites

- African AIDS Vaccine Programme
www.who.int/vaccine_research/diseases/hiv/aavp/en/
- AIDS Law Project
www.alp.org.za
- CADRE
www.cadre.org.za
- Canadian AIDS Legal Network
www.aidslaw.ca
- CAPRISA
www.caprisa.org
- Human Rights Watch
www.hrw.org
- Southern African HIV/AIDS Information and Dissemination Service
www.saf aids.org.zw
- Treatment Action Campaign
www.tac.org.za
- UNAIDS
www.unaids.org

6B.8.2 Useful References

- Grant, Lewis and Strode (eds) (2005) The ethical-legal regulation of HIV vaccine research in selected African countries African AIDS Vaccine Programme
Available from www.saavi.org.za and www.who.int/vaccine_research/diseases/hiv/aavp/en/
- Kirby M (2004) "The never-ending paradoxes of HIV/AIDS and human rights" African Human Rights Law Journal Vol. 4 NO. 2: 163 – 180
Minister of Health v Treatment Action Campaign
Available from www.concourt.gov.za
- Your Right to Health
Available from www.alp.org.za
- Zungu-Dirwayi, Shisana, Udjo, Mosala and Seager (2004) An audit of HIV/AIDS policies in Botswana, Lesotho, Mozambique, South Africa, Swaziland and Zimbabwe, Human Sciences Research Council
Available from Blue Weaver Marketing and Distribution
Tel: 27-21-701 4777 Fax: 27-21-701 7302 Email: booksales@hsrc.ac.za

Part A: chapter 6C

HIV/AIDS

at Work

Contents

- 6C.1 Introduction
 - 6C.1.1 What does Guideline 5 mean?
 - 6C.1.2 Why the need for anti-discrimination measures around HIV/AIDS?
- 6C.2 HIV/AIDS at Work
 - 6C.2.1 Key Issues
 - 6C.2.2 Guidelines on Implementation
 - 6C.2.3 Examples from Southern Africa
- 6C.3 General Anti-Discrimination Laws
 - 6C.3.1 Key Issues
 - 6C.3.2 Guidelines on Implementation
 - 6C.3.3 Examples from Southern Africa
- 6C.4 Resources and References
 - 6C.4.1 Useful Web Sites
 - 6C.4.2 Useful References
- 6C.5 End Notes



Key Points

- Guideline 5 says that states should develop or strengthen anti-discrimination laws to protect people vulnerable to HIV and AIDS, as well as people affected by HIV and AIDS.
- The right to equality and non-discrimination is an important right. It also applies to people infected or affected by HIV/AIDS.
- Discrimination (being treated unequally) happens when a person is treated in a way that imposes a burden on them, or denies them a benefit
- Anti-discrimination measures are steps taken through laws, policies or programmes which aim at stopping unfair discrimination against people affected by HIV.
- Anti-discrimination measures are important as they help to:
 - Stop unfair discrimination against PLHAs, and
 - Decrease vulnerability to HIV and AIDS
- The workplace is often the site of unfair discrimination against PLHAs and special steps should be taken to stop such discrimination.
- The SADC Code on HIV/AIDS and Employment has set standards on HIV/AIDS and non-discrimination in the workplace for the region. It has led to the development of good HIV-related workplace laws and policies in many Southern African countries.
- Most Southern African countries also promote non-discrimination against PLHAs in national HIV/AIDS policies and plans. But fewer countries have passed laws to protect people from discrimination specifically on the basis of HIV status. This is an area that may require future advocacy.

UNAIDS Guideline 5: Anti-Discrimination Measures

States should enact or strengthen anti-discrimination and other protective laws

- to protect vulnerable groups, people living with HIV/AIDS, and people with disabilities from discrimination in the public and private sectors
- ensure privacy, confidentiality and ethics in research involving human subjects
- emphasise education and conciliation, and
- provide for speedy and effective administration and civil remedies



6C.1 Introduction

This section looks at important anti-discrimination measures states should take to protect the rights of people living with HIV/AIDS (PLHAs). We focus on HIV/AIDS in the workplace, because it is the area where Southern African countries have made the most progress. But it is still important to look at other ways to protect PLHAs and vulnerable groups from discrimination.

6C.1.1 What does Guideline 5 mean?

Guideline 5 tells states how to protect PLHAs and other vulnerable groups (people especially at risk of HIV infection) from discrimination, stigma and human rights abuses. It recommends that states take anti-discrimination steps like:

- examining their existing laws to see if they need to be strengthened, and
- passing new laws where necessary

to protect the rights of PLHAs and vulnerable groups.

What is discrimination?

Discrimination happens when people are either:

- treated in a way that results in burdens being imposed on them (makes life more difficult) or
- treated in a way that denies them benefits
- simply because they belong to or are thought to be part of a particular group.

Example: Discriminatory Laws

Inheritance laws and customs are the rules that say who can become the owner of property after a family member dies. In some communities women whose husbands have died are stopped from inheriting the family home. Instead the rules allow the home to be given to the husband's eldest brother. This is discrimination as women are treated differently to men. Also this practice denies women a benefit (owning property) and it imposes a burden on them as it often results in the women and children losing their home and having to move elsewhere.

The right to equality and to non-discrimination is one of the most basic human rights. It is the second article in the Universal Declaration of Human Rights (UDHR). This makes it part of international customary law and binding on all countries. Many countries also have equality rights or non-discrimination rights in a Bill of Rights in their national constitutions.

Example: Article 2 of the UDHR

Everyone can claim all the rights in the Declaration. No one can be unfairly discriminated against and denied their rights because they are:

- A different sex
- A different skin colour
- Speak a different language
- Think different things
- Believe in another religion
- Own more or less
- Are born in another social group
- Come from another country.



See Chapter 3 Introduction to Human Rights for more information on human rights.

See Chapter 3 section 3.3 Where do human rights come from? for more information on the UDHR and international customary law.

What is stigma?

Stigma takes place when a person

- attaches a negative social label to another person
- which rejects them or treats them differently
- often because of a particular characteristic.

For example, gay men are often rejected or treated differently because of their sexuality. They are stigmatised as people who take part in “unnatural sex”. In other words, others see the sexual habits of gay men to be shamefully different to themselves. Someone with a sexually transmitted infection (STI) may be labeled as ‘promiscuous’ (having many partners) because of their health problem. Some see STI infection as making a person shamefully different to others.

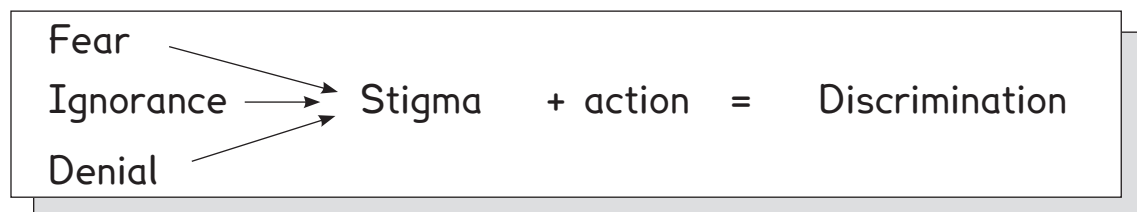
In the same way, PLHAs can be stigmatised because people believe all PLHAs are:

- Promiscuous (have many sexual partners)
- Drug users, or
- Gay.

PLHAs are not only stigmatised by other members of the community, they also often stigmatise themselves – this is called self-stigma. Self-stigma is the shame, guilt and self-blame that a PLHA may feel about being HIV positive. Self-stigma can lead to unhappiness and a lack of self-confidence. This can in turn affect a person's physical health.

There is a close link between stigma and discrimination. If stigmatising thoughts result in PLHAs being burdened or denied benefits then they might have been discriminated against. The diagram below shows the link between stigma and discrimination.

Diagram: Stigma and Discrimination



Source: Adapted from Richter M (1998) "Preliminary Assumptions on the Nature and Extent of Discrimination against PWAs", AIDS Law Project

What are anti-discrimination measures?

Anti-discrimination measures are steps taken through laws, policies and programmes to stop unfair discrimination. The UDHR recognises that having an equality clause is not enough to promote equality and non-discrimination. Sometimes people have to be treated differently to become equal.

Example: Treating people differently to achieve equality

Blind children have the right to equality and to non-discrimination. They may not be denied their rights – such as the right to go to school. But the government may need to take anti-discrimination measures like providing special Braille books for blind children. These anti-discrimination measures treat blind children differently, to give them equal rights – that is, to make their right to an education become real.

So, human rights agreements say that governments should take extra measures to make sure that people are treated equally and are not discriminated against.

6C.1.2 Why the need for anti-discrimination measures around HIV/AIDS?

Anti-discrimination measures are important for HIV/AIDS because:

- PLHAs and people affected by HIV/AIDS often face stigma and discrimination
- Vulnerable groups (like refugees or intravenous drug users (IDUs)) are at high risk of HIV infection when they are denied their full rights to equality and non-discrimination.

Anti-discrimination measures can have the following positive outcomes:

- They show our society that unfair discrimination is unlawful (against the law) and unacceptable
- They act as a warning to people not to discriminate, by punishing people who do
- They help our societies deal with the underlying reasons for stigma and discrimination (like fear and denial)

- They make people less vulnerable to HIV infection, and
- They make HIV/AIDS easier to cope with for PLHAs and affected families.



See Chapter 4 HIV/AIDS as a Human Rights Issue for more information on the link between HIV and human rights.

6C.2 HIV/AIDS at Work

6C.2.1 Key issues

The Guidelines recommend the development of workplace HIV and AIDS laws and policies, because:

- Research has shown high levels of stigma and discrimination in the workplace

Examples of Stigma and Discrimination at Work

- Pre-employment HIV testing (testing job applicants for HIV and refusing to hire those who test positive)
- Firing employees with HIV
- Denying benefits to employees with HIV
- Co-workers refusing to work with employees with HIV
- Breaches (breaking) of confidentiality

- Every worker has a right to a safe workplace – that includes the right to be protected from getting infected with HIV at work
- The workplace is a good place to introduce prevention and treatment programmes for PLHAs.

6C.2.2 Guidelines on implementation

Some ways to implement anti-discrimination measures in the workplace include:

- Developing workplace specific anti-discrimination laws that specifically prevent discrimination because of HIV or AIDS
- Developing workplace laws and policies that take into account the particular needs of women in the workplace
- Promoting workplace laws, guidelines and policies that promote the principle of the Greater Involvement of People Living with HIV or AIDS (GIPA) in all workplace responses
- Developing a national policy or employment code on managing HIV/AIDS in the workplace

Key Principles for an HIV/AIDS Workplace Policy

- No pre-employment HIV testing
- Confidentiality for employees with HIV or AIDS
- Job security for PLHAs until they are no longer able to work (including making reasonable arrangements for them, like finding lighter work)
- Access to social security and other employee benefits (like life insurance, medical aid, pensions etc)
- Proper health care services near or in the workplace
- Protection from discrimination and stigmatisation
- Measures to prevent occupational infection (infection from work) with HIV
- Including workers in decision-making around HIV and AIDS
- Information and education on HIV and AIDS.



See Chapter 6A section 3 Community Partnerships for more information on the GIPA Principle.

6C.2.3 Examples from Southern Africa

One of the most important regional achievements has been the adoption of the Southern African Development Community (SADC) Code on HIV/AIDS and Employment. This Code is based on the principle that workers with HIV or AIDS should not be discriminated against and they should be treated like any other worker with a health condition.

Case Study: SADC Code provides for:



- Education, awareness and prevention
- No pre-employment HIV testing for job access
- No workplace testing
- Confidentiality
- No demotion for being HIV positive
- No HIV testing for training purposes
- No dismissals on the basis of HIV
- Occupational benefits (like medical aid)
- Management of occupational infection with HIV, including compensation
- Protection against victimisation
- Grievance handling
- Information
- Monitoring and review of HIV workplace policies and programmes



See Appendices for a full copy of the SADC Code.

The Code has been very important for the region because:

- it has led to a number of countries (such as South Africa, Malawi, Mozambique, Zimbabwe and Namibia) developing their own national codes or HIV-specific legislation
- It has strengthened advocacy activities against pre-employment HIV testing which was a wide spread practice within the region until recently.

But there is still a need for advocacy around HIV/AIDS and human rights in the workplace, because:

- There are some countries (like Zambia and Botswana) that still do not have any legal protection against discriminatory practices like pre-employment testing. In Botswana, the protection against pre-employment HIV testing is only set out in policy documents and the courts have said that this does not place a duty on employers not to test. The policy documents are simply recommendations and they are not binding on employers.
- There are many countries where non-discrimination on the ground of HIV is not specifically protected. In these countries, it is not clear whether the courts would see HIV status as being covered by broader non-discrimination clauses. For example, in Swaziland there is protection against discrimination due to “social status”. It is unclear if this could include discrimination due to being HIV positive or having AIDS.
- Not all countries have laws to protect members of the public service against unfair discrimination in the workplace.



See Chapter 7 Monitoring and Enforcement for information on enforcing rights.
See Chapter 8 Advocacy for more information on how to advocate for change.

Table: HIV/AIDS Labour Laws

Botswana	In July 2001 the Directorate of Public Service Management published the Public Service Code of Conduct on HIV/AIDS and the Workplace. This Code: •Sets out the rights and responsibilities of employers and employees • Places an obligation on management to create a non-discriminatory environment
Zambia	The Employment Act Cap 268 and Industrial Relations Act Cap 269 protect workers against discriminatory practices. It is not HIV specific
Swaziland	S 29 of the Employment Act of 1980 says that employers may not discriminate in any employment contract. HIV is not referred to but it could fall under “social status”
Malawi	The Code of Conduct on HIV/AIDS and the Workplace acts as a guide to employers, trade unions and employees
Mozambique	Law No.5/2002 protects employees against discrimination in the workplace. It doesn't specifically mention HIV but is broad enough to cover HIV.
Zimbabwe	Labour Relations Act, Part II protects employees against discrimination. Although this does not mention HIV, regulations issued under the Act (Statutory Instrument 202 of 1998) prohibit discrimination based on HIV/AIDS in the workplace.



6C.3 General Anti-Discrimination laws

6C.3.1 Key issues

General anti-discrimination laws should:

- Make sure that the law protects all PLHAs, including those who are:
 - Living with HIV but are not symptomatic (they show no signs of HIV/AIDS)
 - Symptomatic
 - Believed (whether true or not) to have HIV or AIDS, and
 - Vulnerable to HIV and AIDS because of the discrimination they face
- Make sure that judges and magistrates understand discrimination in relation to HIV/AIDS and are able to use the laws
- Decide on the best way of protecting PLHAs in the legal framework (for example, through general anti-discrimination laws that protect all vulnerable groups or through legislation created specifically to protect PLHAs.

Example: General laws to protect PLHAs

In Malawi s 31(1) of the Labour Relations Act No. 16 of 1996 says that “Every person shall have the right to fair and safe labour practices and to fair remuneration”. The Act also says that employers may not discriminate against employees. Although the Act does not mention HIV it is broad enough to cover unfair discrimination against PLHAs.

Example: HIV specific laws to protect PLHAs

Some countries have created new laws (or changed old laws) to add in rules that make unfair discrimination due to HIV or AIDS unlawful. In South Africa, s6 of the Employment Equity Act No 55 of 1998 says that employers who unfairly discriminate against an employee because of their “HIV status” are acting unlawfully.

6C.3.2 Guidelines on implementation

The International Guidelines suggest that governments take the following steps to implement Guideline 5:

- Review old laws and develop new laws to protect people infected, affected or vulnerable to HIV/AIDS from unfair discrimination

Checklist: Anti-Discrimination Laws should:



- Cover a wide range of areas like health, social security and welfare, employment, education and insurance
- Include direct discrimination (discrimination directed at a particular group, like PLHAs) and indirect discrimination (discrimination that may not be directed at a particular group, but affects a particular group anyway)
- Provide for speedy and effective remedies
- Reduce human rights violations against vulnerable groups, especially
 - Women, especially widows
 - Children
 - Intravenous drug users
 - Refugees
 - Men who have sex with men
 - People living in poverty
 - Migrant workers

- Review and develop confidentiality and privacy laws to make sure that PLHAs are protected from having their HIV status being disclosed without consent



*See Chapter 6B Health Rights for more information on laws to protect the health rights of PLHAs.
See Chapter 6E Women, Children and Other Vulnerable Groups for more information on laws and policies for vulnerable groups.*

6C.3.3 Examples from Southern Africa

There are some useful examples of anti-discrimination laws and policies in Southern Africa that protect the rights of PLHAs:

- Some countries have anti-discrimination laws that specifically protect PLHAs from discrimination. Others have general equality and anti-discrimination laws that apply to vulnerable groups, and can also apply to PLHAs.

Examples: Anti-Discrimination Laws

South Africa has passed the Promotion of Equality and Prevention of Unfair Discrimination Act No. 4 of 2000. This Act makes unfair discrimination unlawful.

Section 1 of the Act says that unfair discrimination is when something imposes a burden on someone or denies them an opportunity. For example, the Act says that it is unfair discrimination to prevent women from inheriting property (getting ownership of property after a person's death). Women face economic and social burdens if they are not able to inherit a husband's property when he dies and are left homeless. Men are not left in the same vulnerable position after their wives die, because inheritance laws and customs give them the right to inherit property.

The Act does not list "HIV status" as one of the grounds on which a person cannot discriminate. But the law is wide enough to include HIV-related discrimination.

In Zambia the Employment Act Cap 268 and the Labour Relations Act Cap 269 protect all workers against discrimination. Although the Employment Act says that a doctor must examine all employees before they are employed on more than a six month contract, it does not say that employees should be tested for HIV during this examination.



See Chapter 6E Women, Children and Other Vulnerable Groups for more information on laws to protect vulnerable groups from discrimination.

- Most Southern African countries have national HIV/AIDS policies that say that PLHAs should be protected against unfair discrimination.



*See Chapter 7 Monitoring and Enforcement for more information on monitoring and enforcing human rights.
See Chapter 8 Advocacy for information on how to advocate for change.*



6C.4 Resources and References



6C.4.1 Useful Web Sites

AIDS Law Project
www.alp.org.za

AIDS and Rights Alliance of Southern Africa
www.arasa.info

Canadian HIV/AIDS Legal Network
www.aidslaw.ca

Human Rights Watch
www.hrw.org

International Labour Organisation
www.ilo.org

South African Human Rights Commission
www.sahrc.org.za

UNAIDS
www.unaids.org

Zambia AIDS Law Research and Advocacy Network
www.zaran.org

6C.4.2 Useful References

Department of Labour Code of Good Practice on Key Aspects of HIV/AIDS and Employment
Available from www.labour.gov.za

Employment Equity Act No. 55 of 1998
Available from www.labour.gov.za

Promotion of Equality and Prevention of Unfair Discrimination Act No 4 of 2000
Available from www.doj.gov.za.

Southern African Development Community Code of Conduct on HIV/AIDS and Employment
Available from www.alp.org.za

International Labour Organisation Code of Practice on HIV/AIDS and the World of Work
Available from www.ilo.org

Part A: chapter 6D

Legal Support

Services

Contents

- 6D.1 Introduction
 - 6D.1.1 What do Guidelines 7 and 9 mean?
 - 6D.1.2 Why the need for legal support services?
- 6D.2 Awareness, education and capacity building
 - 6D.2.1 Key Issues
 - 6D.2.2 Guidelines on Implementation
 - 6D.2.3 Examples from Southern Africa
- 6D.3 HIV and AIDS Legal Services
 - 6D.3.1 Key Issues
 - 6D.3.2 Guidelines on Implementation
 - 6D.3.3 Examples from Southern Africa
- 6D.4 Resources and References
 - 6D.4.1 Useful Contacts and Web Sites
 - 6D.4.2 Useful References
- 6D.5 End Notes



Key Points

- The UNAIDS Guidelines recommend that all countries should introduce or improve services to support HIV/AIDS and human rights.
- Legal Support services include services to:
 - create awareness and educate all people about the rights of PLHAs
 - improve knowledge of HIV/AIDS and human rights among service providers (like doctors and lawyers), and
 - enforce the rights of PLHAs.
- Awareness, education and training helps to protect the rights of PLHAs. It creates knowledge, understanding and acceptance; and allows people to challenge human rights abuses.
- Awareness, education and training can target the general population or certain groups. It can take many different forms.
- Legal support services help to enforce the rights of PLHAs.
- Legal support services can take many forms, such as:
 - legal assistance centres that specialise in HIV/AIDS, law and human rights
 - private law firms that take on cases around HIV/AIDS, law and human rights, and
 - enforcement mechanisms (like courts, commissions and tribunals) that investigate and hear complaints around HIV/AIDS, law and human rights.

UNAIDS Guideline 7: Legal Support Services

States should implement and support legal services that will:

- educate people affected by HIV/AIDS about their rights
- provide free legal services to enforce those rights;
- develop expertise on HIV-related legal issues, and;
- utilise means of protection in addition to the courts, such as:
 - offices of Ministries of Justice;
 - ombudspersons;
 - health complaints units and;
 - human rights commissions.

UNAIDS Guideline 9: Changing Discriminatory Attitudes through education, training & media

States should promote the wide and ongoing distribution of creative

- education;
- training and
- media programmes explicitly designed to:
 - change attitudes of discrimination and stigmatisation association with HIV/AIDS
 - promotes understanding and acceptance.



6D.1 Introduction

This chapter looks at the extra legal support and related services each country needs to put in place to make sure that human rights around HIV and AIDS are not simply laws on paper.

6D.1.1 What do Guidelines 7 and 9 mean?

Guidelines 7 and 9 set out steps that each country should take to put legal support services in place.

These support services are described in Guideline 7 and also in Guideline 9 as being services that do legal work by:

- doing training to teach service providers (like other lawyers, court officials, doctors, nurses and social workers) how to help people to protect their rights;
- giving legal advice and taking legal action on behalf of people, to help them to enforce their rights; and
- conducting awareness and education to teach people about their rights, and to improve understanding and acceptance of the rights of others.

6D.1.2 Why the need for legal support services?

Laws tell us how people should behave in a society. They tell us what our rights and responsibilities are.

But laws are simply rules on paper. Laws by themselves can't protect and promote rights in our society. We need to have legal support services to make those laws real. To protect the rights of people affected by HIV and AIDS, we also need to make sure that all people

- know and understand their rights;
- respect the rights of others; and
- can enforce their rights against others.

6D.2 Awareness, education and capacity building

6D.2.1 Key Issues

There is a lot of ignorance about people's rights in relation to HIV and AIDS, even amongst people living with HIV and AIDS (PLHAs) themselves. Also, there are still high levels of stigma and discrimination against people affected by HIV and AIDS.

Case Study: Stigma Against PLHAs in Africa



In *Siyam'kela: Measuring HIV/AIDS Related Stigma (2003)* the authors show that "stigmatisation against PLHAs is widely reported in various countries". They show how stigma and discrimination takes place at various levels, including through:

- government policy and the law;
- language and the media;
- family and community responses;
- the health care system;
- the workplace;
- faith organisations, and
- HIV/AIDS programmes.

Siyam'kela: Measuring HIV/AIDS Related Stigma, 2003

Awareness, education and capacity building can help to reduce HIV/AIDS stigma and discrimination in many ways:

- It creates certainty among people about what is lawful and unlawful in relation to HIV and AIDS. This encourages all people to respect rights around HIV/AIDS.
- It helps people living with HIV or AIDS to know what their rights are, and when those rights have been abused. This allows them to enforce their rights.
- It creates knowledge and skills among leaders and service providers about HIV/AIDS and human rights. This helps them to respect, protect, promote and fulfil these rights in their everyday work. It also creates a wider network of people to turn to for legal advice and support.
- It creates better understanding and acceptance among people. This helps people to think about their own prejudice in a different way.



See Chapter 6C section 1 Introduction for more information on stigma and discrimination

6D.2.2 Guidelines on implementation

Awareness, education and training on HIV/AIDS and human rights may take place in a number of different ways. For example, it may be undertaken by different groups, and have a wide variety of goals, target groups, forms, and messages. The Joint United Nations Programme on HIV/AIDS (UNAIDS) International Guidelines give a wide range of recommendations and possible examples for awareness, education and training on HIV/AIDS and human rights.

Broadly, the UNAIDS HIV/AIDS and Human Rights International Guidelines recommend HIV/AIDS rights-based awareness, education and training to fulfil the following 3 goals:

- educating, raising awareness and building self-esteem among people living with HIV and AIDS about their rights;
- developing expertise in HIV-related legal issues; and
- challenging attitudes of discrimination and stigmatisation.

These 3 goals can be reached by targeting awareness, education and training at a broader public group, or at selected target groups. For example, education for PLHAs can be aimed at all people living with HIV or AIDS in the broader population. It can also be aimed at a particularly vulnerable group like children living with HIV or AIDS, or gay men living with HIV or AIDS.

Example: Targets for Awareness & Education

The UNAIDS Guidelines also recommend human rights education for:

- educational institutions (schools, universities, technical colleges);
- trade unions;
- workplaces;
- government officials;
- the police;
- prison staff;
- politicians;
- village, community and religious leaders;
- professionals;
- the media and advertising industry;
- people working with PLHAs in non-governmental organisations (NGOs), community-based organisations (CBOs) and AIDS service organisations (ASOs);
- people working on other human rights issues in NGOs and CBOs;
- leaders of vulnerable groups.

- The UNAIDS International Guidelines also recommend different ways to undertake awareness, education and training, such as:
- information campaigns using different media like film, theatre, television, radio, drama, pictures, bus posters;
- different techniques (like group discussions) to reach marginalised groups (eg people in remote areas, people who can't read);
- doing training, workshops and seminars;
- helping people draw up charters of rights and codes of good conduct;
- developing legal rights pamphlets and brochures;
- developing handbooks and practice manuals on HIV/AIDS and human rights;
- drafting student texts and curricula to include HIV/AIDS and human rights into professional studies like law and medicine;
- developing continuing legal education and newsletters to inform professionals (like lawyers, doctors, nurses, psychologists); and
- creating directories of HIV/AIDS and human rights resource people.

6D.2.3 Examples from Southern Africa

There are a number of examples of HIV/AIDS and human rights-related awareness, education and training in Southern Africa. For example:

- During the 1990s, the African Network on Law, Ethics, Human Rights and HIV/AIDS networked to share information, resources and expertise (skills) on HIV/AIDS and human rights issues across Africa. One of the ways it did this was through a regular newsletter. The newsletter included contributions from people working in law, ethics and HIV/AIDS in African countries. It focused on key HIV/AIDS and human rights issues in African countries. This spread awareness of HIV/AIDS and human rights across African countries.
- The Botswana Network on Ethics, Law and HIV/AIDS (BONELA) works to ensure a rights-based response to HIV and AIDS in Botswana. One of its activities is to organise meetings to debate important issues around HIV/AIDS and human rights in Botswana.

Example: BONELA training for health care workers

“The response so far has been fascinating, particularly the participation of very active groups from the health sector, support groups, and community stakeholders from certain regions. From the trainings held, HIV testing and confidentiality appears to be the most widely debated topic—likely because they relate to everyday decisions and ethical issues faced by individuals.”

www.bonela.botsnet.co.bw

- The Zambia AIDS Law Research and Advocacy Network (ZARAN) has conducted a number of training workshops around HIV/AIDS and human rights issues for different service providers. For example ZARAN organised a Judge's Workshop to sensitise supreme and high court judges on HIV/AIDS and human rights issues. Justice Edwin Cameron from South Africa attended to share experiences with Zambian judges on HIV/AIDS and human rights issues.
- At present, the AIDS and Rights Alliance of Southern Africa (ARASA) works as a regional network on human rights and HIV/AIDS in Southern Africa. ARASA activities to improve human rights education around HIV and AIDS include:
 - Regional awareness raising workshops on HIV/AIDS and human rights issues in Southern African countries;
 - Training on HIV/AIDS and human rights for ARASA members, and
 - Internship programmes to place key people within strong HIV/AIDS and human rights programmes within Southern Africa.



See Chapter 9 Networking for more information on ARASA, ZARAN and BONELA.

- In South Africa the Department of Health has developed an Advocacy Toolkit for PLHAs. The toolkit provides:
 - o awareness and education on the rights of PLHAs, and
 - o knowledge and skills on how to take steps to claim those rights.



6D.3 HIV and AIDS Legal Services

6D.3.1 Key Issues

Every country has a legal system to monitor and enforce its laws and human rights. The legal system includes:

- legal services that help people to take legal action (eg lawyers, paralegals), and
- legal bodies that hear legal disputes (fights), make decisions and punish offenders (eg courts, tribunals, commissions, councils and ombudspersons).

A strong legal system is very important, because it helps people whose rights have been abused to get justice. Also, punishing people who abuse rights sends out a strong message to others. This encourages all people to respect and protect rights.

Very often people living with HIV or AIDS do not take steps to protect their rights. We know that sometimes this is because they don't know their rights. But another reason is often because they can't access (reach) the legal system. Using the legal system may be too expensive, or the forms and procedures may be too difficult, or it may simply be too far away.

For this reason, the UNAIDS International Guidelines recommends that countries take steps to increase HIV legal services and legal protection.

6D.3.2 Guidelines on implementation

The UNAIDS Guidelines recommend that countries can improve access to legal services by:

- developing legal aid centres that specialise in HIV and AIDS;
- encouraging private law firms to take on HIV and AIDS cases free of charge; and
- making sure that legal bodies besides the courts (eg human rights commissions, health complaints units and other government bodies) are able to hear HIV-related disputes.

Legal aid programmes specialising in HIV and AIDS can be separate organisations, or they can be based inside other organisations, like community legal aid centres working on a wide range of legal matters, or ASOs working on HIV and AIDS.

Law firms can provide services in areas like:

- equality and non-discrimination in relation to HIV and AIDS;
- health care rights, like informed consent and confidentiality;
- property rights, like wills and inheritance; and
- employment rights.

Bodies (such as commissions, councils and ombudspersons) are set up (often by the government) to regulate (control) and hear complaints around different subjects. For example, some countries have:

- Human Rights Commissions – bodies that are set up to investigate and hear complaints;

about human rights;

- Gender Commissions – bodies that are set up to investigate and hear complaints about gender inequality;
- Government ombudspersons – bodies that are set up to investigate and hear complaints about the actions of government officials;
- Insurance Ombudspersons – bodies that are set up to investigate and hear complaints about insurance;
- Professional councils – bodies that are set up to regulate and control the activities of professionals (like doctors); and
- Employment forums (bodies set up to hear workplace-related disputes).

If these bodies are aware of, receive training on, or develop codes on HIV/AIDS and human rights issues related to their area of expertise, they can

- investigate complaints, and
- enforce the rights of PLHAs.

6D.3.3 Examples from Southern Africa

There are several examples of NGOs in Southern Africa that provide HIV-related legal services. For example:

- In Zambia, ZARAN runs an AIDS Law Clinic to give legal advice, assistance and referrals to PLHAs whose rights have been abused.
- In Namibia, the AIDS Law Unit (ALU) is a project within the Legal Assistance Centre. This project promotes a human rights-based response to HIV and AIDS through different strategies, including through litigation (court actions). For example, in 2000 the ALU brought a court case against the Namibian defence force (army) for refusing to hire a soldier on the basis of his HIV status.

There are also examples of commissions that are willing to look into HIV-related disputes:

- In South Africa, the South African Human Rights Commission (SAHRC) is a human rights body set up by the Constitution. Its job is to monitor human rights abuses in the country. The SAHRC Commissioners have been trained on HIV/AIDS and human rights. This will ensure that they are:
 - aware of the rights of PLHAs, and common forms of discrimination faced by PLHAs, and
 - able to take up cases of human rights abuses against PLHAs.

In most Southern African countries, there is a professional body to regulate the actions of health care workers. Most have ethical codes to tell health care workers how to behave. However, many of them don't have HIV-specific codes, which would help doctors and nurses to have clear guidelines on how to treat patients with HIV or AIDS.

Table: Guidelines of Health Worker Councils

	General ethical guidelines	HIV/AIDS specific ethical guidelines
Malawi	X	
Swaziland		
Botswana	X	
Zimbabwe	X	
Namibia	X	X
South Africa	X	X

• But generally, enforcement of the rights of PLHAs is an area that most people agree needs
• work. So, strengthening organisations that can help to enforce the rights of PLHAs is a key
• advocacy issue in most countries.
•



6D.4 Resources and References



6D.4.1 Useful Contacts and Web Sites

AIDS and Rights Alliance for Southern Africa
www.arasa.info

AIDS Law Project
www.alp.org.za

AIDS Law Unit, Legal Assistance Centre
www.lac.org.na

Botswana Network on Ethics, Law and Human Rights
www.bonela.botsnet.co.bw

Southern African HIV and AIDS Dissemination Service
www.saf aids.org.zw

Zambia AIDS Law Research and Advocacy Network
www.zaran.org

6D.4.2 Useful References

Policy Project, Centre for the Study of AIDS, USAID and Department of Health, South Africa (2003) *Siyam'kela: Measuring HIV/AIDS related stigma*
Available from www.policyproject.com or www.csa.za.org

\UNAIDS HIV/AIDS and Human Rights International Guidelines
Available from www.unaids.org

Part A: chapter 6E

Women, Children

and other

Vulnerable Groups

Contents

Key Points

UNAIDS Guideline 8

6E.1 Introduction

6E.1.1 What does Guidelines 8 mean?

6D.1.2 Why the need to focus on vulnerable groups?

6E.2 Women and HIV/ AIDS

6E.2.1 Key Issues

6E.2.2 Guidelines on Implementation

6E.2.3 Examples from Southern Africa

6E.3 Children and HIV/AIDS

6E.3.1 Key Issues

6E.3.2 Guidelines on Implementation

6E.3.3 Examples from Southern Africa

6E.4 Resources and References

6E.4.1 Useful Contacts and Web Sites

6E.4.2 Useful References

6E.5 End Notes



Key Points

- UNAIDS recommends that all states take steps to protect women, children and other vulnerable groups from HIV and AIDS by:
 - protecting their rights to equality and to non-discrimination
 - providing them with health services that meet their special needs, and
 - involving them in the response to HIV and AIDS.
- Vulnerable groups are groups of people within the population who:
 - are especially at risk of getting infected with HIV and AIDS, and
 - are especially hard-hit once affected by HIV and AIDS.
- Vulnerable groups include:
 - women
 - children
 - sex workers
 - injecting drug users (IDUs)
 - men who have sex with men
 - minorities
 - migrants
 - indigenous people
 - refugees
 - internally displaced people
 - people with disabilities
 - prisoners
- Women, especially young women, are at high risk of HIV infection in Southern Africa. Many of the reasons for women's vulnerability relate to women's rights. When women's rights are not protected, they are at risk of HIV infection.
- Southern African countries have begun to take steps to develop HIV and AIDS programmes especially for women, such as PMTCT programmes. A number of countries have also developed laws and policies to give women equality, and to protect women from rape and sexual abuse.
- However, much still needs to be done to achieve the full equality of women. In particular, many cultural practices still promote gender inequality and put women at risk of HIV infection.
- Children below 18 years of age are also an especially vulnerable group. When they are denied their rights, they are more at risk of becoming infected or affected by HIV and AIDS.
- Most Southern African countries have prevention programmes in place that give priority to youth, as well as care and support programmes for orphaned and vulnerable children. Some countries also give social grants to orphaned and vulnerable children.
- However, much still needs to be done to improve treatment and care programmes for children in African countries, as well as to protect their health rights.





UNAIDS Guideline 8: Women, Children and Other Vulnerable Groups

States should, in collaboration with and through the community, promote a supportive and enabling environment

- for women, children and other vulnerable groups
- by addressing underlying prejudices and inequalities
- through community dialogue,
- specially designed social and health services, and
- support to community groups.



6E.1 Introduction

This section looks at the steps that countries should take to protect the rights of women, children and other groups that are especially at risk of HIV and AIDS.

6E.1.1 What does Guideline 8 mean?

Guideline 8 means that every country should take special steps to protect the rights of certain people in society, because they are vulnerable (at risk of) HIV and AIDS. These special measures should aim to help **vulnerable groups** to:

- use and benefit from their human rights, so that they are not in an unequal position in society
- access services to allow them to protect their health
- be involved in developing HIV/AIDS services that suit their needs, and
- take control of their lives and make behaviour changes.



See Chapter 3: Introduction to Human Rights for more information on human rights.

What are vulnerable groups?

Vulnerable groups are groups of people within the population who:

- are especially at risk of getting infected with HIV and AIDS, and
- are especially hard-hit once affected by HIV and AIDS.

Vulnerable groups may be at risk for many different reasons, such as:

- poverty and limited access to resources (like housing and health care)
- limited access to information and education
- being unequal and lacking power in their relationships
- being **marginalised** (outside of society) because they are involved in unlawful activities (like sex work).



6E.1.2 Why the need to focus on vulnerable groups?

Vulnerable groups are often most affected by HIV and AIDS. For the reasons listed above, they may be more at risk of becoming infected. For the same reasons, once they are infected or affected, the impact of HIV and AIDS is especially harsh because:

- they may have less access to resources (like information or health care) to cope with AIDS
- they may be less able to get help, because of their marginalised positions
- they may experience the worst forms of stigma and discrimination, because as groups who already face stigma and discrimination they are often easy to blame for the HIV epidemic.

The UNAIDS HIV/AIDS and Human Rights International Guidelines lists some of the following vulnerable groups needing special protection:

- women
- children
- sex workers
- **injecting drug users (IDUs)**
- men who have sex with men
- minorities
- migrants
- indigenous people
- refugees
- internally displaced people
- people with disabilities
- prisoners

In this Manual, we give more detail on human rights issues with regard to two vulnerable groups: women and children. However, all vulnerable groups are important and need special protection of their rights in relation to HIV/AIDS.



6E.2 Women and HIV/AIDS

6E.2.1 Key Issues

Women, especially young women, are at high risk of HIV infection in Southern Africa. Many of the reasons for women's vulnerability relate to women's rights. When women's rights are not protected, they are at risk of HIV infection. For example:

- All women have the right to equality and to non-discrimination. Yet we know that in many societies and cultures in Southern Africa, women are not equal. Some social and cultural practices directly discriminate against women - for example, in many countries a widow cannot inherit family property when her husband dies. As a result, women lack control and decision-making power in their families and their communities. This lack of power means that many women can't take steps to protect themselves from HIV (like changing their sexual behaviour), and manage their own HIV infection.

Table: Cultural practices putting women at risk

Countries	Botswana	Malawi	Mozambique	Namibia	South Africa	Swaziland	Zambia	Zimbabwe
Polygyny (the practice of having more than one wife)	X	X	X	X	X	X	X	
Sex with a widow and widow 'inheritance' (often by a male relative of deceased) eg to 'cleanse' or to produce an heir		X	X		X	X	X	X
Initiation ceremonies that encourage sex		X				X		
Dry sex can lead to tearing of the vagina, increasing the risk of HIV infection					X		X	
Circumcision	X							
Sex / marriage with young girls (sometimes arranged without consent)			X	X		X		X



See Chapter 6C section 3: General Anti-Discrimination Laws for more information on important anti-discrimination measures.

- Women and girl children have equal rights to services like education and health care. But many women can't access these services – they may be poor, live too far away, or have too many household and childcare responsibilities. Because of this, women may not get the information or care that they need to protect their health.
- Violence against women and girl children (like rape and sexual abuse) abuses the rights of women and also makes them vulnerable to HIV and AIDS.
- When women are denied economic rights, it is very hard for them to become independent. This can prevent a woman from breaking away from a risky relationship (like an abusive marriage) or a risky work situation (like migrant work). Protecting women's economic rights (eg on divorce or death of a partner) and their workplace rights plays an important part in protecting women's health.

The UNAIDS International Guidelines stress the link between HIV/AIDS and women's rights. Protecting and promoting women's rights is seen as an important part of preventing the spread, and lessening the impact of HIV on women.

6E.2.2 Guidelines on implementation

There are many different steps states can take to protect women from HIV/AIDS. For example, they can:

- encourage women's community groups to run prevention, care and support programmes for other women
- encourage women's organisations to include HIV/AIDS and human rights issues in their programmes
- include gender issues into HIV/AIDS health care programmes
- develop appropriate HIV/AIDS prevention campaigns for women and girl children
- take steps to remove harmful practices (like violence against women, sexual abuse and early marriages)
- provide better work opportunities and social support for women
- create forums to look into the impact of HIV on women, and
- take steps to lessen prejudice and inequality against women

6E.2.3 Examples from Southern Africa

Prevention Programmes for Women

Several Southern African countries have started to develop prevention campaigns specifically for women and girl children, such as

- **Prevention-of-Mother-to-Child-Transmission (PMTCT)** policies and/or programmes that aim to provide:
 - **Voluntary counselling and testing (VCT)** to pregnant women, and
 - **Anti-retroviral treatment (ARVs)** for pregnant women who test HIV positive, to prevent HIV from being passed on to their newborns.
- **Post-Exposure Prophylaxis (PEP)** policies and/or programmes to give ARVs to survivors of sexual assaults (for example, rape) to prevent HIV infection.

Prevention Programmes for women in Southern Africa

	PMTCT	PEP
Botswana	X	X
Lesotho	X	
Malawi	X	X
Mozambique	X	
Namibia	X	X
South Africa	X	X
Swaziland		
Zambia	X	
Zimbabwe	X	

However in many countries these PMTCT and (especially) PEP services are not yet widely available. In some countries these services are set down in policy, but have not yet been implemented. In others, they are still pilot (test) services.

Also, almost all Southern African countries have laws that make sex work a crime. This makes it very hard to reach sex workers with prevention, treatment and care programmes.



:See Chapter 2 section 2.4 Can you prevent HIV? for more information on prevention.

Laws and Policies preventing violence against women

Many Southern African countries aim to strengthen laws to prevent violence against women and girl children. Violence and harmful practices (for example rape, sexual assault and certain cultural practices) put women and girl children at risk of HIV infection.

For example:

- All Southern African countries have laws against rape and other kinds of sexual violence.
- Several countries, such as Botswana, Namibia, South Africa and Zimbabwe have laws that give longer jail sentences to rapists living with HIV at the time of the rape.
- In South Africa, the Compulsory HIV Testing of Alleged Sexual Offenders Bill is being considered. If passed, it will allow a person charged with a sexual offence (like rape) to be forced to take an HIV test under certain conditions.
- Some countries such as South Africa and Namibia also have laws to protect women from domestic violence (violence from a partner).

Laws on rape and HIV/AIDS

Countries	Laws on rape and HIV testing	Laws on rape and sentencing
Botswana	Section 142 (3) of the <i>Penal Code (Amendment) Act No 5 of 1998</i> requires any person convicted of rape to take an HIV test before being sentenced.	Where a rapist tests HIV positive, section 142(4) of the Act provides for a minimum of 15 years imprisonment if the rapist didn't know his HIV status, and a minimum of 20 years if he did know his HIV status.
Lesotho		The <i>Sexual Offences Bill</i> plans to provide for longer jail sentences for a rapist who was HIV positive at the time of the rape.
Namibia		Article 3(l)(a)(iii)(dd) of the <i>Combating of Rape Act</i> gives a minimum sentence of 15 years to first-time rapists who know that they are infected with HIV at the time.
South Africa	The <i>Compulsory HIV Testing of Alleged Sexual Offenders Bill</i> proposes to require HIV testing of a person accused of a sexual offence in certain circumstances.	<i>Criminal Law Amendment Act No 105 of 1997</i> gives life imprisonment to a first-offender rapist who knows he is HIV positive at the time of the rape.
Zimbabwe	Part V Section 17 of the <i>Sexual Offences Act 8 of 2001</i> provides for HIV testing of sexual offenders	Part V Section 16 of the Act gives a 20 year sentence to any person convicted of rape (and sodomy) who was HIV positive at the time of the rape.

However, there is still a lot to be done to prevent violence and harmful practices against women and girl children:

- Rape support services are known to be poor.
- As shown opposite, in all Southern African countries there are still many cultural practices that put women and girl children at risk of HIV infection

Examples: Cultural practices in Malawi

In Malawi, practices such as:

- Chokolo (wife inheritance)
- Mitala (polygyny, where a man has more than one wife)• Chokolo (wife inheritance)
- Kusasa fumbi (sex between a widow and the brother of the husband who has died)
- Chinanmwali (an initiation ceremony that encourages sex)
- Fisi (sex with a young initiate)

increase the risk of HIV infection amongst women and young girls

- Few countries have laws to protect women from domestic violence

Laws and policies to promote equality

There are also examples from Southern Africa of law review and reform to reduce gender inequality (unequal treatment based on a person's gender). For example:

- A number of countries provide for the equality of women in the Constitution (as can be seen on the table overleaf)
- In Malawi, the National HIV/AIDS Policy recommends that certain relationships be recognised as marriages. This will protect women and children's rights to inherit (get) property when a partner dies.
- In South Africa the Recognition of Customary Marriages Act makes women and men equal partners in a customary law marriage. It also protects a women from being married without her consent (agreement). A women's right to the joint property of the marriage is now also protected, if her husband dies.
- In South Africa the South African Law Reform Commission is reviewing the law on inheritance. This should help to protect women's rights to inherit property from their partners when the partner dies.

These law reforms are taking place slowly. In many countries, women still hold unequal positions in their communities, their families and their relationships, even though the right to equality is protected in the Constitution.



See Chapter 7: Monitoring and Enforcement for more information on monitoring and enforcing women's rights.

See Chapter 8: Advocacy for information on how to advocate for change.



Table: Laws and policies to promote equality

Country	Botswana	Malawi	Mozambique	Namibia	South Africa	Zambia	Zimbabwe
Provision	The Constitution gives women equal rights to men. Section 15 prohibits non-discrimination, but does not mention gender or sex separately.	Section 24 of the Constitution gives women the right to full and equal protection by the law, and to protection from discrimination on the basis of gender	Section 67 of the Constitution says that women and men are equal before the law and in all spheres of the political, economic, social and cultural domains	Articles 10(1) and (2) of the Constitution says that all people shall be equal before the law and that no person may be discriminated against on the basis of sex	Section 9(3) of the Constitution says that the state may not discriminate against anyone on the grounds of gender or sex	Section 11 of the Constitution provides for the equality of women	The Constitution gives women equal rights to men



6E.3 Children and HIV/AIDS

6E.3.1 Key Issues

Children below the age of 18 years are also considered to be a vulnerable group. Children may be vulnerable for many reasons, including the fact that:

- they lack control and decision-making power over their lives
- they are dependant on adults for resources and for support
- because of their age, they are easily exploited, and
- in some societies they are denied their rights.

As with women, we can see that denying a child his or her rights can make the child more vulnerable to HIV and AIDS. For example:

- Children have the right to information and education, including about HIV and AIDS. When children are not given HIV/AIDS education, they are at higher risk of becoming infected with HIV.
- All children have the right to a family environment. Children who lose their parents have a right to be cared for by another caregiver. This right protects children who lose their parents because of HIV/AIDS.
- Children have the right to be protected from abuse and exploitation. Yet despite this, many children experience forms of sexual violence like rape, sexual abuse and forced prostitution. Sexual violence against children greatly increases their vulnerability to HIV and AIDS.

6E.3.2 Guidelines on implementation

The UNAIDS International Guidelines recommend that governments do the following:

- Make sure that women and young girls can get good information and counselling about mother-to-child transmission of HIV, and how to prevent it
- Make sure that children and youth get proper health information, education and services including:
 - HIV/AIDS information
 - VCT
 - Prevention programmes
 - Treatment, care and support programmes
 - Social services
- Make sure that children and youth can get confidential sexual health services
- Make sure that child care workers and people who take in children (like adoptive and foster parents) get training to protect children from:
 - Mandatory (forced) HIV testing
 - Discrimination
 - Abandonment (being left).

6E.3.3 Examples from Southern Africa

HIV/AIDS Information

Most countries have made progress towards giving children information on HIV and AIDS. Many Southern African countries now have a policy to give HIV/AIDS education in schools.

- **Prevention-of-Mother-to-Child-Transmission (PMTCT)** policies and/or programmes that aim to provide:

- Voluntary counselling and testing (VCT) to pregnant women, and
- Anti-retroviral treatment (ARVs) for pregnant women who test HIV positive, to prevent HIV from being passed on to their newborns.
- Post-Exposure Prophylaxis (PEP) policies and/or programmes to give ARVs to survivors of sexual assaults (for example, rape) to prevent HIV infection.

Table: HIV/AIDS Education in Schools

Country	HIV/AIDS Education in Schools Policy
Botswana	The 1998 <i>Policy on HIV/AIDS Education</i> provides for HIV education for pupils and teachers
Malawi	HIV/AIDS Education is included in formal primary and secondary school curriculae
Mozambique	The National Strategic Framework provides for HIV/AIDS education in schools
Namibia	Teachers Union <i>Policy on HIV/AIDS</i> (2000) and <i>National Policy on HIV/AIDS</i> for the education sector (2002)(4th draft) provides for HIV education in schools
South Africa	<i>National Policy on HIV/AIDS for Learners and Educators</i> (1999) provides for HIV/AIDS education in schools
Swaziland	The National Strategic Framework provides for HIV/AIDS education to be integrated in schools
Zambia	HIV/AIDS education is integrated in the school curricula
Zimbabwe	AIDS education was introduced in schools in 1993

Centre for the Study of AIDS and Centre for Human Rights (2004) *HIV/AIDS and Human Rights in South Africa*

Prevention Programmes

A number of African countries also prioritise youth in their treatment, care and support programmes. For example:

- In Lesotho the national policy on HIV and AIDS includes a strong focus on youth. One of the key objectives of the national HIV/AIDS plan is to delay sexual activity in youth.
- In Malawi the national HIV/AIDS plan includes prevention programmes that prioritise young people, especially young girls
- In South Africa a key objective of the national HIV/AIDS plan is to reduce new infections amongst youth. Prevention programmes prioritise youth in and out of school, and
- In Swaziland the national policy on HIV and AIDS aims to increase the capacity of youth, amongst others, to protect themselves from HIV and AIDS.

Treatment, Care and Support Programmes

Treatment, care and support programmes for children tend to focus on the needs of orphans. All Southern African countries have policies to care for orphaned and vulnerable children. These programmes give different kinds of support to children, such as:

- Care (for example, by adoption or fostering), and
- Welfare services (like food parcels, uniforms and social grants).

Examples: Support to orphaned children

In Namibia, people who look after children orphaned by HIV/AIDS can get a social grant from the Ministry of Women and Child Welfare. The grant is an amount of money that is given to the caregiver each month. In order to get the grant, the caregiver must provide

- a death certificate to show that a parent died of AIDS, and
- a birth certificate to show the identity of the child

In Botswana there is a national policy to support caregivers taking care of orphans, by providing them with food, uniforms and other supplies.

Law and Policy Review and Reform

There is a need to ensure that Southern African laws and policies around children promote their rights, such as the right to:

- **Get confidential health care services (in the case of older children)**
- **Not be discriminated against on the basis of their HIV status**
- **Not be forced to take an HIV test.**

There is very little evidence of law and/or policy in Southern African countries dealing particularly with the rights of children in relation to HIV and AIDS.

Examples: Laws protecting children's health rights

In South Africa, law reform has helped to give children the right to consent (agree) on their own to medical treatment. This helps to encourage children to use health care services.

The *Child Care Act* says that children of 14 years or older can consent to medical treatment (including an HIV test) on their own. They also have the right to **confidentiality** (privacy) where they give consent. The *Children's Bill* recommends that the age be lowered to 12 years.

The Southern African response to children, HIV/AIDS and human rights still needs to be improved in a number of areas, including:

- ***Treatment, Care and Support of HIV/AIDS:*** Very few countries have guidelines on the medical treatment of HIV/AIDS in children. Also, even in those countries that do provide ARVs, very few children are on ARV programmes.
- ***Law Review and Reform:*** Southern African countries need to review their child care laws and policies to protect the rights of children in respect of HIV/AIDS.

Programmes	Prevention Programmes	Treatment Programmes	Care and Support Programmes	Social Assistance	Protection of health rights
Strengths and Weaknesses in Southern African Countries	Most countries have policy / plan in place. Implementation slow at times	Needs strengthening	Most countries have OVC policies and plans in place. Implementation slow at times	Some countries give social assistance to children orphaned by HIV/AIDS. Needs strengthening	Needs strengthening



See Chapter 6B: Health Rights for more information on laws relating to HIV testing, confidentiality and health care services in Southern Africa.

See Chapter 7: Monitoring and Enforcement for more information on monitoring and enforcing the rights of children.

See Chapter 8: Advocacy for information on how to advocate for change.



6E.4 Resources and References



6E.4.1 Useful Web Sites

AIDS Law Project
www.alp.org.za

Children's Rights Centre
www.childrensrightscentre.co.za

Centre for Human Rights
www.chr.up.ac.za

Centre for the Study of AIDS
www.csa.za.org

Francois Xavier Bagnoud International
www.fxb.org

Southern African HIV and AIDS Information Dissemination Service
www.saf aids.org.zw

UNAIDS
www.unaids.org

UNICEF
www.unicef.org

6E.4.2 Useful References

African Charter on the Rights and Welfare of the Child
Available from www.chr.up.ac.za

Centre for the Study of AIDS and Centre for Human Rights HIV/AIDS and Human Rights in Botswana; Malawi; Mozambique; Namibia; South Africa; Swaziland; Zambia; Zimbabwe
Available from www.csa.za.org

Constitutions of various African countries
Available from www.chr.up.ac.za

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa
Available from www.chr.up.ac.za

UNAIDS HIV/AIDS and Human Rights International Guidelines
Available from www.unaids.org

Zungu-Dirwayi N, Shisana O, Udjo E, Mosala T, Seager J (2004) An Audit of HIV/AIDS Policies in Botswana, Lesotho, Mozambique, South Africa, Swaziland and Zimbabwe
Available in Africa from Blue Weaver Marketing and Distribution
Tel 27-21-701 4477 Fax 27-21-701 7302 Email: booksales@hsrc.ac.za

Part A: chapter 7

Monitoring

and Enforcement

Contents

- 7.1 Introduction
 - 7.1.1 What does Guideline 11 mean?
 - 7.1.2 Why the need for monitoring and enforcement?
- 7.2 Monitoring HIV/AIDS and Human Rights
 - 7.2.1 Key Issues
 - 7.2.2 Guidelines on Implementation
 - 7.2.3 Examples from Southern Africa
- 7.3 Enforcing HIV/AIDS and Human Rights
 - 7.3.1 Key Issues
 - 7.3.2 Guidelines on Implementation
 - 7.3.3 Examples from Southern Africa
- 7.4 Resources and References
 - 7.4.1 Useful Web Sites
 - 7.4.2 Useful References
- 7.5 End Notes



Key Points

- Monitoring is the tracking (follow-up) and checking of important information or watching a situation to check if something is getting better or worse. Monitoring HIV/AIDS and human rights involves tracking HIV/AIDS and human rights standards to make sure they are developed and implemented.
- One of the most important uses for monitoring information is to enforce human rights standards, by
 - Encouraging or ordering people to obey them, or
 - Punishing people who don't obey them.
- Guideline 11 of the HIV/AIDS and Human Rights International Guidelines suggests lots of different ways that governments and NGOs can monitor human rights.
- Rights can be enforced through monitoring bodies such as the Committee on the Rights of the Child. At a regional level there is the African Commission and in the future there will be the African Court of Human Rights.

This chapter deals with human rights based monitoring. It explains what monitoring is and how it can be used to promote human rights advocacy and lobbying.

UNAIDS Guideline 11: State Monitoring and Enforcement of Human Rights

States should ensure monitoring and enforcement mechanisms to guarantee HIV-related human rights, including those of people living with HIV/AIDS, their families and communities.



7.1 Introduction

This chapter looks at monitoring and enforcement of human rights. It gives non-governmental organisations (NGOs) and community-based organisations (CBOs) some guidelines on how to monitor HIV/AIDS and human rights in their countries.

7.1.1 What does Guideline 11 mean?

Guideline 11 means that states should take steps to make sure that the HIV/AIDS and human rights standards set out in the UNAIDS International Guidelines are being followed, and are being protected. Where these human rights standards are not followed, states should make sure that there are ways for PLHAs and people affected by HIV/AIDS to complain and have their rights enforced.

What is monitoring?

Monitoring is the tracking (follow-up) of important information or watching a situation to check if something is getting better or worse. Monitoring HIV/AIDS and human rights involves tracking HIV/AIDS and human rights standards to make sure that they are developed and implemented.

Example: Monitoring discrimination against PLHAs

A human rights organisation can monitor stigma and discrimination against PLHAs by reading the national newspapers to pick up stories relating to HIV/AIDS. They could use this information over a period of time to see if:

- There are stories being reported about discrimination against PLHAs;
- stories about discrimination against PLWAs are increasing or decreasing;
- PLHAs are facing different kinds of discrimination;
- sub-groups of PLHAs (for example, men, women or children) face more or less discrimination.

What is enforcement?

Monitoring gives us HIV-related human rights information that we can use in different ways. One of the most important uses for the information is to enforce human rights standards. Enforcing HIV-related human rights standards means holding people responsible for these standards, either by:

- encouraging or ordering people to obey HIV-related human rights standards, and
- punishing people who don't obey HIV-related human rights standards.

7.1.2 Why the need for monitoring and enforcement?

The UNAIDS International Guidelines give us excellent standards for HIV and human rights. But setting standards for people and organisations to follow is not enough to manage HIV-related human rights abuses. Monitoring and enforcement are also needed.

Monitoring is important because it helps us to:

- Collect information on HIV/AIDS and human rights, such as:
 - Whether human rights are being protected or abused;
 - The nature and extent of human rights abuses;
 - Changes in the human rights situation in the country;
 - "Good practices" relating to human rights.
- Share good practices with other countries within the region;
- Report on abuses at regional and international level;
- Advocate and lobby for changes to laws and policies;
- Enforce human rights standards.



See Chapter 8 Advocacy for more information on using information to advocate for change.



7.2 Monitoring HIV/AIDS and Human Rights

Guideline 11 of the UNAIDS International Guidelines sets out different ways that states can monitor HIV/AIDS and human rights. They recommend that states take the following steps:

- Collect information on HIV/AIDS and human rights and report on this information;
- promote HIV-related human rights discussions in international and regional forums;

- establish HIV/AIDS focal point people in all branches of government to monitor HIV/AIDS and human rights standards; and
- give support to NGOs doing monitoring.

In this section, we focus on the work that can be done by NGOs and CBOs to monitor human rights around HIV and AIDS.

7.2.1 Key Issues

NGOs and CBOs need to monitor:

- Existing human rights standards in national laws, policies and programmes, to make sure that these standards are being followed, and
- human rights standards set out in international and regional human rights instruments, to advocate and lobby for states to meet these standards.

7.2.2 Guidelines on Implementation

NGOs and CBOs can consider the following activities, to help monitor HIV/AIDS and human rights:

- Collecting information on HIV/AIDS and human rights (both negative and positive)
- training organisations and bodies (such as ombudspersons and human rights commissions) to monitor HIV-related human rights

Examples: Bodies that can monitor human rights

Various bodies can monitor HIV-related human rights. For example:

- The Tanzanian Food & Drug Authority is a statutory (set up by written law) body in charge of monitoring all clinical trials that take place in Tanzania. This includes ensuring that the rights of trial participants are not infringed. This body could be trained to strengthen their capacity to collect and monitor information relating to the human rights of trial participants in HIV research.
- The South African National AIDS Council is a non-statutory, advisory body that has a sub-committee on HIV and human rights. The committee could be tasked with collecting information on HIV/AIDS and human rights to advise government on how best to implement the human rights goals of the HIV/AIDS Strategic Plan.
- Constitutional bodies like the Human Rights Commission in Uganda collect information and monitors human rights abuses generally. It could be trained to collect information specifically on HIV and human rights
- Tanzania and Botswana have developed parliamentary committees on HIV/AIDS. One of the functions of these committees is monitoring. NGOs can lobby these committees to monitor specific issues. For example, in Botswana the committee can be asked to monitor routine HIV testing to check that it is not infringing (abusing) rights.

- Reviewing the laws, policies, strategies and plans of government to check if they include proper HIV/AIDS and human rights standards, in line with:
 - o their own objectives
 - o the objectives set out in the UNAIDS HIV/AIDS and Human Rights International Guidelines.

7.2.3 Examples from Southern Africa

Information Collection

Several Southern African countries have networks on law, human rights, ethics and HIV/AIDS. These networks have a wide range of objectives, often including information collection on HIV/AIDS and human rights issues.

Case study: Farm Orphan Support Trust in Zimbabwe



The Farm Orphan Support Trust in Zimbabwe has been monitoring the rate at which children drop out of school for many years. For example in 2000, they reported that one third of children orphaned by AIDS had to drop out of school because they couldn't afford the school fees or they had lost their birth certificates and other documents need to enrol in school.

NGOs are able to use this information to monitor the right of access to education. The information obtained can be used to lobby government to ensure that children who cannot pay their fees are not excluded from school.

www.hrw.org

But there is no system to try to systematically collect all important information in each country, and across the region. The AIDS and Rights Alliance of Southern Africa (ARASA) is trying to develop a system, with the use of its Human Rights Barometer.

Example: ARASA Human Rights Barometer

The ARASA Human Rights Barometer is being developed as a tool to collect information on the status of HIV-related human rights within Southern Africa every year. The information will be collected by ARASA's partners in each country. Each partner has committed themselves to completing an annual questionnaire to send to ARASA. This information can be used to monitor key human rights issues within the region such as whether:

- ARVs programmes are being expanded as promised by governments in the region
- Access to ARVs is reducing stigma and discrimination
- Routine testing is broadening access to HIV testing without infringing rights

The ARASA HIV/AIDS and Human Rights Barometer is also a useful way of monitoring the implementation of the UNAIDS International Guidelines, because it is also based on standards set in the Guidelines.

Training

There are also examples in Southern Africa of HIV/AIDS and human rights training for people and organisations who are in a position to monitor human rights issues, including training of:

- Other non-governmental and AIDS service organisations
- Government officials (such as judges and magistrates), and
- Bodies (such as human rights commissions and ombudspersons).

Example: ZARAN AIDS Law Paralegal and Advocacy Training Workshop

A workshop was undertaken to build the capacity of individuals and organisations to respond to the legal, ethical and human rights challenges that arise as a result of HIV/AIDS, by training AIDS Law paralegals. This was a five day workshop that discussed priority areas such as discrimination, stigma and confidentiality as they relate to HIV/AIDS. 40 people participated with a total of 6 resource persons of diverse experience in law and HIV/AIDS issues.

www.zaran.org



See Chapter 6D Legal Support Services for more examples of awareness, education and training to support human rights monitoring.

Reviewing laws, policies and plans

All Southern African countries have a national HIV/AIDS policy and/or plan. In almost every country, this plan refers to HIV/AIDS and human rights, and the need to reduce stigma and discrimination around HIV and AIDS.

Examples from Southern Africa

The Action Plan to Fight HIV/AIDS in Mozambique of 2000 says: “The government of Mozambique is committed to enacting legislation protecting the basic human rights of people living with HIV/AIDS”

In Swaziland, the Policy Document on HIV/AIDS and STD Prevention and Control of 1998 includes the objective of “increasing the capacity of women, youth and other vulnerable groups or disadvantaged groups to protect themselves against HIV/AIDS and other STDs (sexually transmitted diseases) and to attempt to safeguard the human rights of people living with HIV/AIDS.

In Malawi, the National HIV/AIDS Strategic Framework 2000-2004 includes a number of human rights principles to guide policy and programme design. The Malawi National HIV/AIDS Policy includes specific human rights objectives such as (i) reviewing laws and enacting new laws to address HIV-related issues; (ii) ensuring human rights are protected in the response to HIV/AIDS, and (iii) creating an enabling environment to reduce HIV/AIDS-related stigma and discrimination.

But many countries have been slow to develop appropriate laws and policies. Also, there have been recent calls for laws and policies that do not protect human rights – such as criminal laws to punish those who spread HIV, and testing policies that allow for HIV testing without informed consent.



See Chapter 6B Health Rights for more information on coercive public health laws.

See Chapter 8 Advocacy for more information on how to advocate for change.



7.3 Enforcing HIV/AIDS and Human Rights

Guideline 11 of the UNAIDS International Guidelines sets out different ways that states can enforce HIV/AIDS and human rights. They recommend that states take the following steps:

- Report on HIV/AIDS and human rights information to relevant bodies (for example, regional bodies like the African Union (AU), or international bodies like the United Nations)
- Support NGOs to help with enforcement of human rights
- Support bodies (such as human rights commissions and ombudspersons) to carry out enforcement of human rights

In this section, we focus on the work that can be done by NGOs and CBOs to enforce human rights around HIV and AIDS.

7.3.1 Key Issues

NGOs and CBOs can enforce HIV-related human rights in the following ways:

- At a national level – by using information on individual and systemic human rights abuses to enforce rights within the country, and
- At a regional and international level – by reporting information on systemic human rights abuses, and failure to meet human rights standards.

Case study: Exposing the impact of HIV/AIDS on children in Kenya



In a study by Human Rights Watch called *In the Shadow of Death: HIV/AIDS and Children's Rights in Kenya* (2001) the researchers monitored the impact of HIV on children's rights. They found that:

- Orphaned girl children were more likely to drop out of school than boys
- Orphaned children often lost the family home because of inheritance practices (practices about how property is divided up after a person dies) that give the land to the father's brother, and
- Orphaned children were far more likely to be forced into child labour than other children.

This monitoring report was used to make recommendations to the Kenyan government, the international donors supporting the government and the United Nations.

www.hrw.org

7.3.2 Guidelines on Implementation

NGOs can refer, or work with legal organisations (like law clinics) to bring HIV-related human rights complaints to forums that can enforce rights, such as:

- councils (like a health care workers' council)
- commissions (like a human rights commission)
- courts (like civil, criminal and constitutional courts, or international courts)

Examples: Enforcement methods

These bodies can enforce rights in different ways. For example:

- Bodies that regulate professionals (like health worker's councils) can take steps to discipline professionals, such as not allowing them to practice for a period of time.
- Courts and commissions can investigate human rights abuses and make orders that force people to do (or stop doing) something, and
- Courts can also fine people and organisations, as well as sentence people to periods in prison in criminal matters.

At the regional and international level, NGOs can:

- report to international and regional bodies on whether its country is carrying out its human rights obligations
- report to international and regional bodies on whether other countries are carrying out their human rights obligations, and
- bring complaints before human rights bodies (like courts).

International law plays an important part in the protection of human rights. However it is sometimes difficult to enforce human rights standards through international law as this law only applies where countries consent (agree) to be bound (held responsible to) the human rights standards.

- If a country has not ratified (agreed to be bound by) a treaty then they don't have to follow its rules.
- If a country has ratified a treaty then they are bound by it. If they fail to carry out their duties they can be reported to a body that enforces the treaty.



See Chapter 5 section 2 *International Human Rights Instruments* for more information on monitoring and enforcement of international and regional human rights obligations.

Example: UN bodies that can enforce human rights issues

- The High Commissioner for Human Rights - this is the most important body responsible for human rights within the United Nations system
- Human Rights Committee - this body was set up by the International Convention on Civil and Political Rights. It monitors and enforces civil and political rights in countries that have ratified the Convention
- The Committee on Economic, Social and Cultural Rights - is created by the International Covenant on Economics, Social and Cultural Rights. It monitors and enforces social, economic and cultural rights in the countries that have ratified the Convention.
- Committee on Rights of Child - is created by the Convention on the Rights of the Child. They receive country reports from those countries that have ratified the Convention and from NGOs within the countries. They monitor the global situation relating to children's rights
- Committee on the Elimination of Discrimination Against Women monitors the global situation relating to women's rights.

Example: Monitoring and Enforcement Bodies in Africa

In Africa the African Charter on Human and People's Rights created the African Commission on Human and People's Rights. Its job is to oversee the protection of human rights on the African continent. The Commission got more than 200 complaints from individuals and NGOs between 1987 and 1997.

More recently a number of countries have signed a protocol to create the African Court on Human and People's Rights. The court will accept complaints from the African Commission, states, African intergovernmental organisations, NGOs, individuals and groups of individuals. All member states will be required to live by the decisions of this court.

Although enforcement at the international and regional level is argued to be weak, there are steps that international and regional bodies can take:

- Where a country has ratified an international or regional human rights agreement, the monitoring body can recommend steps the country should take to carry out its duties.
- Where a country continues to abuse human rights, the monitoring body can take the matter forward (for example, to the United Nations General Assembly) to recommend stronger steps against that country. For example, economic sanctions can put pressure on other countries to stop trade relations with that country.
- An international court can make a finding against that country relating to human rights abuses. However, the decision is only binding where a country agrees to be bound by the court's decision.

7.3.3 Examples from Southern Africa

There are a number of examples throughout this Manual on how Southern African countries have used national forums to enforce HIV/AIDS and human rights within their countries. However, in many countries enforcement of HIV and human rights is still weak. This is an area where much work is needed, to make sure that the rights of people infected with and affected by HIV/AIDS are protected.



See Chapter 8 *Advocacy* for more information on how to advocate for change.



7.4 Resources and References



7.4.1 Useful Web Sites

African Commission for Human & People's Rights
www.achpr.org

African Union
www.africa-union.org

AIDS and Rights Alliance for Southern Africa (ARASA)
www.arasa.info

Centre for Human Rights, University of Pretoria
www.chr.up.ac.za

UNAIDS
www.unaids.org

United Nations High Commissioner for Human Rights:
www.unhchr.ch

7.4.2 Useful References

African Human Rights Journal, July 2004, Chart of Ratifications
Centre for the Study of AIDS Whose Right? AIDS Review 2002
Available from www.csa.za.or

Centre for the Study of AIDS and Centre for Human Rights HIV/AIDS and Human Rights in Botswana; Malawi; Mozambique; Namibia; South Africa; Swaziland; Zambia; Zimbabwe
Available from www.csa.za.org

Evans M, Murray R (eds) (2004) The African Charter on Human and People's Rights, Cambridge University Press

Smith, RKN (2003) International Human Rights Chaps 4 and 9

UNAIDS Best Practice Collection Handbook for Legislators on HIV/AIDS, Law and Human Rights
Available from www.unaids.org

UNAIDS HIV/AIDS and Human Rights International Guidelines
Available from www.unaids.org

UNAIDS The UNAIDS Guide to the United National Human Rights Machinery
Available from www.unaids.org

Part A: chapter 8

Advocacy

Contents

8.1 Introduction

- 8.1.1 What is an advocacy plan?
- 8.1.2 How can the International Guidelines help advocacy?
- 8.1.3 How can other human rights instruments help advocacy?

8.2 Advocacy and the International Guidelines

- 8.2.1 Introduction
- 8.2.2 Structures and Partnerships
- 8.2.3 A Protective Legal Framework
- 8.2.4 A Supportive Environment for Vulnerable Groups

8.3 Developing an HIV/AIDS and Human Rights Advocacy Plan

- 8.3.1 The Advocacy Agenda
- 8.3.2 The Advocacy Strategy

8.4 Advocacy Strategies

- 8.4.1 Law and Policy Review
- 8.4.2 Litigation
- 8.4.3 Mass Action
- 8.4.4 Lobbying Decision-Makers
- 8.4.5 Communication Campaigns

8.5 Current human rights issues for rights-based advocacy

- 8.5.1 Routine HIV Testing
- 8.5.2 Testing in the armed forces
- 8.5.3 The rights of research participants
- 8.5.4 Gender and HIV/AIDS
- 8.5.5 PEP after rape

8.6 Useful Resources and References

- 8.6.1 Useful Contacts and Web Sites
- 8.6.2 Useful References

8.7 End Notes



Key Points

- Advocacy means working for change. Advocacy is action aimed at changing the policies and practices of an organisation.
- An advocacy plan is a plan of action that considers:
 - what the problem is
 - what change you want to bring about to deal with the problem, and
 - how best to bring about this change.
- Human rights instruments are useful for advocacy because they:
 - set standards for a human rights response to HIV/AIDS
 - help to monitor if states are reaching these standards, and
 - help encourage change if states do not reach these standards.
- For example the UNAIDS HIV/AIDS and Human Rights International Guidelines set standards for states on:
 - developing good structures and partnerships to respond to AIDS
 - strengthening their legal framework to protect the rights of PLHAs, and
 - creating a supportive environment for vulnerable groups.
- An advocacy plan starts with an advocacy agenda. This defines the problem, the main issues, and the goals.
- An advocacy agenda is followed by an advocacy strategy. This defines what you will do, with whom you will do it, and how you will reach the goal.
- Advocacy strategies can use different methods to reach their goals, such as
 - law and policy review
 - litigation
 - mass action
 - lobbying decision-makers, and
 - communication campaigns.
- Key human rights issues in Southern Africa which may be important for advocacy include:
 - routine HIV testing
 - testing in the armed forces
 - the rights of research participants
 - gender and HIV/AIDS, and
 - PEP after rape.



8.1 Introduction

This Manual shows many inspiring examples of rights-based responses to HIV and AIDS in Southern African countries. Some of these responses only came about because organisations and individuals monitored the HIV/AIDS and human rights situation in their countries and regions, and undertook advocacy for change.



See Chapter 7 *Monitoring and Enforcement* for more information on monitoring.

Advocacy means working for change. Advocacy is action aimed at changing the policies and practices of an organisation. For example, people living with HIV and AIDS may take action for better health care, to improve their lives. Advocacy activities may take different forms, like:

- speaking to decision makers to persuade them to change policies and programmes
- taking mass action (eg going on a march) to challenge decision makers to solve a problem
- bringing court cases to challenge laws and policies.

8.1.1 What is an advocacy plan?

An advocacy plan is a plan of action that considers:

- what the problem is
- what change you want to bring about to deal with the problem, and
- how best to bring about this change.

An advocacy plan starts with an advocacy agenda, and is followed by an advocacy strategy

Developing an Advocacy Plan

ADVOCACY AGENDA

- Select the problem you want to address
- Examine and research the problem in detail
- Identify the main issues
- Identify the goals to address these issues

ADVOCACY STRATEGY

- Identify who to target actions towards
- Identify what resources you need for your actions
- Identify who to work with in your actions
- Decide what your actions will be

Example: Advocacy Plan around Discrimination

The United Nations General Assembly Special Session (UNGASS) Declaration of Commitment on HIV/AIDS sets concrete goals for states to work towards by 2005, in order to respond to HIV and AIDS.

Paragraph 58 says that by 2003, all states should develop, strengthen and enforce laws and other measures to get rid of all forms of discrimination and do everything to provide human rights to PLHAs and other vulnerable groups.

Based on this goal, Southern African countries can develop advocacy plans. The advocacy plans will push for change in the way that discrimination against PLHAs is dealt with in their countries.

The advocacy agenda will:

- looks at discrimination against PLHAs in the country
- Identify the main issues causing discrimination against PLHAs, and
- Set goals to reduce (lessen) discrimination against PLHAs.

The advocacy strategy will:

- Identify who to target in order to reduce discrimination against PLHAs
- Identify what resources are available
- Identify who to work with, and
- Identify what exactly to do to reduce discrimination against PLHAs

See Resources and References below for information on accessing the UNGASS Declaration. A new Declaration will be signed shortly, committing governments to new targets.



See section 8.3 below for more information on developing an advocacy plan.

8.1.2 How can the International Guidelines help advocacy?

The UNAIDS HIV/AIDS and Human Rights International Guidelines are a useful framework for developing a national or regional advocacy plan around HIV/AIDS and human rights.

This is because the International Guidelines themselves set an advocacy plan. The International Guidelines recognise that HIV and AIDS continue to spread throughout the world, and that many countries have failed to protect human rights in relation to HIV and AIDS. So, the International Guidelines:

- Advocate for a rights-based response to HIV and AIDS
- By setting concrete goals for all states to work towards.

But the International Guidelines note that they include “many difficult and complex issues, some of which may or may not be relevant to the situation in a particular country”. For this reason, it is important for countries, and regions such as the Southern African Development Community (SADC), to consider their own situations first, and then to look to the Guidelines as a possible framework for state action.

8.1.3 How can other human rights instruments help advocacy?

Other international and regional human rights agreements are also important for advocacy strategies, because they may:

- give useful guidance on what countries have to do around specific human rights issues
- give specific recommendations about what government has to do around HIV and AIDS, and
- include ways to monitor what a country is doing to fulfil its human rights obligations (duties).

Examples: International HIV/AIDS Instruments

Point 12 of the Abuja Declaration says that African governments should recognise that stigma, silence, denial and discrimination against PLHAs increase the impact that HIV is having on our community. The Declaration recommends greater involvement of PLHAs in a country's national response to HIV, to deal with discrimination. This declaration can be used in advocacy campaigns to advocate for greater involvement of PLHAs on government structures that create HIV and AIDS policy.

The UNGASS Declaration of Commitment on HIV/AIDS is a declaration by governments of the world that commits countries to implementing a strategy, with clear goals and timelines, to deal with HIV and AIDS. It includes commitments on HIV/AIDS and human rights. The Declaration says that by 2005, most plans should have been carried out. So, it is a very useful tool to measure how far countries have come in carrying out their commitments to HIV/AIDS and human rights.



See Chapter 5 Human Rights Instruments for more information.



8.2 Advocacy and the International Guidelines

8.2.1 Introduction

The International Guidelines focus on 3 main tasks for states to develop a rights-based, effective response to HIV/AIDS:

- Setting up good structures and partnerships that include a wide range of roleplayers
- Creating a strong legal framework by reviewing laws and developing legal support services, and
- Promoting a supportive environment for vulnerable groups.

These 3 categories may be a useful starting point for developing your own advocacy plan for a rights-based response to HIV and AIDS.

8.2.2 Structures and Partnerships

Guidelines 1 and 2 of the International Guidelines tell states how to set up different kinds of structures and partnerships to respond to HIV and AIDS, in a way that involves and includes people from all sectors and all levels of society.



See Chapter 6A Structures and Partnerships for more information.

These guidelines may be useful for developing an advocacy plan in your own country.

Example: Structures and Partnerships

Your country's response to HIV/AIDS may lack proper structures and partnerships. In this case, the Guidelines will help you to:

- Identify useful structures and partnerships important for your own country
- Identify those organisations and people who should be included in structures and partnerships
- Measure the extent to which your country has set up important structures and partnerships, and finally
- Set advocacy goals around important structures and partnerships in your country.

8.2.3 A protective legal framework

Guidelines 3 – 7 recommend ways to develop a strong legal framework. An appropriate framework includes:

- laws that respect a rights-based response to HIV and AIDS, and
- legal support services to protect and promote people's rights.

So, these Guidelines can help you identify whether your country has a strong legal framework, and what you can do to push for a protective framework that protects and promotes human rights in relation to HIV and AIDS.



See Chapters 6B – 6E for more information on law review, law reform and legal support services.

Example: Discrimination in the Workplace

Ongoing discrimination against PLHAs in the workplace is a problem in many Southern African countries.

The Guidelines help you to:

- Identify the kinds of laws needed to promote a rights-based response to HIV and AIDS in the workplace
- Identify the types of legal support services that create an awareness of, and protect the rights of employees living with HIV and AIDS
- Measure your own country's legal framework, to see how well you've done in creating the best laws and support services around HIV in the workplace, and
- Develop goals for action around law review and reform, and legal support services.

Case Study: South Africa Prohibits Pre-Employment HIV Testing



As a direct result of lobbying and an advocacy campaign by the AIDS Law Project / AIDS Legal Network, the government of South Africa has prohibited pre-employment HIV testing in the public and private sector.

ICASO An Advocate's Guide to the International Guidelines on HIV/AIDS and Human Rights

AIDS Law Project HIV/AIDS and the Law: A Resource Manual

8.2.4 A Supportive Environment for Vulnerable Groups

Guidelines 8 – 12 focus on how to create a supportive environment for HIV and AIDS, with a focus on vulnerable groups. Again, these Guidelines are extremely helpful for developing your own advocacy goals and strategies.

Example: Supporting Vulnerable Groups

Men who have sex with men are a vulnerable group in many Southern African countries.

Guideline 8 will help countries to:

- identify the kinds of laws, policies and practices that support men who have sex with men, and decrease discrimination against them
- look at the country's laws and policies to measure how well it is creating a supportive environment for men who have sex with men
- Develop goals for action around law and policy reform

Case Study: Challenge to India's ban on gay sex



Section 377 of the Penal Code in India makes gay sex (which it calls "carnal intercourse against the order of nature") a crime which can be punished with up to 10 years in prison. An Indian non-governmental organisation (NGO) has challenged this law, saying that it makes AIDS work with men who have sex with men (including prisoners) difficult.

The Delhi High Court dismissed the case, but in February 2006 India's Supreme Court ordered the High Court to relook at the case to decide whether the law is constitutional.

The court case has helped NGOs to develop wide reaching awareness campaigns around the rights of prisoners, and men who have sex with men, and may help to change the law in future.



8.3 Developing an HIV/AIDS and Human Rights Advocacy Plan

An HIV/AIDS and Human Rights advocacy plan helps countries to advocate for change around HIV/AIDS and human rights issues.

It tells us more about the HIV/AIDS problem, by:

- looking at the context – that is, looking at all the circumstances around us
- identifying the issues (problems)
- choosing the goals to deal with the problems, and
- choosing the strategies (tactics) to deal with the problems.

8.3.1 The Advocacy Agenda

The problem

Your advocacy agenda will focus on a particular HIV/AIDS and human rights problem. You first need to examine all the circumstances surrounding the problem, to try to understand what is going wrong.

This will help you to understand:

- More about the problem, such as:
 - What is the problem?
 - Why do we have the problem?
 - Who is affected?
 - How are they affected?

- More about solving the problem, such as:
 - What can help to solve the problem?
 - What blocks us from solving the problem?

Example: Youth and HIV: The Problem

Why are rates of infection amongst youth so high in our community?
 Who is affected the most – young men or young women?
 What will help us to reduce the rates of HIV infection amongst youth? (such as laws and policies to promote peer education, access to health care, community involvement)
 What will be an obstacle to reducing the rate of child abuse? (such as laws and policies that allow violence against women, prohibit access to information)

What are the main issues?

The results of your analysis will help you to identify the most important issues. These issues can be written as problem statements. In this way, the cause of the HIV/AIDS and human rights problem becomes clear.

Example: Youth & HIV – Identifying the Issues

ISSUE 1: There is no HIV/AIDS education in schools
 ISSUE 2: There is no law allowing young people to access to preventive health care on their own
 ISSUE 3: Young women are not protected against sexual violence

Setting the Goal

The goal is what we would like to see happen. Creating a goal is about taking the issue and turning it into a positive statement of what should be done.

Example: Youth & HIV – Setting the Goals

ISSUE 1: There is no policy to require HIV/AIDS education in schools
 GOAL 1: Policy requires HIV/AIDS education to take place in schools
 ISSUE 2: There is no law allowing young people to access to preventive health care on their own
 GOAL 2: The law allows young people to access preventive health care on their own
 ISSUE 3: The law does not protect young women against sexual violence
 GOAL 3: The law protects young women against sexual violence

8.3.2 The Advocacy Strategy

Finally, when you have developed our advocacy goals, you need to decide how you will reach our goal. This means deciding what strategies (methods) will best reach the goals.

To develop a good advocacy strategy, you need to:

- decide who the best people (or groups) are to target with the advocacy plan
- decide what resources are needed
- decide who the best people (or groups) are to work with
- decide which people (or groups) can help (“gatekeepers”) and which can block (“resisters”) your advocacy goals
- decide what messages you want to use in our advocacy plan, and
- decide what kind of advocacy you will use to push for change.

(See example overleaf)

Example: Youth & HIV Advocacy Strategy

Goal 1: Policy requires HIV/AIDS Education in Schools

Target	Resources	Support	Resisters & Gatekeepers	Message	Method
National Department of Education	Funds Legal capacity	Children's rights organisation	Registers: religious organisations Gatekeepers: principals	Children have a right to HIV/AIDS education in schools.	Take part in process to develop policy. Lobby decision-makers



8.4 Advocacy Strategies

There are many different advocacy methods (ways) to reach advocacy goals with the various groups. In this section, we look at some different advocacy strategies that can be used to reach our advocacy goals. Often advocacy plans use a number of strategies together to reach their goals. Some key strategies are:

- Taking part in law (and policy) review and reform processes
- Litigation (bring actions to court)
- Mass action (like marches and demonstrations)
- Lobbying decision-makers, and
- Communication campaigns (like briefing notes, memorandums, presentations and press releases).

8.4.1 Law and Policy Review

A good advocacy strategy may be to either:

- push for an organisation (like a government department) to review their laws or their policies, or
- take part in existing processes to review laws and policies.

This is an opportunity to negotiate for changes to law and policy. It allows the issues and concerns of your group to be included in any changes to a law or policy.

Case Study: SADC Code on AIDS and Employment



In 1994, a group of NGOs and trade unions in Zimbabwe and South Africa wanted to get SADC to develop a regional code of practice around AIDS and employment. They reached their advocacy goals by:

- developing their own Code of Good Practice on HIV/AIDS in the workplace, and
- using this code to encourage SADC to develop a similar code

In 1997, SADC adopted the Code on HIV/AIDS and Employment.

After that, several Southern African countries included the same principles in national codes on HIV/AIDS and employment.

- On the 3 April 1998 Namibia adopted the Guidelines for Implementation of the National Code on HIV/AIDS in Employment
- In 1998 Botswana adopted a National Code of Practice on HIV and Employment.
- In 1998 in Zimbabwe, the Minister of Public Service, Labour and Social Welfare published regulations in terms of s 17 of the Labour Relations Act entitled Labour Relations (HIV and AIDS) Regulations.
- South Africa adopted the Code of Good Practice on Key Aspects of HIV/AIDS and Employment on the 1 December 2001.

8.4.2 Litigation

Litigation (bringing an action to court) is another useful strategy to bring about change to laws and policies. Challenges to law or policy can take place:

- using national bodies (like courts and commissions), or
- using regional and international bodies (like the African Commission)



See Chapter 7 Monitoring and Enforcement for more information.

Case Study: Nanditume v Minister of Defence

In 1998, the Namibian Defence Force had a policy of



- doing pre-employment HIV testing of all people wanting to join the army, and
- excluding people who tested HIV positive from joining the army.

The AIDS Law Unit (ALU), an NGO in Namibia, believed that this policy amounted to unfair discrimination against people living with HIV or AIDS. They wanted to change the policy. So, the ALU brought an action against the Minister of Defence in the courts. They complained that the policy unfairly discriminated against PLHAs, by denying them employment in the army.

The court agreed that the policy was unfair discrimination. The court said that an HIV test alone could not decide whether a person was fit enough to do army duties. To exclude a person from the army simply because he tested HIV positive was unfair.

Because of the ALU's litigation, the Namibian defence force had to change its policy to protect the rights of PLHAs. However, soon after the court case, the Namibian Parliament developed the Defence Amendment Bill. The Bill says that the army may not employ anyone who has a disease that may affect their military training or duties.

The case shows why advocacy plans often combine a number of strategies to reach their goals. In this case, lobbying decision makers (parliament) alongside the court action may have helped change attitudes in parliament.

8.4.3 Mass action

Mass action is activities taken on by a large group of people, to try to persuade decision-makers to change. For example, demonstrations and marches are a form of mass action. Sanctions (refusing to buy products from a certain organisation or country) can also be a kind of mass action. Mass action uses the power of many people to bring about a change in law or policy.

Example: Mass Action in South Africa

The Treatment Action Campaign (TAC) in South Africa has often successfully used mass action to advocate for change.

At the moment, the TAC is using mass action to get government authorities to act against Matthias Rath. Rath is a businessman who is making false claims that his medicines treat HIV/AIDS, giving out medicines that haven't been registered with medical authorities, and carrying out unlawful research on people in Khayelitsha and Hout Bay.

TAC has used the following mass action to advocate for change:

- On 24 October 2005, they held a demonstration outside a police station for failing to take action against Rath
- On 26 October 2005 TAC marched through a community to let the community know what Rath is doing
- On 27 October 2005, TAC demonstrated outside the Department of Health for failing to take action against Rath, and
- In November, the TAC demonstrated outside the Medicines Control Council to let them know what Rath has been doing.

8.4.4 Lobbying decision-makers

One of the most important ways to bring about change is to lobby (persuade) decision-makers. This strategy is often used with other strategies to advocate for a change in a law, policy, programme or practice.

Checklist: Using the UNGASS Declaration to lobby decision-makers



NGOs can hold decision-makers responsible for the country (or region)'s commitments to HIV and AIDS:

- Ask how government plans to meet targets set out in the Declaration
- Advocate government to review its national AIDS plans to include these targets
- Ask government to detail how it will monitor implementation of these targets
- Lobby government to allocate resources to implementing these targets
- Lobby government to develop strategies to co-ordinate international assistance on these targets
- Lobby government to give funds to community based organisations (CBOs) to carry out activities
- Ask government to assess its capacity to lead the HIV/AIDS response
- Lobby for the Declaration to be included in sessions at regional forums (like conferences and SADC meetings)

ICASO Advocacy Guide to the Declaration of Commitment on HIV/AIDS

8.4.5 Communication Campaigns

Lastly, communication campaigns can be a useful strategy to advocate for change. Often, communication campaigns are used together with other advocacy strategies. Different ways of creating awareness include:

- writing briefing notes and position papers
- writing and delivering presentations
- using drama
- using creative media (like pamphlets, posters and booklets), and
- writing press releases and doing interviews for the media.

Case Studies from Zambia:



The following case studies show how communication strategies were used together with lobbying strategies to reach advocacy goals.

Free Schooling for Orphans

Community care givers in Zambia wanted to lobby decision-makers to make school free for orphaned and vulnerable children (OVCs). They lobbied key decision-makers in education, like the Parents Teachers Association, school boards and then finally the Provincial and District Education Offices. As part of the lobbying, they gave information packages to the authorities on the number of children needing support in each particular school.

As a result, discussion forums have been started between care givers and the education authorities on how to manage orphaned and vulnerable children at school. Also, OVCs now have access to school places at schools.

International HIV/AIDS Alliance Advocacy in Action

Healthcare, workplace and legal process laws

The Zambia AIDS Law Research and Advocacy Network (ZARAN) made presentations to the Parliamentary Select Committee on health, community development and social welfare on changes needed to healthcare, workplace and legal process laws. The Committee has since included these 3 issues in its report.

www.zaran.org



8.5 Current human rights issues for rights-based advocacy

In this section, we look at some of the key HIV/AIDS and human rights issues in Southern Africa.

8.5.1 Routine HIV testing

Guideline 3 of the International Guidelines says that states should review all public health laws to make sure that they protect the rights of PLHAs. The guidelines recommend that public health laws only allow HIV testing with specific, informed consent.

The UNGASS Declaration of Commitment says that by 2003, states commit to strengthening laws that protect the human rights and freedoms of PLHAs and vulnerable groups. This will help to make sure they have access to health care, amongst other things.

Most Southern African countries have policies on voluntary counselling and testing (VCT). However, more recently, there have been calls in many countries for routine HIV testing – testing without getting specific consent first. Some people argue that not enough people are being tested for HIV because consent to VCT takes long and discourages people from having the HIV test.

Case Study: Routine HIV testing in Botswana



Botswana has recently adopted a programme of routine HIV testing. The programme is based on the idea that HIV testing promotes the health of all patients. This means that:

- All health care facilities will do HIV testing on patients
- Patients are not specifically offered HIV tests – the test is done as part of the routine treatment and care
- But if a patient specifically says that they do not want an HIV test, they will not be forced to take a test.

However, some people argue that routine testing abuses people's rights because:

- Some patients may not even know that an HIV test is taking place
- Some patients may not believe that they have the right to refuse the test
- An HIV positive test result may be especially hard for patients who didn't want to test and who did not undergo pre- and post-test counselling..

Key issues to consider:

- Does VCT protect the rights of PLHAs?
- Does VCT promote access to health care?
- Does routine HIV testing protect the rights of PLHAs?
- Does routine HIV testing promote access to health care?
- What should countries do to best protect rights as well as promote access to health care?



See Chapter 6B section 2 HIV Testing for more information.
See Chapter 4 HIV/AIDS as a Human Rights Issue for more information on health and human rights.

8.5.2 Testing in the armed forces

The UNGASS Declaration says that by 2003, all countries commit to having national strategies to:

- deal with the spread of HIV in the armed forces, and
- include HIV awareness and training for the armed forces

However, at the moment a number of Southern African countries deal with HIV/AIDS in the armed forces by:

- doing HIV testing on new applicants to the army
- excluding people who test HIV positive from some, or all positions in the army
- excluding people who test HIV positive from being sent to other countries as peace-keepers.

Example: Pre-employment testing in the military

Both South Africa and Lesotho have a policy of pre-employment HIV testing for the army and excluding people who test HIV positive. Human rights organisations want to challenge these policies in both countries, through litigation (court action).

Key human rights issues to consider:

- Is it fair or unfair discrimination to prevent PLHAs from serving in the armed forces?
- Is it fair or unfair discrimination to prevent PLHAs from entering into your own country as

part of peace keeping armed forces?

- Does pre-employment HIV testing and excluding PLHAs meet the UNGASS commitment to 'dealing with the spread of HIV'?



See Chapter 6C HIV/AIDS at Work for more information on workplace rights.

8.5.3 The rights of research participants

Guideline 5 of the International Guidelines recommends that all states develop or strengthen anti-discrimination laws, including laws to protect the rights of research participants.

Paragraph 70 of the UNGASS Declaration commits states to improving HIV-related research in their countries. This includes a commitment to creating a legal and ethical framework to promote ethical research.

More and more, African countries are being used as sites for research, especially HIV and AIDS research. But in many African countries, the legal and ethical framework for regulating research is not well developed.

Case Study: HIV Vaccine Research



A recent review of the legal and ethical framework for HIV vaccine research in 5 African countries showed that:

- Most countries have a Bill of Rights that protects the rights of all people. But very few countries have laws and policies specifically to protect the rights of research participants (people taking part in research).
- In many countries, bodies and processes for ethical review (review of research proposals to make sure they are ethical and lawful) are still being developed.
- Most of these processes are not set out in laws, only in policies and guidelines – this means that researchers aren't bound (held responsible) in law to follow them.
- Monitoring and enforcement of these standards is weak. Most research participants would find it difficult to enforce their rights

Grant CJ, Lewis M, Strode A The Ethical Legal Regulation of HIV Vaccine Research in Africa African AIDS Vaccine Program

See Chapter 2 section 2.4 Can you prevent HIV? for more information on HIV vaccines

Key human rights issues around research include:

- Relevance (importance) of the research to the country
- Non-discriminatory selection of participants
- Informed consent to take part in the research
- Protection for vulnerable groups
- Confidentiality, and
- Access to information and benefits from the research.



See Chapter 6B Health Rights for more information on research rights.

8.5.4 Gender and HIV/AIDS

Guideline 8 of the International Guidelines says that states should protect the rights of all vulnerable groups, especially women and children.

Paragraphs 59-61 of the UNGASS Declaration say that by 2005, states commit to having national strategies to promote the human rights of all women, and reducing women's vulnerability to HIV and AIDS. States commit to doing this by getting rid of discrimination against women, including harmful traditional and customary practices.

Gender inequality is one of the causes of high rates of HIV infection amongst women in Southern Africa. Many customary laws and cultural practices in many Southern African countries still promote gender inequality. Most of these laws and practices go unchallenged.

Case Study: Marriage Laws in Swaziland



In Swazi customary law, a woman may be married in terms of customary law, even without her consent. This can place young women at risk of HIV infection.

The practice of kutekwa, where a woman is smeared with red clay, creates a customary marriage. In the case of *R v Fakudze and others* the High Court of Swaziland said that smearing a woman with red clay is an important part of a Swazi marriage. It is used to decide whether there is a valid (true) marriage. So, the practice was upheld by the courts.

Key human rights issues include customary laws and practices that:

- Place women and girl children in an unequal position in society
- Take away women and girl children's rights to own property
- Put women and girl children at risk of HIV and AIDS



See Chapter 4 *HIV/AIDS as a Human Rights Issue* for more information on gender inequality and HIV/AIDS.

See Chapter 6E *Women, Children and Other Vulnerable Groups* for more information on customary laws and HIV/AIDS.

8.5.5 PEP after rape

To protect and promote the rights of women, states must also provide health care services to meet their needs. The UNGASS Declaration commits states to providing health care services to meet women's needs by 2005. But most Southern African countries still do not have policies to provide post-exposure prophylaxis (PEP) after a sexual assault, like rape.

CHECKLIST: A PEP Policy



A PEP policy should include:

- voluntary counselling and testing (VCT) for a person who has been sexually abused
- information about PEP and how it can help to reduce the risk of HIV infection
- Anti-retrovirals (ARVs) to be made available as soon as possible to prevent HIV infection after a rape.

A key human rights issue to consider is whether a person accused of rape be made to test for HIV.



See Chapter 6E *Women, Children and Other Vulnerable Groups* for more information on HIV testing and rape.



8.6 Resources and References

8.6.1 Useful Contacts and Web Sites



AIDS and Rights Alliance of Southern Africa
www.arasa.info

African AIDS Vaccine Program
www.who.int/vaccine_research/diseases/hiv/aavp/en

AIDS Law Project
www.alp.org.za

Botswana Network on Ethics, Law and HIV/AIDS
www.bonela.botsnet.co.bw

International AIDS Alliance
www.aidsalliance.org

International Council of AIDS Service Organisations
www.icaso.org

Southern African HIV and AIDS Information and Dissemination Service
www.saf aids.org.zw

Southern African Network of AIDS Service Organisations
www.sanaso.org.zw

UNAIDS
www.unaids.org

United Nations Office of the High Commissioner for Human Rights
www.ohchr.org

Zambia AIDS Law Research and Advocacy Network
www.zaran.org

8.6.2 Useful References

Grant CJ, Lewis M, Strode A The Ethical-Legal Regulation of HIV Vaccine Research in Africa

Available from www.who.int/vaccine_research/diseases/hiv/aavp/en

AIDS Law Project HIV/AIDS and the Law: A Resource Manual

Extracts available from www.alp.org.za

International Council of AIDS Service Organisations Advocacy Guide to the Declaration of Commitment on HIV/AIDS

Available from www.icaso.org

International Council of AIDS Service Organisations An Advocate's Guide to the International Guidelines

Available from www.icaso.org

International Council of AIDS Service Organisations The International Guidelines on HIV/AIDS: How are they being used and applied?

Available from www.icaso.org

International HIV/AIDS Alliance Advocacy in Action: A Toolkit to Support NGOs and CBOs responding to HIV/AIDS

Available from www.aidsalliance.org

UNAIDS HIV/AIDS and Human Rights International Guidelines

Available from www.unaids.org

UNGASS Declaration of Commitment on HIV/AIDS

Available from www.ohchr.org

Part A: chapter 9

Networking

Contents

- 9.1 Introduction
- 9.2 Regional Networking
 - 9.2.1 What is regional networking around HIV/AIDS as a human rights issue?
 - 9.2.2 Why is regional networking important?
 - 9.2.3 What can rights-based networks do at a regional level?
- 9.3 Existing Networks
 - 9.3.1 AIDS Law Project
 - 9.3.2 AIDS Law Unit
 - 9.3.3 Botswana Network on Law, Ethics and HIV/AIDS
 - 9.3.4 Lironga Eparu
 - 9.3.5 SAFAIDS
 - 9.3.6 SCARJOV
 - 9.3.7 Women and Law in Southern Africa Research Trust
 - 9.3.8 Zambia AIDS Law Research and Advocacy Network
- 9.4 Resources and References
 - 9.4.1 Useful Contacts
- 9.5 End Notes



Key Points

- Networks are forums at which individuals and organisations meet to assist one another with or to work on common goals.
- Networking around HIV and rights takes place when individuals and organisations come together to try and protect and promote the rights of people living with and affected by HIV/AIDS.
- Guideline 12 of the HIV/AIDS and Human Rights International Guidelines says that countries must work with other countries and UN agencies (eg UNAIDS) to share knowledge and experiences on HIV and human rights.
- Regional networking on HIV and rights is also important as it:
 - Highlights regional human rights issues
 - Develops solidarity (links) between different countries around HIV and rights issues
 - Helps to share resources and expertise around HIV and rights
 - Develops regional norms and standards on HIV on human rights and,
 - Helps countries to learn from the successes and failures of others.
- Regional rights based networks can undertake joint lobbying, advocacy and training. They can also work together to monitor and enforce rights.
- ARASA is the largest regional network on HIV and rights in Southern Africa.



9.1 Introduction

This chapter outlines the importance of networking at a regional level. It describes different ways that networks can protect and promote the human rights of persons infected and affected by HIV/AIDS.



9.2 Regional networking

9.2.1 What is regional networking around HIV/AIDS as a human rights issue?

Networks are forums at which individuals and organisations meet to assist one another with or to work on common goals. Regional networks are networks of organisations and individuals that work across country borders in a particular area.

Networking around HIV and rights is when individuals and organisations come together to try and protect and promote the rights of persons affected by HIV/AIDS.

Example: ARASA

The AIDS and Rights Alliance of Southern Africa (ARASA) is a regional, rights based network. ARASA's primary aim is to promote a human rights based response to HIV/AIDS in the Southern African Development Community (SADC) region. It does this through:

- Sharing information, materials and expertise on HIV and human rights
- Lobbying governments on HIV and human rights issues
- Telling members of HIV and human rights issues in the region
- Creating a data base of the expertise that is available on HIV and human rights in civil society organisations in the region
- Developing materials that can be used for information and as advocacy tools on HIV and human rights
- Placing interns within organisations within the region to strengthen the capacity to respond to HIV and human rights issues, and
- Developing skills through training on HIV and human rights

9.2.2 Why is regional networking important?

Networking is important as it helps countries and organisations to share expertise and resources. Guideline 12 of the HIV/AIDS and Human Rights International Guidelines says that countries must co-operate with other countries and UN agencies (like Joint United Nations Programme on HIV/AIDS (UNAIDS)) to share knowledge and experiences on HIV and human rights.

Regional networking on HIV and rights is also important as it:

- Highlights regional human rights issues which may be different to the issues in other parts of the world
- Develops solidarity (links) between different countries around HIV and rights issues
- Helps to share resources and expertise around HIV and rights
- Helps develop regional norms and standards on HIV on human rights
- Helps countries to learn from the successes and failures of others

9.2.3 What can rights based networks do at a regional level?

There are many rights based activities that can be undertaken at a regional level. Some of the suggestions that are made elsewhere in the Manual include:

- Undertake joint advocacy projects
- Share information on best practices around HIV and human rights
- Develop regional norms and standards on HIV and human rights

Examples: Joint Advocacy

Southern African countries can work together to advocate for SADC codes on key HIV and human rights issues.

Code on HIV/AIDS Employment

In 1997 SADC adopted a Code on HIV/AIDS and Employment. This set regional norms and standards on how to respond to HIV in the workplace. For example, it says that employers may not do pre-employment HIV testing.

See chapter 8 Advocacy for more information on how to advocate for change.

A copy of the Code is available at www.alp.org.za

Proposed SADC Code on Equality for Women

ARASA has had a campaign for a code on Measures needed to promote the equality of women and the reduction of women's risk of HIV infection. As part of this campaign ARASA developed a draft code through consultation with partners. Partners then lobbied the SADC Women's Desk to adopt it. Even though SADC has never formally adopted this Code it nevertheless has been a useful campaign as it raised the profile of both the issue and of ARASA as a network.

A copy of the Code is available at www.arasa.info

- Support work in individual countries. For example, the access to treatment campaign brought by Treatment Action Campaign (TAC) in South Africa was supported by many regional organisations

Example: Support to Partners

ARASA has an internship programme where individuals within new or emerging organisations within the region and placed at more established organisations for a period of time. This helps to develop the capacity of the individuals and organisations as well as strengthen networking within the region.

- Provide technical assistance (skills) to each other. For example, ARASA undertakes awareness raising workshops for countries in the region

Example: Technical Support

ARASA conducted an awareness raising workshop in Mozambique in June 2005. This workshop was designed to provide basic information on HIV and human rights in order to increase understanding and awareness about the linkages between HIV and human rights and to promote a human rights based approach to HIV/AIDS. Forty five participants attended the workshop. They represented state institutions as well as national and international NGOs. The three day workshop addressed the following topics:

- HIV and human rights situation in Mozambique
- HIV and Human Rights: Making the Connection
- Regional and International Human Rights Instruments: What they are and how can we use them to advance a human rights based response to HIV/AIDS?
- Access to treatment in Mozambique: the situation on the ground
- Treatment Literacy
- Strengthening the civil society response to HIV: Introduction to advocacy and lobbying; Identifying opportunities and building strategic alliances
- Criminalisation of wilful transmission of HIV

Example: Regional Norms

In 2005 ARASA identified the need to stimulate debate on the policy of routine HIV testing which is being adopted by many countries in the region and to raise awareness about its potential for human rights infringements. To facilitate this discussion they held a regional meeting on the 13 March 2006 in Gaborone, Botswana. The aims of the meeting were to raise awareness and debate amongst key stakeholders on the public health and human rights implications of routine HIV testing, with a view to reaching regional consensus on guidelines for routine testing.

- Monitor and enforce human rights at a regional and international level.



See Chapter 6D Legal Support Services for more information on ways that legal organisations can support HIV-related human rights. See Chapter 7 Monitoring and Enforcement for more information on monitoring and enforcement at a regional level.



9.3 Existing Networks

ARASA is the largest regional network on HIV and rights in Southern Africa. It has the following key members:

9.3.1 AIDS Law Project (ALP) www.alp.org.za

The AIDS Law Project (ALP) is based at the Wits University at the Centre for Applied Legal Studies in Johannesburg, South Africa. It specialises in helping people with HIV/AIDS to deal with human rights problems. It also does research on many of the difficult social, legal and human rights issues around AIDS. The research is used to develop law, policies and “best practice” recommendations on questions such as AIDS and employment, AIDS and pregnancy, AIDS and development, and AIDS and women.

The ALP has a Legal Department with two paralegal officers who can answer questions, give advice and refer people to other organisations for support.

The Legal Department also has qualified attorneys who take legal action, if the matter is one of public importance and could help to establish legal recognition of the rights of people with HIV and AIDS.

9.3.2 AIDS Law Unit, Legal Assistance Centre (ALU) www.lac.org.na

The AIDS Law Unit (ALU) is a project of the Legal Assistance Centre in Windhoek, Namibia. The main objective of the project is to promote a human rights based response to HIV/AIDS in Namibia. It focuses on:

- civil and political human rights abuses due to HIV status, and
- the denial of socio-economic rights that increase vulnerability to HIV, and negatively impact on health.



See Chapter 4 HIV/AIDS as a Human Rights Issue for more information on the link between health and human rights.

The project deals with unfair discrimination and other rights issues around HIV and AIDS through:

- litigation (taking matters to court)
- research
- policy formulation
- education, and
- advocacy.

ARASA is located at the AIDS Law Unit, Legal Assistance Centre.

9.3.3 Botswana Network on Ethics, Law and HIV/AIDS (BONELA) **www.bonela.org**

The Botswana Network on Ethics, Law and HIV/AIDS (BONELA) is based in Gaborone, Botswana. It aims to create an enabling and just environment for those infected and affected by HIV / AIDS by:

- integrating an ethical, legal and human rights dimension into the national response to HIV / AIDS
- supporting awareness and education, and
- advocating for law and policy reform.

At the moment, lobbying and advocacy are the primary activities of BONELA.

BONELA works with key stakeholders to establish an effective legal framework, by:

- providing a platform for law and policy reform
- organising meetings to allow debate on HIV/AIDS and human rights issues
- drafting policy documents with stakeholders to push for law reform, and
- taking part in local and international forums to discuss and share information on HIV/AIDS and human rights.

9.3.4 Lironga Eparu

Lironga Eparu is the national association of people living with HIV and AIDS in Namibia. It has a network of regional offices throughout the country. Its main goal is to provide support to people living with HIV and AIDS in Namibia, and to promote an enabling, non-discriminatory environment for people living with HIV/AIDS.

9.3.5 SAFAIDS www.saf aids.org.zw

SAFAIDS is a regional HIV/AIDS resource set up in 1994 and based in Zimbabwe. The organisation's goal is to distribute HIV/AIDS information in order to promote, inform and support appropriate responses to the HIV/AIDS epidemic.

It does this by:

- Building capacity of NGOs in the region
- Producing, collecting and distributing information production in the region
- Providing technical support and advice to NGOs, government bodies and other organisations, and
- Developing a resource list of technical expertise in the region.

SAFAIDS assisted with the distribution of the ARASA code relating to gender and HIV.

9.3.6 SCARJOV

SCARJOV is an Angolan NGO established in 2002 in Luanda. It was set up by a group of youth who wanted to:

- contribute to the development of democracy in Angola, and
- help those who suffered from the war.

SCARJOV is actively involved in training and awareness raising about HIV and human rights throughout Angola and is about to embark on a campaign of training trainers on HIV, law and human rights in all of the provinces.

SCARJOV hosted the ARASA regional awareness raising workshop on HIV and human rights in Angola in June 2004.

9.3.7 Women and Law in Southern Africa Research Trust (WLSA)

Women and Law in Southern Africa Research Trust is an action oriented research organisation in seven countries of Southern Africa: Botswana, Lesotho, Malawi, Mozambique, Swaziland, Zambia and Zimbabwe.

WLSA's mission is to contribute to the sustained well being of women within families and societies, specifically within Southern Africa. This is done through:

- conducting social and legal research
- lobbying for law and policy reform to laws and practices that disadvantage women
- networking and exchanging information, and
- training on research.

WLSA has six programs:

- Action Research (the main programme)
- Information Generation
- Legal Advice and Services
- Lobbying and Advocacy
- Networking
- Training and Education.

The WLSA Swaziland office has been actively involved in assisting with the development of the code on gender and HIV that has been developed by ARASA.

9.3.8 The Zambia AIDS Law Research and Advocacy Network (ZARAN): www.zaran.org

The Zambia AIDS Law Research and Advocacy Network (ZARAN) was set up in 2001 with the following objectives:

- to increase community awareness on the rights based approach to HIV/AIDS
- to provide legal support to people whose human rights have been violated, and
- to provide input into law and policy reform that promotes the rights-based approach to HIV/AIDS.

ZARAN runs an AIDS Law Clinic. The clinic gives advice and assistance to clients on matters falling within ZARAN's mandate. Matters that they cannot handle are referred to relevant organisations.

ZARAN hosted the ARASA regional awareness raising workshop on HIV and human rights in Zambia in 2003.



9.4 Resources and References



9.4.1 Useful Contacts

AIDS Law Project, South Africa

www.alp.org.za

AIDS Law Unit, Legal Assistance Centre, Namibia

www.lac.org.na

Botswana Network on Ethics, Law and HIV/AIDS

www.bonela.botsnet.co.bw

Southern African HIV/AIDS Information and Dissemination Service

www.saf aids.org.zw

Zambia AIDS Law Research and Advocacy Network

www.zaran.org

Other ARASA networks can be contacted through ARASA.

Part B: Module I

Introduction

to the

Training Manual



MODULE 1: INTRODUCTION TO THE TRAINING MANUAL

This training manual has been developed for use in conjunction with the Advocacy Resource Manual (Part A of this publication). It gives trainers practical exercises to train participants on the way in which law and policy can protect and promote HIV/AIDS and human rights, and how the laws and policies in the Southern African Development Community (SADC) countries have met this challenge. It also looks at ways to strengthen a rights-based response to HIV/AIDS in Southern Africa, where the human rights response has traditionally been weak.

Why has this training manual been developed?

Since its inception, ARASA has conducted extensive HIV and human rights information and training sessions in the region. ARASA partners are also increasingly developing HIV and human rights training programmes for their respective countries. However, to date, there has not been a complete set of training materials for HIV, AIDS and human rights issues in the Southern African region. Given the need to have broad, accessible and user-friendly training materials on HIV and human rights, ARASA began a process of developing training materials to accompany *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* during 2007.

The Training Manual has been in development since 2007. Materials development consultants prepared a first draft of the Manual in late 2007, which was then tested at a pilot workshop in Namibia during September 2007. The feedback from the first draft together with inputs from ARASA staff and their Training Advisory Committee were used to finalise the Training Manual.

Where can I get copies of the Advocacy Manual?

Hard copies of the Advocacy Manual are available from the ARASA Offices in Windhoek. The manual can also be downloaded from ARASA's website at www.arasa.info

What are the aims of this Training Manual?

The Training Manual provides practical ways in which trainers can train on key HIV-related human rights topics such as gender, health rights, advocacy and enforcing rights. It aims at being a user-friendly training resource for trainers undertaking training on HIV and human rights which:

- Provides a standard set of training materials on HIV and human rights that can be used throughout the SADC region
- Utilises participatory methodologies which encourage active learning on HIV and human rights
- Enables trainers to train a wide variety of participants with varying levels of knowledge of HIV and human rights issues.

Who is the manual targeted at?

The Training Manual is aimed at trainers working within human rights organisations, HIV service organisations, trade unions and other community based programmes that have experience in developing training agendas and facilitating training workshops.

This Manual is not a train-the trainer manual. Although it contains extensive trainer notes, as well as examples of possible agendas that select aspects of the Manual to focus on different issues, it does nevertheless relies on a basic level of training skills and expertise using the Manual in order to:

- Identify the needs of the particular participants
- Select areas of focus amongst the given materials, and
- Plan the workshop accordingly.

How is the Training Manual structured?

The Training Manual closely follows the format of the Advocacy Manual. It is divided into 15 modules dealing with:

Module 1:	Introduction
Module 2:	HIV and AIDS in Southern Africa
Module 3:	Introduction to human rights
Module 4:	HIV/AIDS as a human rights issue
Module 5:	Key international and regional human rights instruments
Module 6:	Identifying the key human rights issues in your country
6A	Structures and partnerships
6B	Health rights
6C	HIV/AIDS at work
6D	Legal support services
6E	HIV/AIDS and gender
6F	Vulnerable groups
Module 7:	Monitoring and enforcing Human Rights
Module 8:	Advocating for human rights
Module 9:	Networking
Appendices	

How do I use the Training Manual to plan a workshop on HIV and human rights?

Step one: Understanding the participants

Workshops need to be planned to meet the training or learning needs of participants. Important questions to ask include:

- Who are the participants? Are they teachers, nurses, community based workers etc.?
- What is the literacy level of the participants?
- Are they familiar with HIV and AIDS issues?
- Are they familiar with legal and human rights issues?
- Do the participants speak and understand English?
- What types of HIV-related human rights issues do they face in their communities or workplaces? Are there high levels of discrimination? Do people living with HIV and AIDS struggle to access treatment?
- What will the participants want to do with the training materials? Do participants want to undertake advocacy activities? Do they want to be able to advise their clients of their rights? Etc.

Step two: Identifying the workshop objective

Based on an understanding of the needs of the participants, trainers need to identify the workshop objective. The key question to ask is – why are we organising this workshop? The workshop objective is what you want to achieve during the workshop. A clear objective makes selecting an appropriate training agenda much easier.

Examples of workshop objectives

Objectives could include:

- Developing participants' understanding of HIV as a human rights issue
- Enhancing the capacity of participants to advocate for the right to the highest attainable standard of health care

Step three: Selecting an agenda for the workshop

These materials have been developed as self standing modules. They could also be used to develop a one, three or five day course on HIV and human rights issues of your choice. Depending on the time available and the needs of the participants, trainers will need to select an appropriate workshop agenda.

The workshop agenda must aim at achieving the workshop objective. For example, if the objective is to develop participant's understanding of HIV as a human rights issue, trainers may wish to focus a 3 day training workshop on Human Rights, HIV and AIDS.

The Appendix sets out a variety of possible 3 day training agendas that could be used to focus on different areas of Human Rights, HIV and AIDS and to different objectives. Trainers are not limited to these draft agenda. The materials have been developed to include participatory methodologies for all the materials, but to be used in a flexible way that enables trainers to choose areas of focus so that the materials can be used in a wide range of circumstances with very different groups.

Example: Selecting a training agenda

Where participants have limited knowledge of HIV, AIDS and human rights issues, a trainer may choose to develop a 3 day training agenda focusing on Human Rights, HIV and AIDS:

Day One

Introductions, expectations etc	hour
Module 2: HIV and AIDS in Southern Africa	2 hours
Module 3: Introduction to Human Rights	3 hours

Day Two

Module 4: HIV as a human rights issue	2 hours
Module 5: Key international and regional human rights instruments	3 1/2 hours

Day Three

Module 6 Intro: Identifying Key Human Rights Issues	hour
Selected focus areas from Modules 6A - 6F	5 hours
Way Forward	1 hour

Step four: Planning the workshop

After selecting a workshop agenda, the trainer will need to plan each session of the workshop. To do this they will need to:

- Read through each module that is relevant to their agenda
- Select the modules or individual exercises from each module that will be used
- Plan the timing of each session to fit in with the overall agenda, and modules / exercises selected.

Example: Selecting workshop activities

Where a training agenda includes a focus on Module 3: Introduction to Human Rights, and the participants have expressed a need to focus on the basic human rights concepts, the trainer may choose to include participatory exercises to discuss basic concepts around human rights:

TOPIC	METHODOLOGY	TIME
What are human rights?	Exercise using newspaper articles	20 minutes
	Plenary report back	15 minutes
	Input	15 minutes
	Summary	5 minutes
Can human rights ever be limited?	Brainstorm	20 minutes
	Input	15 minutes
	Exercise on limiting rights	30 minutes
	Plenary report back	20 minutes
	Summary	5 minutes
	TOTAL TIME	2.5 hours

- Prepare for each section within the module. Work out how many participants will be attending the workshop and decide how big each small group will be during the activities. This Training Manual recommends that small groups are made up of four to six participants to facilitate active participation. If there are going to be several small groups note that the report back sessions will take longer to facilitate.
- Read *HIV/AIDS in Southern Africa: An Advocacy Resource and Training Manual*, and become familiar with the information, as well as regional examples.
- Decide on practical issues such as:
 - o Seating arrangements within the training room
 - o Break away rooms or private spaces for small group work
 - o Possible guest speakers
 - o Trainers to assist with certain parts of the workshop
 - o Materials required

.....

What aides are in the Training Manual to help me prepare for each training session?

The front page of each module contains valuable information for trainers. It sets out the:

- Purpose of the module
- Materials that will be needed during training, for example cardboard or coloured markers
- Handouts that need to be copied
- Guidelines on how long the module will take if all the exercises and activities are done
- Preparation steps that must be followed.

Under each sub-heading in the module, similar information is provided

Copies of all handouts are included at the end of the Training Manual in an appendix.

Copies of all the power points have been enclosed in an appendix at the end of the Training Manual. If there are no power point facilities, the power point slides can be printed or photocopied onto transparencies that can be used on an overhead projector. If an overhead is also not available, key points from the power points could be written up onto newsprint/flip chart paper.

Each sub-section of the module contains a set of Trainer's Notes that give specific advice to trainers on how to manage and prepare for each activity

.....

Step five: facilitating the workshop

Introductions

There are many different ways of starting a workshop. Trainers may wish to use a favourite ice-breaker or game to start the workshop and to introduce participants to each other.

Expectations

Facilitate a session on the participants' expectations of the workshop.

Ground rules

Facilitate a session which establishes a set of ground rules for the workshop, for example, all mobile phones to be switched off during the workshop.

Overview of the agenda

Give an overview of the agenda and link this to the participants' expectations, showing them where their issues will be dealt with.

Facilitating each session

Facilitate learning by encouraging participants to read the materials and to participate actively during the activities. Challenge participants to think beyond their own views to the key human rights principles that are woven throughout the training materials.

The Training Manual has been developed in a way that encourages active learning within each module. These techniques will only work if the trainer encourages an environment of tolerance and listening where the views of all participants are respected even when they differ from our own. Tips for effective facilitation include:

- Avoid dominating the discussion
- Allow all participants to share and learn
- Encourage all participants to be involved in all activities
- Respect diversity and the views of others
- Use approaches that can be adapted to the needs of the specific group

Dealing with problems

In some modules, the human rights principles may challenge the views of participants and this may result in conflict. For example, Module 6F on Vulnerable groups will raise issues of men who have sex with men, sex workers, and others that may not be acceptable to some of the participants.

Encourage all participants to think about their prejudices and stereotypes throughout the workshop. If conflict arises between various participants on such issues, diffuse the conflict quickly by focusing on the human rights principles, such as the right of every individual to equality. Encourage participants to step back from their own views and to focus on the human rights principles. They do not need to agree but they must respect the human rights principles and the rights of all people.

Step six: A way forward

End the workshop with a reflection on the way forward. Key questions to pose to participants include:

- How can they use the knowledge and information?
- How will they network with other participants and the trainers during future work shops?
- What further knowledge and information do they require?

Example: Legal support services module

Module 6D: Legal Services contains a silent brainstorming exercise in which participants are asked to think of the most important issues that communities need with respect to HIV, AIDS and Human Rights Training. This could be a useful way of concluding a workshop.

Part B: Module 2

HIV and AIDS

in Southern Africa



MODULE 2: HIV AND AIDS IN SOUTHERN AFRICA

<p>Purpose of module</p> <p>To give participants:</p> <ul style="list-style-type: none"> • Basic information about HIV and AIDS • The context of HIV and AIDS in their country 	<p>Materials required</p> <ul style="list-style-type: none"> • Newsprint or flip chart paper • Prestik/sticky tack or tape • Coloured stickers or markers (at least three different colours are needed) • PowerPoint facilities may be required (see Part Three)
<p>Methodology</p> <ul style="list-style-type: none"> • Discussion • Exercises • Input/presentation (may be used – see Part Three) 	<p>Handouts and inputs/presentations</p> <ul style="list-style-type: none"> • Chapter 2 of <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 17 - 25 (if participants do not have the manual) • Other handouts related to country specific context, if available/required • Input relevant to country specific context, if available/required
<p>Trainer's preparation</p> <ul style="list-style-type: none"> • Read Chapter 2 of the <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp 17 - 25 and make copies for participants (if they do not have the manual) • Draw a figure of a person on a sheet of newsprint • Stick up several pieces of blank newsprint on the walls • Invite and brief guest speaker or prepare presentation on country context 	<p>Overall time</p> <ul style="list-style-type: none"> • Approximately 2.5 to 3 hours as follows: <ul style="list-style-type: none"> o 45 minutes for Part One o 50 minutes for Part Two o 50 minutes for Part Three

Overview of module

This module is based on Chapter 2 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*.

The module is divided into three parts, dealing with:

- Basic information about HIV and AIDS, such as how it is transmitted, how the disease progresses; and how it can be treated
- How transmission can be prevented or the risk of transmission reduced
- HIV and AIDS in the particular country in Southern Africa where the training is being undertaken

It is important for all participants to have this information at the beginning of a workshop on HIV/AIDS and human rights as it will help them later to better understand a rights-based response to HIV/AIDS. Even if the participants have a good understanding of HIV and AIDS, this module is recommended as it provides a review of basic facts and also provides current information on the country context.

Part One: What are HIV and AIDS?

Key Points

- HIV is a virus that attacks and eventually destroys the body's immune system.
- AIDS is caused by HIV and it is the last stage of HIV infection, where a body becomes too weak to fight off illnesses. People with AIDS become very ill.
- HIV can only be detected through a test – you cannot tell that a person has HIV by looking at him/her. In Southern Africa, a blood test is used to diagnose HIV.
- In Southern Africa, the most commonly used tests see whether antibodies (antibodies are made by the immune system to try and fight off disease or infection) are present in the blood. Sometimes it can take up to three months for the body to develop enough HIV antibodies for a test to pick them up – so if a person has an HIV test, it will be negative, even though he/she has been infected with HIV. This is called the window period.
- HIV is transmitted from person to person in the blood, in bodily fluids (such as semen and vaginal fluids) and in breast milk.

Objectives

To explain the difference between HIV and AIDS

- To explain how HIV is transmitted, how it is detected in the body and the progression of HIV to AIDS

Suggested time

Discussion	10 minutes
Exercise	25 minutes
Summary	10 minutes
Total	45 minutes

Materials

Newsprint or flip chart paper
Coloured markers or stickers (at least three different colours)
Prestik/sticky tack or tape

Handouts

None

Inputs

None

Suggested method

Discussion (10 minutes)

Before commencing the exercise, draw a large figure of a person on a sheet of newsprint and stick it on the wall where all participants can see it. Also, stick up a blank sheet of newsprint where participants can see it.

In plenary, ask the participants the following questions:

- What is HIV?
- What is AIDS?

Write participant responses on the blank sheet.

Exercise (25 minutes)

Now ask for three volunteers to assist in the exercise. Give each volunteer one different coloured marker or sticker, and ask them to stand by the newsprint with the figure of the person drawn on it.

Ask the first volunteer to draw or stick a first set of dots on the figure. He/she will only need to stick or draw a few dots. Explain to participants that these dots represent ordinary germs that everybody encounters every day.

Ask the second volunteer to draw or stick another next set of dots over the first set of dots. Explain to the participants that this is the body's immune system and, in the case of healthy individuals, the immune system will "fight off" germs. Have this participant stick/draw on more dots on the figure to represent a strong immune system.

Now ask the third volunteer to stick/draw the next set of dots over some of the second set of dots. Explain that this is a body that has recently been infected by HIV and the last set of dots is the HI virus. Explain what happens during sero-conversion. Also explain how HIV is transmitted and how it is detected in the body.

There should still be more of the second dots on the body (representing the immune system).

Have the first volunteer add more dots over the second dots (the immune dots). There should still be more immune dots than other colour dots. Explain that the body is still in the early stage of HIV infection, where individuals will get some symptoms of HIV but where the immune system will still be able to fight off the infection.

Ask the first volunteer to add more of the germ dots and explain that the disease is progressing and the individual will be getting quite sick.

Ask the first and third volunteers to add many more germ and HIV dots, covering most of the immune dots. Explain that the person is now in the late stages of HIV infection, called AIDS and will be extremely ill. Without treatment, the person will die.

(This exercise was adapted from *The HIV and the Law Trainer's Manual*, AIDS Legal Network, 2nd edition 2005. See www.aln.org.za for a copy of the manual)

Summary (10 minutes)

Summarise the session by explaining what HIV and AIDS are, how HIV is transmitted and how the disease will progress in the body without treatment. Refer back to participant answers to the questions posed to ensure that any misconceptions have been addressed.

Briefing notes for trainers

Ensure that you are familiar with facts about HIV and AIDS, transmission, testing etc. You can find a summary of important information in Chapter 2 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource Manual* and the Key Points at the beginning of this section.

The first part of the exercise, the brainstorming, will give trainers a clear sense of the levels of knowledge within the group and it is important to pay close attention to what participants are saying in order to correctly gauge how much information is required during the second part of the exercise.

During the second phase of the exercise, as new dots are being added to the drawing, provide a careful explanation of the relevant facts, including how HIV is transmitted, how it is detected in the body, opportunistic infections and AIDS.

Part Two: Preventing HIV transmission

Key Points

- Transmission of HIV from person to person can be prevented or the risk of transmission can be reduced.
- HIV transmission can be prevented by: changing sexual behaviour; treating sexually transmitted infections; taking post-exposure prophylaxis after exposure to blood and other bodily fluids; not sharing contaminated or non-sterile injecting equipment; and by taking anti-retrovirals.

Objective

To develop knowledge on how HIV risk can be reduced

Suggested time

Discussion	40 minutes
Summary	10 minutes
Total	50 minutes

Materials

Newsprint or flip chart paper
Coloured markers
Prestik/sticky tack or tape

Handouts

None

Inputs

None

Suggested method

Discussion (40 minutes)

Divide one of the newsprints by drawing a line vertically so there are two columns on the paper. In plenary, ask participants:

- How is HIV transmitted?

Write the answers on one side of the newsprint.

Once the key modes have been identified, ask participants:

- How can these be prevented?

Write the corresponding answers on the other side of the newsprint.

For example, if one side of the sheet says 'sex', the other side should say 'using a condom' or 'abstaining from sex' etc.

Summary (10 minutes)

Summarise the discussions and answer any outstanding questions on the 'basic facts' of HIV and AIDS.



Briefing notes for trainers

Ensure that you are familiar with facts about HIV and AIDS, transmission, testing etc. You can find a summary of important information in Chapter 2 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of this section.

Participants should identify the common routes of HIV transmission, including:

- hetero- and homosexual sex, and sexual assault
- transmission from mother to child during pregnancy, birth and breastfeeding
- contact with contaminated needles and blood products, including in occupational settings such as hospitals and clinics

Part Three: HIV/AIDS in _____ (specific country)

Objective

- To outline the context of HIV and AIDS in the country

Suggested time

Input/presentation	20 minutes
Discussion	30 minutes
Total	50 minutes

Materials

None, unless requested by the speaker

Handouts

None, unless requested by the speaker

Inputs

None, unless requested by the speaker

Suggested method

Input (20 minutes)

Invite a guest speaker to make a presentation on the context of HIV and AIDS in the particular country.

When briefing the speaker, ask him/her to include information on:

- the most up to date information about the prevalence of HIV and AIDS in Southern Africa – this information is available on the UNAIDS website (www.unaids.org) and is updated annually.
- information about the prevalence of HIV in the specific country – ask whether the speaker is able to provide information about the numbers of women, men and children who are infected and their age groups. It is also useful for the speaker to explain how this information is collected.
- the national HIV and AIDS plan, if there is one. If not, information on the government's

strategy to combat HIV and AIDS should be made available.

- treatment access – information should be provided on the number of people that government estimates need access to treatment and the number of people currently on anti-retroviral treatment.
- PMTCT programmes – it is important to get information on this programme and the number of pregnant women who are able to access HIV testing and anti-retroviral treatment.
- prevention – information on government’s prevention strategy.

Discussion (30 minutes)

Follow the presentation with a discussion in plenary, allowing participants to ask questions and seek clarity.



Briefing notes for trainers

It is important to give participants information about the HIV/AIDS situation in their particular country. This is a good opportunity to invite a guest speaker who can provide this information to make a presentation on these issues. A representative from the AIDS directorate in government or a member of the national AIDS Council will usually be able to make this presentation.

If a speaker is not available, the trainer can do the presentation or there may be participants at the workshop who are able to provide information on various aspects of the situation in the country.

Part B: Module 3

Introduction to Human Rights



MODULE 3: INTRODUCTION TO HUMAN RIGHTS

<p>Purpose of module</p> <p>To give participants:</p> <ul style="list-style-type: none"> • An understanding of human rights including: examining what human rights are; where they come from; and whether they can be limited • The opportunity to challenge their own views of human rights through exploring underlying prejudices and stigma 	<p>Materials required</p> <ul style="list-style-type: none"> • Newsprint or flip chart paper • Prestik/sticky tack or tape • Coloured markers • Glue • PowerPoint facilities • Newspaper articles on human rights issues
<p>Methodology</p> <ul style="list-style-type: none"> • Exercises • Inputs/presentations • Discussion 	<p>Handouts and inputs/presentations</p> <ul style="list-style-type: none"> • <i>Chapter 3 of HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 29 - 36 (if participants do not have the manual) • Handout 1: African concepts of human rights • Handout 2: The “Two babies and you are out” bill exercise • Input A: What are human rights? • Input B: Where do human rights come from? • Input C: Can human rights ever be limited?
<p>Trainer’s preparation</p> <ul style="list-style-type: none"> • Read Chapter 3 of the <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp 29 - 36 and make copies for participants (if they do not have the manual) • Make copies of Handouts 1 and 2 for all participants • Stick up several pieces of blank newsprint on the walls • Prepare PowerPoint presentations A, B and C • Collect newspaper articles about human rights issues • Write up the questions for exercises onto flip chart paper (see Part One and Part Two) • Write the words “Rights and Responsibilities” on a piece of flip chart paper 	<p>Overall time</p> <ul style="list-style-type: none"> • Approximately 3 to 3.5 hours as follows: <ul style="list-style-type: none"> o 60 minutes for Part One o 30 minutes for Part Two o 90 minutes for Part Three

Overview of module

This module is based on Chapter 3 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*.

The module is divided into three parts, dealing with:

- What human rights are
- Where human rights come from
- Whether human rights can be limited

Part One: What are human rights?

Key Points

- Human rights are based on the principle that every person is equal and equally entitled to dignity.
- Human rights are universal, fundamental, inalienable rights, which all human being are entitled to regardless of their race, gender, age, social class, national origin, occupation, talent, religion, or any other personal factor.
- All people are entitled to human rights simply because they are human.
- Human rights have eight key characteristics:
 - they only apply to humans,
 - they are universal,
 - they are fundamental,
 - they treat all persons as equal,
 - they protect individuals from the power of the state,
 - they are inalienable, inter-dependant and inter-related.
- Human rights are different to legal rights.
- Human rights can be grouped into first generation (civil and political), for example, the right to vote or the right to freedom of expression; second generation (socio-economic), for example, the right to have access to health care or the right to a basic education; and third generation (peace and developmental) rights, for example, the right to a clean environment.

Objective

To introduce concepts related to human rights

Suggested time

Small group exercise	20 minutes
Plenary report back	20 minutes
Input/presentation	15 minutes
Summary	5 minutes
Total	60 minutes

Materials

Newspaper articles on human rights issues

Newsprint or flip chart paper

Glue

Prestik/sticky tack or tape

Newsprint with questions for group exercise (see below)

PowerPoint facilities

Handouts

None

Inputs

Input A: What are human rights?

Suggested method

Small group exercise (20 minutes for exercise, 20 minutes for report back)
Divide participants into groups of five or six, depending on the size of the group.

Distribute copies of three or four newspaper articles dealing with human rights issues and a sheet of newsprint to each group. Ask groups to read and then agree upon one article to work on. Groups should stick that article on their newsprint.

Write the following questions onto newsprint and post it on the wall:

- What is the human rights issue in each of the articles?
- What human rights are affected by the human rights violation?
- Who are the role-players? Whose rights have been violated? Who is the violator(s)?
- How would you classify these human rights? Are they civil and political rights or socio-economic rights?
- What mechanism is proposed, if any, in the article for resolving the issue? Can your group suggest a possible solution?

Groups should work on the questions above, writing their answers on their newsprint.

Facilitate report back in plenary, highlighting the relevant issues.

Input (15 minutes)

Make an input/presentation using Input A: What are human rights? Link the presentation to the examples that have been raised during the first part of the exercise.

Summary (5 minutes)

Summarise this session on human rights by highlighting the key points.



Briefing notes for trainers

Ensure that you are familiar with concepts of human rights. You can find important information in Chapter 3 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of this section.

Part Two: Where do human rights come from?

Key Points

Where do human rights come from?

- The idea that humans have certain basic rights comes from the world's religions, humanitarian philosophy and the struggle for freedom.
- The Universal Declaration of Human Rights (UDHR) is a milestone in the struggle to protect human rights because it was the point when it became universally accepted that all people are born free and equal. It was adopted by the United Nations General Assembly on December 10th 1948.
- It includes 30 articles (sections) protecting civil and political rights, economic, social and cultural rights and fundamental freedoms.
- It is not legally binding.
- It is important because it was the first international agreement that said that all people "are born free and equal in dignity and rights." It has been widely accepted, has been translated into 300 languages and is widely available through out the world. It sets a gold standard for human rights, and can be used by the United Nations to measure the conduct of countries. It has led to the development of other important international treaties, like the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). It has served as a model for many national bills of rights.

Are human rights a Western imposition?

- There have been many who have suggested that human rights are a Western imposition. They have argued that the:
 - Development of the concept of human rights was largely due to the work of Western philosophers;
 - Concept of human rights lacks legitimacy in Africa as it was imposed on Africa by the by the colonial powers;
 - Over emphasis on individual rights and property ownership in certain international human rights conventions is contrary to African values and traditions;
 - Drafting of the UDHR did not involve developing world countries, many of whom were still colonies at the time of its development. It thus does not deal with some important issues facing developing world countries such as minority rights.
- It is important to recognise that the way in which the UDHR was drafted did exclude developing world countries. However this is NOT to say that human rights are a Western imposition. In most African cultures and traditions there are many concepts that are based on the fundamental principle that underlies human rights, the right to dignity and equality. These concepts include for example, ubuntu and botho.
- In our current context, many cultural perspectives dictate the international human rights agenda.
- The developing world has also played a very significant role in making socio-economic rights a key human rights issue.
- Many regional human rights conventions/charters have been developed, for example, in Africa, the UDHR has been adapted into the African Charter on Human and Peoples' Rights (ACHPR). The drafters of this Charter have taken the fundamental principles in the UDHR and developed them so that they reflect the history, values and aspirations of Africans.

Objective

- To introduce where human rights come from

Suggested time

Input/presentation	10 minutes
Discussion	15 minutes
Summary	5 minutes
Total	30 minutes

Materials

Newsprint or flip chart paper
Coloured markers
Prestik/sticky tack or tape
Newsprint with question for group exercise (see below)
PowerPoint facilities

Handouts

Handout 1: African concepts of human rights

Inputs

Input B: Where do human rights come from?

Suggested method

Input (10 minutes)

Make a input/presentation using Input B: Where do human rights come from?

Discussion and exercise (15 minutes)

After the presentation, ask participants:

- Are human rights a Western imposition?

Record responses raised in the discussion.

Then ask participants if they can think of any African concepts that are similar to the values and principles enshrined by human rights such as “Botho” from Botswana or “ubuntu” from South Africa. These words refer to a person’s humanness and membership of a community. Divide participants into groups of five or six depending on the size of the group. Distribute Handout 1: African concepts of human rights. Ask groups to complete the activities in Handout 1.

Summary (5 minutes)

Summarise the session by reiterating the key points.



Briefing notes for trainers

Ensure that you are familiar with the concepts of human rights. You can find important information in Chapter 3 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of this section.

Part Three: Can human rights ever be limited?

Key Points

- A responsibility is an obligation to take care of something or to carry out a duty.
- Rights and responsibilities go hand in hand. With every right there is a corresponding responsibility. For example, with the right to equality, there is a corresponding obligation to not discriminate against others.
- In this context, a human rights related responsibility is an obligation to ensure that our actions do not infringe the rights of others.
- In some circumstances, it may be difficult to respect the rights of others. For example, if we look at the HIV transmission in consensual sexual relationships, it is sometimes difficult to say who is responsible to act.
- Very few rights are absolute. Most rights can be limited in specific situations. International law gives us information about limiting of rights.
- Some rights that can never be limited (for example, the right to freedom from torture may never be limited, even in times of war).
- Other rights can be limited, but only in keeping with standards set out by international law. This means that if rights are going to be limited then the limitation must agree with international law obligations.
- The Siracusa Principles (a set of principles for limiting rights, set out in the International Convention on Civil and Political Rights) say that a right may be limited as a last resort. In order for a limitation to be valid (true), it must be: provided for in law; achieve a legitimate objective (an acceptable goal); be necessary; be the only alternative; and not be imposed arbitrarily.

Objective

To discuss whether human rights can ever be limited

Suggested time

Discussion	20 minutes
Input/presentation	15 minutes
Small group exercise	30 minutes
Plenary report back	20 minutes
Summary	5 minutes
Total	90 minutes

Materials

Newsprint or flip chart paper
Prestik/sticky tack or tape
Coloured markers
PowerPoint facilities

Handouts

Handout 2: The “Two babies and you are out” bill exercise

Input

Input C: Can human rights ever be limited?

Suggested method

Discussion (20 minutes)

A discussion on limiting rights needs to start with an understanding of our responsibilities as individuals and as members of a community. On a sheet of newsprint, write the words “rights” and “responsibilities”. Ask participants to brainstorm the terms “rights” and “responsibilities”. Use prompting questions such as:

- What are rights?
- What are responsibilities?
- How are they different from rights?
- What would be an example of a responsibility that accompanies a right?
- What are some of the complexities with taking responsibility for your own actions?

Make notes of the key points made by participants on the newsprint. Sum up the discussion by pointing out examples of where individual rights were limited because of responsibilities towards others. For example, our right to freedom of expression is limited by our responsibility to use this right in a way in which we do not promote hatred towards others.

Input (15 minutes)

Make an input/presentation using Input C: Can human rights ever be limited?

Small group exercise (30 minutes for exercise, 20 minutes for report back)

Divide the participants into groups of five or six, depending on the size of the group, and give them copies of Handout 2: The “two babies and you are out” bill exercise. Ask participants to complete the table as a group. Ask participants to select one person to provide a report back in plenary.

A model response for the exercise is found in Annexure 1, at the end of this module.

Summary (5 minutes)

Summarise the section by reiterating that we all have responsibilities to protect the rights of others. This means that in certain circumstances our own rights may be limited.



Briefing notes for trainers

Ensure that you are familiar with concepts of human rights. You can find important information in Chapter 3 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of this section.

Annexure 1: Model table for “Two Babies and you are out” bill exercise

The model answer for the “Two babies and you are out” bill exercise is:

FACTS	REQUIREMENT	APPLICATION
Limitation is contained within a Bill which is being considered by parliament	The limitation must be set out in law	This requirement is met as the rights of women to reproductive health choices will be limited by a valid law
The Bill aims at reducing the high population growth rate which the government believes is cancelling out development efforts	The limitation must achieve a legitimate purpose	Reducing high population growth rates is a legitimate purpose
The Bill says: <ul style="list-style-type: none"> • Women with no children may use the oral pill as a form of contraceptive • Women with one child may use the IUD as a form of contraceptive • Women with two or more children must be sterilised The Bill says: <ul style="list-style-type: none"> • Women with no children may use the oral pill as a form of contraceptive • Women with one child may use the IUD as a form of contraceptive • Women with two or more children must be sterilised 	The limitation must be necessary to achieve the goal	The limitation of the right to bodily integrity and to make reproductive health choices by limiting the family planning choices to ones chosen by the state is not necessary to achieve a reduction in population growth
NGOs and members of civil society say that the Bill doesn't address the real problems relating to reproductive health such as the poor access to family planning services, the high reproductive morbidity (death) rates and the lack of access to adequate pre-natal care	The limitation must be the only alternative, that is, the only reasonable choice to achieve the goal	Forcibly sterilising women is not the only way of achieving the government's objective of reducing the birth rate. NGOs and members of civil society argue that the government ought to introduce comprehensive reproductive health services for women
The limitation on the right to bodily integrity targets women who have two or more children	The limitation must not be arbitrary, that is, it should apply to all and not discriminate against certain groups	This limitation discriminates against women who already have children as it limits their contraceptive choices to methods selected by the government

Using the Siracusa Principles, it is clear that this Bill is not a justifiable limitation of the right to bodily integrity. Although the Bill has a valid purpose, the methods that it uses to achieve this purpose limit the right extensively; they are arbitrary and there are other ways which will not infringe the right to bodily integrity which could be used to achieve the same purpose.

Part B: Module 4

HIV/AIDS

as a

Human Rights

Issue



MODULE 4: HIV/AIDS AS A HUMAN RIGHTS ISSUE

<p>Purpose of module</p> <p>To give participants:</p> <ul style="list-style-type: none"> • An understanding of the links between HIV/AIDS and human rights • An opportunity to challenge their own stereotypes about people with HIV/AIDS • An understanding of the links between HIV/AIDS, gender and human rights and to show the impact of gender discrimination on women with HIV 	<p>Materials required</p> <ul style="list-style-type: none"> • Newsprint or flip chart paper • Coloured markers • Scissors • PowerPoint facilities
<p>Methodology</p> <ul style="list-style-type: none"> • Role play • Exercises • Inputs/presentations • Discussion 	<p>Handouts and inputs/presentations</p> <ul style="list-style-type: none"> • Chapter 4 of <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 43 - 52 (if participants do not have the manual) • Handout 3: He has HIV/She has HIV • Handout 4: The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and HIV/AIDS • Input D: HIV/AIDS as a human rights issue • Input E: HIV, gender and human rights
<p>Trainer's preparation</p> <ul style="list-style-type: none"> • Read Chapter 4 of the <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp 43 - 52 and make copies for participants (if they do not have the manual) • Make copies of Handouts 3 and 4 for all participants • Make copies of and cut out the cards provided (see Annexure 1 at end of the module) • Write questions for discussion on newsprint (see Part One) • Read HIV Positive Women and Human Rights, ICW Vision Paper 4, The International Community of Women Living with HIV/AIDS, 2004 and Women, HIV/AIDS and human rights, Amnesty International, 2004 • Prepare PowerPoint presentations D and E 	<p>Overall time</p> <ul style="list-style-type: none"> • Approximately 2.5 to 3 hours as follows: <ul style="list-style-type: none"> o 65 minutes for Part One o 80 minutes for Part Two

Overview of module

This module is based on Chapter 4 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*.

This module is divided into two parts, dealing with:

- HIV/AIDS and human rights
- HIV/AIDS, gender and human rights.

Part One: Understanding the links between HIV/AIDS and human rights

Key Points

- There is a critical link between health, including HIV/AIDS and human rights.
- Failing to protect or violating human rights can lead to ill health.
- Poor health can affect people's ability to exercise and enjoy their human rights.
- Health policies and programmes can affect human rights.
- The specific links between HIV/AIDS and human rights are also clear.
- People whose human rights are violated and/or limited are those who are most vulnerable to HIV/AIDS.
- People living with and affected by HIV/AIDS suffer discrimination and stigma and other violations of their human rights.

Objective

To introduce the links between HIV/AIDS and human rights

Suggested time

Role play	20 minutes
Discussion	20 minutes
Input/presentation	20 minutes
Summary	5 minutes
Total	65 minutes

Materials

Cut out cards (attached as Annexure 1 at end of the module)
Activities (attached as Annexure 2 at the end of this module)
Newsprint with questions for discussion in plenary (see below)
PowerPoint

Handouts

One card to each participant (attached as Annexure 1 at the end of the module)

Inputs

Input D: HIV/AIDS as a human rights issue

Suggested method

Role Play (20 minutes)

Distribute a card to each participant and ask them to assume the identity of the person described on the card.

Ask all participants to gather at the back of the room. Call out the activities (in Annexure 2, at the end of the module), one by one. Ask participants, under their assumed identities, to think about whether they can undertake the activity. If they think that they can, they

must take a step forward. If they think that they cannot, they must stand still. Follow this procedure until all the activities have been read out.

Now ask each participant to reveal who they are and to describe how they felt about this role.

Discussion (20 minutes)

Once all participants have returned to their seats, have them discuss the following questions:

- Did your role restrict your activities?
- If yes, how?
- Did your own stereotypes affect your decisions about whether to step forward or remain standing?
- How are people with HIV and AIDS discriminated against?
- How does discrimination contribute to the spread of HIV?
- How does discrimination aggravate the impact of HIV?

(This exercise was adapted from The HIV and the Law Trainer's Manual, AIDS Legal Network, 2nd edition 2005. See www.aln.org.za for a copy of the manual)

Input (20 minutes)

Make an input/presentation using Input D: HIV/AIDS as a human rights issue.

The input will reinforce the links between HIV/AIDS and human rights, but will also help participants to understand the broader context of health and human rights.

Summary (5 minutes)

Summarise the session by reinforcing why HIV/AIDS is a human rights issue.



Briefing notes for trainers

Ensure that you are familiar with concepts of HIV/AIDS as a human rights issue. You can find important information in Chapter 4 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of this section.

Part Two: HIV, gender and human rights

Key Points

- Gender discrimination and gender based violations, including gender based violence, of women's rights put women at risk of contracting HIV.
- Gender discrimination exacerbates the impact of the epidemic on women and prevents them from accessing prevention, treatment, care and support.
- Poor health can affect people's ability to exercise and enjoy their human rights.
- Women living with HIV and AIDS face particular violations of their human rights.

Objective

To help participants to understand that HIV is also a gender issue.

Suggested time

Role play: preparation	20 minutes
Presentation of role plays	25 minutes
Discussion	15 minutes
Input/presentation	15 minutes
Discussion	15 minutes
Summary	5 minutes
Total	80 minutes

Materials

PowerPoint facilities

Handouts

Handout 3: He has HIV/She has HIV

Handout 4: The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and HIV/AIDS

Inputs

Input E: HIV, gender and human rights

Suggested method

Role play (20 minutes for preparation, 25 minutes for presentation)

Break participants into small groups of five or six, depending on the size of the group.

Distribute Handout 3: He has HIV/She has HIV to each group.

Each group is to read the scenarios. The trainer should assign one scenario to each group, ensuring that each of the scenarios is covered. Alternatively, participants can use their own experiences in developing the role plays.

Give groups time to prepare their role plays.

Invite each of the groups to present their role plays.

Discussion (15 minutes)

After all groups have completed their role plays, participants should be asked to discuss how they feel about the different role plays. The trainer should summarise the impact of HIV on women, highlighting the key points.

Input (15 minutes)

Make an input/presentation using Input E: HIV, gender and human rights.

Trainers should make sure that the slide with the statistics is up to date – please check the UNAIDS website (www.unaids.org.) for the most recent statistics. Trainers should also supplement the global data with national data, where this is available.

Summary (5 minutes)

The trainer should then distribute copies of Handout 4 and summarise the links between HIV, gender and human rights.



Briefing notes for trainers

Ensure that you are familiar with links between HIV, gender and human rights. You can find important information in the Key Points at the beginning of this section.

It is also recommended that you read *HIV Positive Women and Human Rights*, ICW Vision Paper 4, The International Community of Women Living with HIV/AIDS, 2004 and *Women, HIV/AIDS and human rights*, Amnesty International, 2004. You can also consult other web-based resources such as UNAIDS – www.unaids.org or UNIFEM – www.unifem.org

Annexure 1: Cards

17 YEAR OLD GIRL WITH AN STI	DISABLED WOMEN
PRIEST	FEMALE SEX WORKER
13 YEAR OLD GIRL WHO LIVES WITH HER PARENTS	FARM WORKER
MEMBER OF PARLIAMENT LIVING WITH HIV	GAY MAN
ILLEGAL IMMIGRANT FROM WEST AFRICA WHO DOES NOT SPEAK ENGLISH	PROFESSIONAL BOXER
50 YEAR OLD WOMAN WHO IS ILLITERATE	MARRIED WOMAN LIVING WITH AN ABUSIVE HUSBAND
26 YEAR OLD PRISONER	FATHER DYING OF AIDS
SINGLE PARENT	WEALTHY BUSINESS OWNER
40 YEAR OLD TEACHER LIVING WITH HIV	MALE SEX WORKER
SINGLE WOMAN LIVING WITH HIV WHO IS UNEMPLOYED	SINGLE MAN LIVING WITH HIV WHO IS EMPLOYED
14 YEAR OLD MALE RAPE SURVIVOR	PREGNANT WOMAN LIVING WITH HIV

Annexure 2: List of activities

- Run up a flight of stairs
- Have an HIV test
- Buy a condom
- Ask your partner to use a condom during sex
- Live on your own
- Live with your family
- Go to school
- Apply for a job
- Ask a health care worker for a pamphlet on HIV/AIDS
- Wear an HIV Positive T shirt
- Introduce your partner to your family
- Tell your boss about your HIV status
- Tell your family about your HIV status
- Tell your spouse about your HIV status
- Tell your family that your partner has HIV
- Open a bank account
- Make plans for the future
- Take out an insurance policy
- Be sexually active
- Go to church
- Be open about your sexuality
- Tell your life story to a group meeting
- Go to an antenatal clinic

Part B: Module 5

Key international
& regional human
rights instruments



MODULE 5: KEY INTERNATIONAL AND REGIONAL HUMAN RIGHTS INSTRUMENTS

<p>Purpose of module</p> <p>To give participants:</p> <ul style="list-style-type: none"> • An understanding of selected international and regional human rights instruments, their relevance to HIV/AIDS, and their enforcement mechanisms • Information on the <i>UNAIDS International Guidelines on HIV/AIDS and Human Rights</i>, specifically Guideline 4, 10, 11 and 12 • Assistance to use these instruments in protecting and promoting the rights of those affected and living with HIV and AIDS 	<p>Materials required</p> <ul style="list-style-type: none"> • Newsprint or flip chart paper • Coloured markers • Prestik/sticky tack or tape • PowerPoint facilities
<p>Methodology</p> <ul style="list-style-type: none"> • Inputs/presentations • Discussion • Exercises 	<p>Handouts and inputs/presentations</p> <ul style="list-style-type: none"> • Chapter 5 of <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 57 - 72 (if participants do not have the manual) • Chapter 6 of <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 75 - 127 (if participants do not have the manual) • Handout 5: Key international and regional human rights instruments and status of ratification • Handout 6: Universal Declaration of Human Rights • Handout 7: African Charter on Human and People's Rights • Handout 8: Convention on the Elimination of All Forms of Discrimination Against Women • Handout 9: UNAIDS International Guidelines on HIV/AIDS and Human Rights • Input F: Human rights instruments • Input G: Enforcing international and regional human rights instruments • Input H: UNAIDS International Guidelines on HIV/AIDS and Human Rights

<p>Trainer's Preparation</p> <ul style="list-style-type: none"> • Read Chapter 5 and Chapter 6 of the <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp 57 - 72 and pp. 75 - 127 respectively and make copies for participants (if they do not have the manual) • Make copies of handouts 5, 6, 7, 8 and 9 for all participants • Read <i>UNAIDS International Guidelines on HIV/AIDS and Human Rights</i> • Prepare PowerPoint presentations F and G and H • Read and learn about country specific human rights laws and frameworks and include in presentation. Information should include the policy framework on HIV/AIDS, the supporting institutions, the legislative framework and adherence to international standards, including on gender equality 	<p>Overall time</p> <ul style="list-style-type: none"> • Approximately 3.25 to 3.5 hours as follows: <ul style="list-style-type: none"> o 150 minutes for Part One o 45 minutes for Part Two
--	---

Overview of module

This module is based on Chapter 5 and Chapter 6 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*.

This module is divided into two parts, dealing with:

- International and regional human rights instruments and their relevance for HIV/AIDS and human rights activism
- Providing an overview of the *UNAIDS International Guidelines on HIV/AIDS and Human Rights*, and a specific focus on Guidelines 4, 10, 11 and 12

The other Guidelines are dealt with in subsequent modules.

Part One: International and regional human rights instruments

Key Points

- International human rights instruments are agreements by countries on human rights.
- There are different kinds of international instruments – some are binding on countries and others are not
- Binding agreements are usually called conventions, covenants and treaties.
- Few international and regional human rights instruments refer directly to HIV/AIDS. However, the provisions can be interpreted to protect and promote the human rights of people living with HIV and AIDS and those who are affected by the epidemic.
- International and regional agreements are monitored and enforced by bodies set up to receive reports from countries on how they are complying with the provisions of the agreements.
- Some of these bodies are able to receive complaints from individuals and organisations.
- Although enforcement of these agreements is somewhat weak, they do present opportunities to advocate for change and can be used to pressurise governments.
- The bodies also issue commentary on the interpretation of agreements which are helpful for advocacy and can also be used in national courts in interpreting national laws.

Objectives

- To introduce participants to selected international and regional human rights instruments and their contents
- To show how the key international and regional human rights instruments can be interpreted to protect and promote the rights of people living with and affected by HIV and AIDS
- To show how to use the enforcement mechanisms to enforce human rights or to conduct advocacy on key HIV-related human rights issues

Suggested time

Input/presentation	25 minutes
Small group exercise	35 minutes
Plenary report back	30 minutes
Discussion	10 minutes
Input/presentation	20 minutes
Discussion	20 minutes
Summary	10 minutes
Total	150 minutes

Materials

Newsprint or flip chart paper
Coloured markers
PowerPoint facilities

Handouts

Handout 5: Key international and regional human rights instruments and status of ratification
Handout 6: Universal Declaration of Human Rights
Handout 7: African Charter on Human and Peoples' Rights
Handout 8: Convention on the Elimination of All Forms of Discrimination Against Women

Inputs

Input F: Key human rights instruments
Input G: Enforcing international and regional human rights instruments

Suggested method

Input (25 minutes)

Make an input/presentation using Input F: Key human rights instruments. Focus the presentation on the provisions of the various instruments and how these can be interpreted to protect people against HIV-related human rights violations.

Allow time for discussion and clarification.

Distribute Handout 5.

Small group exercise (35 minutes, 30 minutes for report back in plenary)

Break the participants into small groups of five or six, depending on the size of the group.

Distribute Handouts 6, 7 and 8. Ask participants to read the three handouts.

Ask participants, bearing in mind the violations of human rights identified in previous discussions, to develop a Charter of Human Rights for People Living With and Affected by HIV/AIDS. Distribute newsprint and markers for them to make their presentation.

Ask one person from each group present their Charter.

Summarise the key points of the discussion.

Input (20 minutes)

Make an input/presentation using Input G: Enforcing international and regional human rights instruments.

Discussion (20 minutes)

Conduct an active discussion with participants on how they can use the enforcement mechanisms to enforce human rights or to conduct advocacy on key HIV-related human rights issues. Highlight the key points and also emphasise the need to understand national enforcement mechanisms. It is important to show participants that it is possible to use international and regional mechanisms to enforce the human rights instruments discussed in the module. It is also important for participants to see these mechanisms as important opportunities to undertake advocacy.



Briefing notes for trainers

Ensure that you are familiar with concepts of international and regional human rights instruments and HIV/AIDS. You can find important information in Chapter 5 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of this section.

It is also important for trainers to familiarise themselves with the human rights laws and frameworks in the country where the workshop is taking place and to include some information on this in the presentation. Information should include the policy framework on HIV/AIDS, the supporting institutions, the legislative framework and adherence to international standards, including on gender equality.

Part Two: UNAIDS International Guidelines on HIV/AIDS and Human Rights

Key Points

- The *UNAIDS International Guidelines on HIV/AIDS and Human Rights* were developed in 1996 by the Office of the High Commissioner for Human Rights (OHCHR) and the Joint United Nations Programme on HIV/AIDS (UNAIDS).
- The Guidelines use international human rights standards as practical guiding principles for countries to deal with HIV and AIDS.
- Although the Guidelines are not legally binding, they are persuasive at an international level.
- The Guidelines aim to promote a rights-based response to HIV and AIDS by countries around the world, by:
 - Developing structures and partnerships to coordinate a national response to HIV and AIDS at all levels and in all sectors
 - Reviewing and reforming laws and promoting legal support services to protect and promote a rights-based response to HIV and AIDS
 - Creating a supportive environment, especially for women, children and other vulnerable groups
- The Guidelines are made up of 12 guidelines that recommend ideal state action for a rights-based response to HIV and AIDS.

What do the Guidelines say?

- Guideline 1 deals with the National Frameworks. It recommends who states should work with to make sure the response to HIV and AIDS cuts across all sectors and all levels. The Guidelines tell states how to create useful structures (for example, committees) that cut across all branches of government and involve all in a meaningful way.
- Guideline 2 deals with Community Partnerships. This recommendation encourages states to form and support partnerships with organisations outside of government (such as the private sector and civil society) in the national response to HIV and AIDS.
- Guideline 3 deals with Public Health Laws. It encourages states to review and reform their public health laws and policies (for example, HIV testing laws or policies) to make sure that they protect the rights of people living with HIV or AIDS and people at risk of HIV, while still providing appropriate services to manage the epidemic.
- Guideline 4 deals with Criminal Laws and Correctional Systems. This recommendation encourages states to review and reform their criminal laws and prison systems to make sure that they protect the rights of people, rather than inappropriately targeting vulnerable groups (such as men who have sex with men, people living with HIV or AIDS, and prisoners).

- Guideline 5 deals with Anti-Discrimination Laws. This guideline recommends that states create or strengthen anti-discrimination laws to make sure that the rights of people with HIV or AIDS and vulnerable groups are protected and they are free from discrimination. It also recommends states ensure that people have effective remedies in the case of their rights being abused.
- Guideline 6 deals with the Regulation of Goods, Services and Information. This guideline recommends that states create strong laws to make sure that all people, especially vulnerable groups, can access appropriate and effective HIV-related goods (such as condoms and ART), services (such as counselling) and information (such as health education).
- Guideline 7 deals with Legal Support Services. The recommendation tells states what steps to take to develop a range of legal support services so that people can understand their rights in the context of HIV and AIDS, and can access services to protect and enforce their rights.
- Guideline 8 deals with Women, Children and Other Vulnerable Groups. This recommendation encourages states to take measures to deal with the special needs of groups especially vulnerable to HIV and AIDS, including measures to address underlying prejudices and inequalities so that their vulnerability can be reduced.
- Guideline 9 deals with Changing Discriminatory Attitudes. This guideline recommends steps for states for promoting acceptance and support rather than discrimination and stigmatisation of HIV and AIDS, through education, training and media.
- Guideline 10 deals with Public and Private Sector Standards. This guideline recommends ways that states can encourage the private sector (such as health professionals and business) and the public sector (such as government departments) to develop codes of practice and policies that protect and promote human rights in relation to HIV and AIDS.
- Guideline 11 deals with State Monitoring and Enforcement of Human Rights. This recommendation encourages states to take steps to make sure that the HIV/AIDS and human rights standards in the International Guidelines are being followed, and are being protected. Where these human rights standards are not followed, states should make sure that there are ways for people to complain and have their rights enforced.
- Guideline 12 deals with International Cooperation. This guideline recommends ways that states can cooperate at an international level to develop a stronger rights-based response to HIV and AIDS, such as working with the United Nations to share information and experiences with other countries, and using international mechanisms to protect rights in relation to HIV/AIDS.

How are the Guidelines useful?

- They set out very comprehensively a wide range of steps that governments could take to respect, protect, promote and fulfill human rights in relation to HIV/AIDS.
- Although they are not legally binding, they are a persuasive tool to encourage action from countries to manage HIV/AIDS and human rights.
- As a result they can be useful to countries and organisations in a number of ways such as:
 - They give practical advice to countries and non-governmental organisations on steps to take to respond appropriately to HIV and AIDS
 - They can be used by non-governmental organisations to monitor and 'measure' their countries response to HIV and AIDS
 - They can be used as an advocacy tool to persuade countries to improve their response to HIV and AIDS

Objectives

- To introduce the *UNAIDS International Guidelines on HIV/AIDS and Human Rights*
- To focus attention on Guidelines 4, 10, 11, 12

Suggested time

Input/presentation and discussion	45 minutes
Total	45 minutes

Materials

Newsprint or flip chart paper
Coloured markers
Prestik/sticky tack or tape
PowerPoint facilities

Handouts

Handout 9: *UNAIDS International Guidelines on HIV/AIDS and Human Rights*

Inputs

Input H: *UNAIDS International Guidelines on HIV/AIDS and Human Rights*

Suggested method

Input (45 minutes)

Before beginning the presentation, explain to participants that there are 12 Guidelines and these will be covered in various modules of the workshop. The focus for this session is Guidelines 4, 10, 11 and 12.

Make an input/presentation using Input H: *UNAIDS HIV/AIDS International Guidelines on HIV/AIDS and Human Rights*.

At Guideline 4, ask participants if they can think of any examples of or ideas for state action that relate to the recommendation made in Guideline 4. Note answers on the newsprint.

Continue the presentation, but stop and ask for similar input at Guideline 10, 11 and 12 and note responses on newsprint.

Distribute Handout 9: *UNAIDS International Guidelines on HIV/AIDS and Human Rights*

Conclude this session by asking participants to reflect on the usefulness of the Guidelines, and how they could use the Guidelines in their work.



Briefing notes for trainers

Ensure that you are familiar with the UNAIDS International Guidelines on HIV/AIDS and Human Rights. You can find important information in Chapter 5 and Chapter 6 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of this section.

Part B: Module 6

Identifying the key

human rights

issues in your

country



MODULE 6: IDENTIFYING THE KEY HUMAN RIGHTS ISSUES IN YOUR COUNTRY

<p>Purpose of module</p> <p>To give participants:</p> <ul style="list-style-type: none"> • An opportunity to highlight and discuss the key human rights and HIV/AIDS issues in the country / countries in which participants work 	<p>Materials</p> <ul style="list-style-type: none"> • Newsprint or flip chart paper • Coloured markers, coloured pencils/crayons • Prestik/sticky tack or tape • Paper, cut into cards, or cards • PowerPoint facilities
<p>Methodology</p> <ul style="list-style-type: none"> • Discussion 	<p>Handouts and inputs/presentations</p> <ul style="list-style-type: none"> • Chapter 6 of <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 75 - 127 (if participants do not have the manual)
<p>Trainer's preparation</p> <ul style="list-style-type: none"> • Read Chapter of the <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i> pp. 75 - 127 and make copies for participants (if they do not have the manual) • Read and learn about country specific human rights laws and frameworks and include in presentation. Information should include the policy framework on HIV/AIDS, the supporting institutions, the legislative framework and adherence to international standards, including on gender equality • Cut paper into cards • Paste blank newsprint on the walls 	<p>Overall time</p> <ul style="list-style-type: none"> • Approximately 30 minutes as follows: <ul style="list-style-type: none"> o 30 minutes for Part One

Overview of module

This module is based on Chapter 6 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*.

This module has only one Part, dealing with the key human rights issues in the country/ies in which the training is taking place. The purpose of this introduction is to assist in the identification of the ongoing key human rights issues in which the training is taking place. Based on this, trainers will be in a position to decide on the specific human rights issues in Chapter 6 that they will focus on.

Part One: What are the key HIV/AIDS and human rights issues in your country?

Key Points

- The following issues have been raised as issues of concern in Southern Africa in relation to HIV and AIDS:
- Stigma and discrimination:
- Health Rights, including
 - Routine HIV testing laws and policies
 - Health Rights abuses around HIV and AIDS
 - Laws and policies to 'force' disclosure of HIV status
 - Censorship of HIV and AIDS information
 - Limited access to post-exposure prophylaxis for women
 - Limited access to anti-retroviral treatment
 - Poor ethical-legal frameworks to regulate research
- Inappropriate criminal laws in the context of HIV and AIDS, including:
 - Laws that criminalise sex between men
 - Criminalisation of HIV transmission
 - Laws against sex work
- Human rights abuses of the rights of workers living with or affected by HIV and AIDS, in particular:
 - HIV testing and discrimination in the armed forces
- Gender issues including:
 - Customary laws that create inequality among women and make them vulnerable to HIV and AIDS
 - Health services that fail to prioritise women's health needs, such as post-exposure prophylaxis after rape

Objective

To identify the specific human rights issues in the country / countries in which participants live/work

Suggested time

Exercise and discussion	30 minutes
Total	30 minutes

Materials

Newsprint or flip chart paper
Coloured markers
Prestick/sticky tack or tape
Cards or paper cut into cards

Inputs

None

Suggested method

Exercise (30 minutes)

Ask participants to consider the following question:

- The UNAIDS International Guidelines recommend various steps that states can take to protect human rights around HIV and AIDS. What are the key human rights issues that need urgent attention in your (area / country / region)?

Distribute a card to each participant and ask him/her to identify three areas of priority concern.

Ask a participant to read out one of his/her human rights issues. Ask participants to indicate, by a show of hands, if they have identified the same issue, or a related issue.

Note the issue (and related issues) on the newsprint and alongside it the number of times it was identified.

Repeat the process until all human rights issues noted by the participants have been recorded on the newsprint with an indication of the number of times they were noted.

Sum up the session by working with participants to identify three human rights issues of priority concern to participants in the area / country / region in question.



Briefing notes for trainers

Ensure that you are familiar with Chapter 6 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of this section.

If you feel that participants do not have a high level of knowledge of human rights and HIV issues in the area, you can assist by highlighting the various issues in the Key Points section at the beginning of this section.

Participants may identify broad areas of concern around HIV/AIDS and human rights (for example, women's rights) or very specific concerns around HIV/AIDS and human rights (for example, customary laws that discriminate against women; weak domestic violence laws). It is important that as the facilitator, you assist participants to decide whether to group similar, specific human rights issues into broader issues, or to keep each specific human rights issue separate. For example, if a number of participants come up with specific issues around women's rights, it will be appropriate to simply identify 'women's rights' as a key issue of concern. However, if many participants identify the same, specific issue (for example, customary laws that discriminate against women) it will be appropriate to keep this as a separate key issue of concern.

Additionally, as the facilitator it is important to direct participants towards the human rights at stake around particular issues, rather than to bring in their own attitudes or prejudices around more sensitive issues (such as sex work or sex between men).

Part B: Module 6a

Structures

and

Partnerships



MODULE 6A: STRUCTURES AND PARTNERSHIPS

<p>Purpose of module</p> <p>To give participants:</p> <ul style="list-style-type: none"> • Information on Guidelines 1 and 2 of the <i>UNAIDS International Guidelines on HIV/AIDS and Human Rights</i> • Ideas of possible ways to develop a coordinated, participatory, transparent and accountable national framework • The opportunity to discuss how to build meaningful community partnerships 	<p>Materials required</p> <ul style="list-style-type: none"> • Newsprint or flip chart paper • Coloured markers • Coloured pencils or crayons • Prestik/sticky tack or tape • Glue • Old magazines • Cards or paper • PowerPoint facilities
<p>Methodology</p> <ul style="list-style-type: none"> • Discussion • Exercises • Input/presentation 	<p>Handouts and inputs/presentations</p> <ul style="list-style-type: none"> • Chapter 6A of <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 79 - 84 (if participants do not have the manual) • Input I: Structures and partnerships
<p>Trainer's preparation</p> <ul style="list-style-type: none"> • Read Chapter 6A of the <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 79 - 84, and make copies for participants (if they do not have the manual) • Read <i>UNAIDS International Guidelines on HIV/AIDS and Human Rights</i> • Prepare PowerPoint presentation I 	<p>Overall time</p> <ul style="list-style-type: none"> • Approximately 2.5 to 3 hours as follows: <ul style="list-style-type: none"> o 30 minutes for Part One o 75 minutes for Part Two o 45 minutes for Part Three

Overview of module

This module is based on Chapter 6A of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource Manual*. It examines Guidelines 1 and 2 of the *UNAIDS International Guidelines on HIV/AIDS and Human Rights*, which deal with appropriate Structures and Partnerships to respond to HIV and AIDS.

This module is divided into three parts, dealing with:

- Structures and partnerships
- Developing a national framework for HIV and AIDS
- Community partnerships

The module is particularly useful in those areas where the lack of appropriate structures and/or partnerships has been identified as a key human rights issue impacting on an effective response to HIV and AIDS.

Key Points

What are structures, national frameworks and partnerships?

- Structures are bodies set up with a particular function and may include: Committees; Organisations; Forums; Advisory Groups; Statutory bodies, etc.
- A national framework is a group of structures and individuals with different functions that work and link together at a national level
- Partnerships occur when structures and individuals choose to work together, sharing resources, information, etc. on a particular function, usually for reasons of mutual benefit. Partnerships may cut within and across sectors

What kinds of structures, national frameworks and partnerships are useful?

- Structures, frameworks and partnerships should do the following, in order to promote an effective, rights-based response to HIV and AIDS:
- Cut across all branches of government, all political parties, and all levels. For example:
 - Inter-Ministerial HIV and AIDS Committees
 - Inter-Departmental HIV and AIDS Committees
 - Advisory forums and national councils on HIV and AIDS
 - Parliamentary Committees on HIV and AIDS
- Involve people outside of government in all phases (design to evaluation). For example:
 - Partnerships with the private sector
 - Involvement of civil society sectors, such as women, people living with HIV and AIDS, youth, non-governmental organisations (NGOs), community-based organisations (CBOs), faith-based organisations (FBOs)
 - Work with international agencies (such as United Nations)
- Integrate HIV and AIDS into existing structures, partnerships and functions. For example:
 - Include HIV and AIDS in regular gatherings of Ministers
 - Integrate HIV and AIDS strategies into ongoing functions of government departments
 - Fund activities of NGOs and CBOs
- Coordinate responses to HIV and AIDS at a national level. For example:
 - Between government departments
 - Between government, the private sector and civil society
- Clearly define roles and responsibilities of all stakeholders
- Coordinate roles and responsibilities of all stakeholders
- Provide resources to and build the capacity of all stakeholders (particularly communities) to respond to HIV and AIDS

Objectives

- To discuss the *UNAIDS International Guidelines on HIV/AIDS and Human Rights*, Guidelines 1 and 2
- To discuss the importance of structures and partnerships

Suggested time

Discussion	15 minutes
Input/presentation	15 minutes
Total	30 minutes

Materials

PowerPoint facilities

Handouts

None

Inputs

Input I: Structures and partnerships

Suggested method

Discussion (15 minutes)

Review Handout 9: *UNAIDS International Guidelines on HIV/AIDS and Human Rights*. Ask participants to read through Guidelines 1 and 2.

Ask the participants the following questions:

- What kind of national structures, frameworks and partnerships are important in a rights- based national response to HIV and AIDS?
- Why are they important?

Discuss the participants' answers.

If participants are slow to respond, and appear to find the question difficult, it may be useful to ask participants to consider what we mean by structures, frameworks and partnerships, and to consider some ideas of existing structures and partnerships in their country. This may facilitate more in-depth discussion of whether these are useful and why or why not.

Input (15 minutes)

Make an input/presentation using Input I: Structures and partnerships.

Summarise the session by asking participants to reflect on existing, concrete examples of good structures and partnerships in their region.



Briefing notes for trainers

Ensure that you are familiar with the *UNAIDS International Guidelines on HIV/AIDS and Human Rights*. You can find important information Chapter 6A of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of this section.

Part Two: Developing a National Framework for HIV and AIDS

Key Points

An effective national framework should be:

- Coordinated
- Participatory
- Transparent, and
- Accountable

Major weaknesses with existing national frameworks include:

- They lack coordination between levels of government, and at lower levels of government
- They lack attention to human rights
- They politicise HIV and AIDS, dividing people rather than encouraging partnerships

Objective

- To give participants an opportunity to discuss possible ways to develop a coordinated, participatory, transparent and accountable national framework

Suggested time

Exercise	30 minutes
Feedback in plenary	30 minutes
Discussion and summary	15 minutes
Total	75 minutes

Materials

Newsprint or flip chart paper
Coloured markers/crayons/coloured pencils
Prestik/sticky tack or tape
Old magazines

Handouts

None

Inputs

None

Suggested method

Small group exercise (30 minutes, 30 minutes to report back)

Divide participants into small groups of five or six, depending on the size of the group. Give each group newsprint, glue, old magazines and markers, crayons and/or coloured pencils.

Ask each group to draw a diagrammatic representation of what they think is an effective national framework for responding to HIV and AIDS. Tell the groups to consider the following key questions to help them to develop their ideas of an effective national framework:

- What structures should government develop to respond to HIV and AIDS at a national level?
- Where would these structures be located?
- Who would be part of these structures?
- How would these structures be linked to and coordinated with other structures?

Encourage participants to reflect on their discussions in the previous exercise and Input J in developing what they believe to be the most effective national framework for responding to HIV and AIDS.

Ask each group to report back, explaining their diagram to the larger group.

Discussion and summary (15 minutes)

Sum up this session by asking participants to reflect on the national frameworks presented, and consider whether the groups integrated the key characteristics / dealt with key issues to create an effective national framework.



Briefing notes for trainers

Ensure that you are familiar with the *UNAIDS International Guidelines on HIV/AIDS and Human Rights*. You can find important information Chapter 6A of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of this section.

Part Three: Building Community Partnerships for HIV and AIDS

Key Points

Community Partnerships are important because:

- The community has vital experience and knowledge to contribute to the national response to HIV and AIDS
- Communities are well placed to reach vulnerable groups within the community. They are either themselves affected by human rights problems, or they deal with people who are
- Partnerships also support communities with resources (such as funding or capacity building) to enable them to carry out their work

Community Partnerships should include:

- People living with HIV and AIDS
- Community-based organisations (CBOs)
- Non-governmental organisations (NGOs)
- AIDS Service organisations (ASOs)
- Representatives of vulnerable groups, such as women, children, migrants, sex workers, men who have sex with men etc.

The Greater Involvement of People living with AIDS/Meaningful Involvement of People living with AIDS (GIPA/MIPA) principle says that:

- People living with HIV and AIDS should be involved in shaping the response to HIV and AIDS
- Involvement should be broad, including all levels of the response such as:
 - Participating in major decision- and policy-making
 - Taking part in awareness, education and training activities
 - Being involved as service providers in programmes, such as counselling
 - Tackling stigma and discrimination issues

Objective

- To discuss the importance of and effectiveness of community partnerships

Suggested time

Exercise	30 minutes
Discussion and summary	15 minutes
Total	45 minutes

Materials

PowerPoint facilities
Cards or paper
Coloured markers

Handouts
None

Inputs

Input I: Structures and partnerships

Suggested method

Exercise (30 minutes)
Review Handout 9, focusing on Guideline 2.

Review the example of the South African National AIDS Council (SANAC) in Input I: Structures and partnerships.

Ask participants to work in pairs. Distribute cards or paper to each pair.

Working in pairs, ask participants to consider the following:

- The community representatives they believe should be involved in the Council
- The steps that the Council should take to ensure that the community representatives are able to participate meaningfully

Direct participants towards thinking about what SANAC can do to increase meaningful participation of community representatives. If need be, prompt them to consider:

- Do the representatives have the capacity to participate?
- Do the procedures allow for participation?
- Do the procedures ensure transparency and accountability for decisions made?
- Who is affected by HIV and AIDS and therefore important for shaping policy? How are these representatives appointed? Do they have capacity to participate? Etc.

Ask the pairs to note down their answers on the paper/cards.

Ask a pair of participants to present their answers. Ask other participants to add additional information.

Discussion and summary (15 minutes)

Summarise the session by discussing the answers given by participants. Provide a final input on the actual representatives on SANAC, as well as the issues affecting SANAC, highlighting the weaknesses of community partnership in the SANAC including:

- The composition of SANAC was dominated by Cabinet Ministers and members of government departments. This limited the sectoral representation in SANAC.
- The predominance of government representatives reduced the community representatives' ability to participate in a way that would be critical of government policy, so that they felt unable to participate meaningfully
- Only a single representative was able to represent an entire sector of the community, which was not appropriate
- There were no mechanisms for the general community to interact with SANAC and to influence its agenda, and SANAC itself did not have any way of interacting with members not on the Council
- The process of appointing community representatives was government-initiated and therefore problematic.

Discuss the GIPA/MIPA principle and its importance.



Briefing notes for trainers

Ensure that you are familiar with the *UNAIDS International Guidelines on HIV/AIDS and Human Rights*. You can find important information in Chapter 6A of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of this section.

Part B: Module 6b

Health Rights



MODULE 6B: HEALTH RIGHTS

<p>Purpose of module</p> <p>To give participants:</p> <ul style="list-style-type: none"> • Information on Guidelines 3 and 6 of the <i>UNAIDS International Guidelines on HIV/AIDS and Human Rights</i> • An opportunity to examine appropriate rights-based health services for HIV and AIDS in key areas, including HIV testing; Confidentiality; Treatment, care and support; HIV and AIDS information and prevention; and research. 	<p>Materials required</p> <ul style="list-style-type: none"> • Newsprint or flip chart paper • Coloured markers • Prestik/sticky tack or tape • PowerPoint facilities
<p>Methodology</p> <ul style="list-style-type: none"> • Discussion • Exercise • Input/presentation • Role play 	<p>Handouts and inputs/presentation</p> <ul style="list-style-type: none"> • Chapter 6B of <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 89 - 105 (if participants do not have the manual) • Handout 10: Public health/ human rights checklist • Handout 11: What has the State done about treatment, care and support? • Handout 12: HIV and AIDS research • Input J: Health rights
<p>Trainer's preparation</p> <ul style="list-style-type: none"> • Read Chapter 6B of the <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 89 - 105 and make copies for participants (if they do not have the manual) • Make copies of Handouts 10, 11 and 12 for all participants • Read <i>UNAIDS International Guidelines on HIV/AIDS and Human Rights</i> • Read the WHO /UNAIDS <i>Guidance on Provider-Initiated HIV Testing and Counselling in Health Facilities</i> available from http://www.who.org. • Prepare PowerPoint presentation J • Prepare newsprint with rights from the African Charter of Human and Peoples' Rights (see Part Two: HIV and AIDS information and prevention) 	<p>Overall time</p> <ul style="list-style-type: none"> • Approximately 5.5 to 6 hours as follows: <ul style="list-style-type: none"> o 30 minutes for Part One o 300 minutes for Part Two

Overview of module

This module is based on Chapter 6B of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*. It examines Guidelines 3 and 6 of the UNAIDS International Guidelines on HIV/AIDS and Human Rights, which deal with health rights.

This module is divided into two parts, dealing with:

- The importance of health rights
- Issues related to HIV and AIDS and health

The module is useful for training participants who believe that access to health rights for people affected by HIV and AIDS is a key human rights issue in their area.

Part One: Why are health rights important?

Key Points

What kinds of health laws, policies and ethical guidelines are appropriate?

- Laws, policies and ethical guidelines should:
 - Protect the rights of people living with HIV or AIDS to testing and treatment only with informed consent
 - Protect the right to confidentiality
 - Promote infection control
 - Promote human rights among health care workers
 - Provide access to HIV and AIDS information for all
 - Provide access to HIV prevention services for all
 - Promote access to treatment, care and support
 - Protect the rights of research participants in HIV-related research

Why are they important?

- Rights-based health laws, policies and ethical guidelines are important because they ensure that:
 - People living with HIV and AIDS are protected from unfair discrimination
 - People living with HIV and AIDS are not subjected to coercive public health measures
 - Appropriate health services are available to all people living with or affected by HIV and AIDS
- By so doing, they encourage affected people to access services. This serves public health goals – it helps to reduce the risk of HIV infection, and it reduces the impact of HIV and AIDS on those who are infected or affected.

Objective

- To discuss the importance of health rights for people living with HIV and AIDS

Suggested time

Discussion	15 minutes
Input/presentation	15 minutes
Total	30 minutes

Materials

PowerPoint facilities

Handouts

None

Inputs

Input J: Health rights

Suggested method

Discussion (15 minutes)

Review Handout 9. Ask participants to read through Guidelines 3 and 6.

Ask the participants the following questions:

- What kind of health laws and policies should states put in place to protect the health rights of people living with HIV and AIDS?
- Why are they important?

Discuss the participants' answers.

If participants have only basic knowledge of human rights, HIV and AIDS issues, it may be useful to provide them with further information. In this case, you could break participants into five groups, and ask each group to consider appropriate rights-based health laws and policies around the following issues: HIV testing; Confidentiality; Information; Prevention; and Treatment and care.

Input (15 minutes)

Make an input/presentation using Input J: Health rights.

Summarise the session by asking participants to reflect on existing, concrete examples of good health laws and policies in their region.



Briefing notes for trainers

Ensure that you are familiar with issues of health and human rights, as well as the *UNAIDS International Guidelines on HIV/AIDS and Human Rights*. You can find important information in Chapter 6B of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*, and the Key Points at the beginning of this section.

Part Two: Practical issues for people living with HIV and AIDS

This part will cover various relevant health rights issues for people living with HIV and AIDS. It will examine:

- HIV testing
- Confidentiality
- Treatment, care and support
- HIV and AIDS information and prevention
- HIV and AIDS research

HIV testing

Key Points

- Guideline 3 recommends HIV testing that is:
 - Voluntary (by free choice)
 - With informed consent (agreement)
 - With pre- and post-test counselling
- The policy of Voluntary Counselling and Testing (VCT) has long been considered the 'gold standard' of HIV testing in most countries.
- Recently, many countries have begun to argue for Provider-Initiated HIV testing policies (commonly referred to as 'routine testing'), which is:
 - HIV testing and counselling
 - Recommended by health care workers to patients
 - As a standard component of routine medical care
- Patients give consent by specifically agreeing to the test, after receiving information ('opt-in') or failing to specifically decline the test, after receiving information ('opt-out')

UNAIDS Recommendation of 'opt-out' provider-initiated HIV testing:

- In countries with generalised HIV epidemics (where more than 1% of all pregnant women are HIV positive – as in most African countries)
- All patients presenting at health care facilities:
- Should be routinely offered an HIV test as part of the standard medical care.
- The HIV testing should be accompanied by:
 - Pre-test information
 - The option to 'opt-out' (refuse) the HIV test, if the patient so chooses
 - Protection of confidentiality
 - Post-test counselling
 - An enabling environment, where prevention, treatment, care and support services, as well as a protective legal, social and policy framework are provided

- UNAIDS argues that this form of HIV testing balances medical ethics, and clinical, public health and human rights objectives:
 - It helps people to know their status in an informed and voluntary manner, to access prevention, treatment, care and support services, to prevent the transmission of HIV and to be protected from HIV-related stigma and discrimination
 - It improves prevention and treatment outcomes
 - It promotes the right to autonomy, privacy and confidentiality

Objective

- To highlight various issues related to HIV testing

Suggested time

Input/presentation	15 minutes
Group exercise	25 minutes
Report back	15 minutes
Discussion and summary	5 minutes
Total	60 minutes

Materials

PowerPoint facilities

Handouts

Handout 10: Public health/ human rights checklist

Inputs

Input J: Health Rights

Suggested method

Input (15 minutes)

Make an input/presentation, reviewing the relevant sections of Input J on HIV testing. Raise the issue of Provider-Initiated ('routine') HIV testing.

Group exercise (25 minutes, 15 minutes for report back)

Break participants into groups of five or six, depending on the size of the group.

Ask each group to discuss, and agree on, an HIV testing policy for their country. Tell participants that the policy should include details regarding:

- Under what conditions HIV testing is done
- How offers of HIV testing are made
- If / how consent is provided
- Whether and how counselling or information (pre- and post-test) is provided
- Whether confidentiality is protected

Encourage participants to reflect on their discussions in the previous exercise and Input L in developing what they believe to be an appropriate HIV testing policy. Also, encourage them to use public health and human rights-based arguments in developing their viewpoints.

When they are finished, distribute copies of Handout 10: Public health/human rights checklist. Ask the groups to check their policy against Handout 10 and discuss whether

their policy achieves a balance between public health and human rights objectives. Ask participants to consider the following questions:

- Is the policy good for public health?
- Does the policy protect human rights?
- Would you review the policy in any way?

Ask each group to give a very brief report back of their findings in plenary.

Discussion and summary (5 minutes)

Summarise the session by providing participants with an input on the UNAIDS recommendations on Provider-Initiated HIV Testing.



Briefing notes for trainers

Ensure that you are familiar with the *UNAIDS International Guidelines on HIV/AIDS and Human Rights*. You can find important information Chapter 6B of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*, and the Key Points at the beginning of this section.

You may also wish to refer to WHO /UNAIDS *Guidance on Provider-Initiated HIV Testing and Counselling in Health Facilities* available from <http://www.who.org>.

Confidentiality

Key Points

The right to confidentiality:

- Is the right to keep medical information (including HIV status) private

The right is important because:

- People face stigma and discrimination due to HIV and AIDS
- People are denied basic human rights when they are known to be HIV positive
- People may be afraid to use health care services
- if they fear that their HIV status will become known – this does not serve health goals

Laws, policies and guidelines should:

- Protect the right to confidentiality
- Provide clear standards for partner notification
- Create an enabling environment that encourages voluntary disclosure

Objective

- To highlight various issues related to confidentiality

Suggested time

Input/presentation	15 minutes
Role play	20 minutes
Role play in plenary	10 minutes
Discussion and summary	15 minutes
Total	60 minutes

Materials

PowerPoint facilities

Handouts

None

Inputs

Input J: Health rights

Suggested method

Input (15 minutes)

Review the right to confidentiality, using the relevant sections of Input J: Health rights.

Role play (20 minutes, 10 minutes to role play in plenary)

Break participants up into groups of three. Give each person in a group a role – one person will be a patient with HIV; another a health care worker counselling that patient; and the third person will be a concerned sexual partner.

Ask the groups to develop a role play based around a situation where the health care worker believes it may be necessary to disclose the patient's HIV status. The groups should act out what each person may say or do in that situation.

When the groups have finished, ask one group to volunteer to present their role play in plenary.

Discussion and summary (15 minutes)

After the role play, ask participants to discuss the following questions:

- What rights does the patient have?
- What rights does the sexual partner have?
- What responsibilities does the health care worker have towards the patient and/or sexual partner?
- Were the steps taken by the health care worker in accordance with UNAIDS recommendations?
- Do you think the UNAIDS recommendations on disclosure are useful in this situation? Why or why not?
- Can you think of any other situations where you believe a disclosure of HIV status is, or should be lawful? Why?

Use the Input to help you.

Summarise the session by reinforcing why the right to confidentiality is important for a state's response to HIV and AIDS. Also discuss why policies that 'force' disclosure may be inappropriate, and the importance of creating an enabling environment that encourages voluntary disclosure.



Briefing notes for trainers

Ensure that you are familiar with the relevant *UNAIDS International Guidelines on HIV/AIDS and Human Rights*. You can find important information Chapter 6B of the *HIV/AIDS*

and *Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of this section. You may also wish to refer to WHO /UNAIDS *Guidance on Provider-Initiated HIV Testing and Counselling in Health Facilities* available from <http://www.who.org>.

Treatment, care and support

Key Points

Guideline 6 recommends:

- Improving access to anti-retrovirals by, for example:
 - Creating laws and policies that allow for importing of cheaper or generic drugs
 - Creating links between testing and treatment programmes
 - Making sure that enough staff are in place to support treatment programmes
 - Encouraging the private sector to provide ARVs
- Improving palliative care for people with AIDS
- Providing care for opportunistic infections (like TB and pneumonia)
- Research in SADC countries shows that while a number of countries now have ARV policies, ongoing problems with treatment, care and support include:
 - Only a small number of people are able to access treatment in the region
 - Many patients living with HIV only access treatment programmes when they are at a very late stage
 - There are limited examples of countries using laws and policies (for example, laws around the use of generic drugs) to improve treatment goods, products and services, and to increase access to ARVs
 - Community-based health carers (such as women in the community, home-based care services and volunteer services) are overburdened with care and support needs

Objective

- To highlight various issues related to treatment, care and support

Suggested time

Input	10 minutes
Group exercise	30 minutes
Report back and summary	20 minutes
Total	60 minutes

Materials

PowerPoint facilities

Handouts

Handout 11: What has the State done about treatment, care and support?

Inputs

Input J: Health rights

Suggested method

Input (10 minutes)

Review the right to treatment, care and support using the relevant sections of Input J: Health rights. Provide some regional examples of HIV and AIDS treatment, care and support programmes.

Exercise (30 minutes, 20 minutes to report back)

Break participants up into groups of three or four, depending on the size of the group.

Distribute Handout 11: What has the State done about treatment, care and support? Ask participants to read the Handout and discuss the questions. Ask participants to also refer to Guidelines 3 and 6. Highlight that, although the Guidelines also deal with prevention issues, the exercise only focuses on treatment, care and support.

Explain that questions 1 and 2 provide participants with an opportunity to review the right to health care services to treat, care and support people affected by HIV and AIDS, and how the state can go about doing this. They need not necessarily report back on answers to these questions.

Question 3 requires participants to apply the information from the previous questions to what has been done in their own country (or region), in order to provide a critical analysis of actions undertaken and what still needs to be done. Their discussions around this question are important for the feedback to the larger group.

When the groups have finished, ask the groups to report back in plenary. After each presentation, give participants an opportunity to question the group's report back or to add any additional information. Summarise the findings of each group – for example, whether their discussions seem to show that laws and policies are not in place or alternatively whether laws and policies are in place but are not adequately implemented or enforced.

Finalise the discussions by highlighting how the discussions can assist participants to develop advocacy plans around treatment, care and support within their country / area / region.



Briefing notes for trainers

Ensure that you are familiar with the *UNAIDS International Guidelines on HIV/AIDS and Human Rights*. You can find important information Chapter 6B of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*, and the Key Points in the beginning of this section.

HIV and AIDS information and prevention

Key Points

- Rights-based responses to HIV and AIDS consider:
 - What rights need to be protected
 - How failing to provide a person's rights may make them vulnerable to HIV and AIDS
 - How protecting a person's rights can prevent the spread of HIV and AIDS, and
 - How protecting a person's rights can reduce the impact of HIV and AIDS on their lives
- Information and Prevention Programmes should aim to protect:
 - *The right to equality and non-discrimination:* HIV and AIDS programmes should be available to all people, so that every person is able to receive adequate information and services to protect themselves from HIV infection. In particular, programmes should take note of the special needs of groups who experience inequality and discrimination (such as women, children, men who have sex with men, migrants) to ensure that they have equal access to services for their particular needs. of Mother-to-Child-Transmission of HIV (PMTCT) programmes, and post-exposure prophylaxis (PEP) for rape survivors, should be included in the national response
 - *The right to security of the person:* All HIV and AIDS information and prevention programmes should be voluntary, with people taking part on the basis of voluntary and informed consent
 - *The right to the best attainable physical and mental health:* HIV and AIDS information and prevention programmes should aim to protect the right of access to health care services for all people

Objective

To highlight various issues related to HIV and AIDS information and prevention

Suggested time

Input/presentation	15 minutes
Exercise and summary	30 minutes
Total	45 minutes

Materials

PowerPoint facilities

Handouts

None

Inputs

Input J: Health rights

Suggested method

Input (15 minutes)

Review the right to HIV and AIDS information and prevention programmes, using the relevant sections of Input J: Health rights. Ask participants to provide some examples of HIV and AIDS information and prevention programmes in their country / region.

Exercise (30 minutes)

Write up the following key rights from the African Charter on Human and Peoples' Rights on a piece of newsprint, and read through the rights with participants:

- Article 3: Every individual shall be equal before the law. Every individual shall be entitled to equal protection of the law.
- Article 2: Every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.
- Article 6: Every person shall have the right to liberty and to the security of his person.
- Article 16: Every individual shall have the right to enjoy the best attainable state of physical and mental health.

Explain the right to equality before the law. Ask participants to consider the right to equality, how the right may be infringed, and as a result the ideal type of HIV and AIDS information or prevention programmes that states should introduce to protect the right to equality. Go through each right in the same way.

Sum up the session by adding any additional suggestions for rights-based HIV and AIDS information and prevention programmes. Discuss with participants how looking at rights charters, and thinking about possible rights infringements, can be a useful starting point for the development of all areas of the response to HIV and AIDS.



Briefing notes for trainers

Ensure that you are familiar with the HIV and AIDS information and prevention programmes from the country/region. You can find important information in Chapter 6B of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of this section. Refer also to Module 5.

HIV and AIDS research

Key Points

Research laws, policies and ethical guidelines should ensure:

- The right to equality and non-discrimination in the way that participants are chosen to take part in research
- The right to take part only with voluntary, informed consent
- The right to confidentiality with regard to all information relating to the research
- The right to equal access to information and benefits (such as new medicines) coming out of research, and
- Procedures to ensure that all research is reviewed and approved by ethical review bodies before taking place

Objective

To highlight various issues related to HIV and AIDS research

Suggested time

Input	15 minutes
Group exercise	30 minutes
Report back	15 minutes
Discussion and summary	15 minutes
Total	75 minutes

Materials

PowerPoint facilities

Handouts

Handout 12: HIV and AIDS research

Inputs

Input J: Health rights

Suggested method

Input (15 minutes)

Review HIV and AIDS research issues, using the relevant sections of Input J: Health rights. Ask participants to provide some examples of HIV and AIDS research-related laws, policies and ethical guidelines in their country / region.

Exercise (30 minutes)

Divide the participants up into four large groups. Distribute a copy of Handout 12: HIV

and AIDS research to each participant.

Ask participants to read the Handout and discuss the questions set out below the case study.

When they have finished, call participants back to a plenary session. Ask one group to present their discussions and answers to the larger group. Give other groups a chance to comment or provide alternative answers, in accordance with their own group discussions.

Discussion and summary (15 minutes)

Sum up the session by asking participants if they can give examples of research laws, policies and/or ethical guidelines in their own country that may have protected the research participants in the case study.



Briefing notes for trainers

Ensure that you are familiar with the issues with respect to HIV and AIDS research. You can find important information in Chapter 6B of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of this section.

Part B: Module 6c

HIV/AIDS

I work



MODULE 6C: HIV/AIDS AT WORK

<p>Purpose of module</p> <p>To give participants:</p> <ul style="list-style-type: none"> •Information on Guideline 5 of the <i>UNAIDS International Guidelines on HIV/AIDS and Human Rights</i> •An understanding of why the right to equality and non-discrimination is important in the workplace •An understanding what anti-discrimination measures are 	<p>Materials required</p> <ul style="list-style-type: none"> •Newsprint or flip chart paper •Coloured markers •Prestik/sticky tack or tape •PowerPoint facilities
<p>Methodology</p> <ul style="list-style-type: none"> •Discussion •Exercises •Input/presentation •Role play 	<p>Handouts and inputs/presentations</p> <ul style="list-style-type: none"> •Chapter 6C of <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 109 - 117 (if participants do not have the manual) •Handout 13: Code on HIV/AIDS and Employment in the Southern African Development Community (SADC) •Handout 14: HIV/AIDS labour laws •Input K: HIV/AIDS in the workplace
<p>Trainer's preparation</p> <ul style="list-style-type: none"> • Read Chapter 6C of the <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 109 - 117 and make copies for participants (if they do not have the manual) • Make copies of Handouts 13 and 14 for all participants • Read <i>UNAIDS International Guidelines on HIV/AIDS and Human Rights</i> • Prepare PowerPoint presentation K • Photocopy the scenarios in Annexure 1 or write them out on separate pieces of paper. • Stick up a few sheets of newsprint to write on during the exercise 	<p>Overall time</p> <ul style="list-style-type: none"> • Approximately 2 to 2.5 hours as follows: <ul style="list-style-type: none"> o 20 minutes for Part One o 65 minutes for Part Two o 30 minutes for Part Three

Overview of module

This module is based on Chapter 6C of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*.

This module is divided into three parts, dealing with:

- The right to equality
- Discrimination in the workplace
- Developing an HIV and AIDS workplace policy

Part One: HIV and AIDS and equality

Key Points

- The right to equality and non-discrimination is an important human right and one that also applies to people living with HIV and AIDS
- Discrimination happens when a person is treated in a way that imposes a burden on them or denies them a benefit
- Anti-discrimination measures are steps taken through laws, policies or programmes that aim to stop unfair discrimination, including against people living with HIV and AIDS

Objective

- To assist participants to understand the legal and human rights frameworks that protect people living with HIV and AIDS from discrimination.

Suggested time

Input/presentation	20 minutes
Total	20 minutes

Materials

PowerPoint facilities

Handouts

None

Inputs

Input K: HIV/AIDS in the workplace

Suggested method

Input (20 minutes)

Make an input/presentation on HIV and AIDS and equality and the workplace using Input K.

Allow for questions and clarification.



Briefing notes for trainers

You can find important information in Chapter 6C of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*, and the Key Points at the beginning of this section. Also refer to Module 5.

Part Two: Discrimination in the workplace

Key Points

- The workplace is often a site of unfair discrimination against people living with HIV and AIDS
- Special steps may need to be taken to stop discrimination in the workplace and protect the rights of people living with HIV and AIDS
- Anti-discrimination measures are steps taken through laws, policies or programmes that aim to stop unfair discrimination, including against people living with HIV and AIDS

Objective

- To help participants understand the discrimination against people living with HIV and AIDS in the workplace

Suggested time

Role play	20 minutes
Presentation in plenary	25 minutes
Input/presentation and discussion	20 minutes
Total	65 minutes

Materials

PowerPoint facilities

Handouts

None

Inputs

Input K: HIV/AIDS and human rights in the workplace

Suggested method

Role play (20 minutes, 25 to present in plenary)

Photocopy the scenarios in Annexure 1 or write them out on separate pieces of paper. Stick up a few sheets of newsprint to write on during the exercise.

Break participants into small groups of three to four people, depending on the size of the group. Give each group one of the cards with a workplace scenario and ask them to develop a short role play. Explain that they must decide how each scenario ends and encourage them to draw upon their own experiences or others that they have heard of.

Ask each group to present their role play – ask groups to limit the presentation to 5 minutes.

At the end of the role plays, ask participants whether they noticed any recurring themes. Write these up on newsprint.

To summarise, emphasise that the workplace is frequently a site of discrimination for people living with HIV and AIDS and there is a need to ensure that workplace laws and policies are in place to protect their right to work. Highlight, if it is the case that some role plays had positive endings, where people with HIV or AIDS find acceptance and support in the workplace. It will be important to highlight these as examples of how human rights have begun to shift the way that society responds to people living with HIV and AIDS.

Input (20 minutes)

Review the relevant issues using Input K: HIV/AIDS in the workplace.

Allow time for questions and clarification.



Briefing notes for trainers

You can find important information in Chapter 6C of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*, and the Key Points at the beginning of this section.

Part Three: Developing a workplace policy

Key Points

- The SADC Code on HIV/AIDS and Employment has set standards on HIV/AIDS and non-discrimination.
- Many Southern African countries already promote non-discrimination against people living with HIV and AIDS in national policies and plans. However, not all of them have passed laws that protect people from discrimination specifically on the grounds of HIV or AIDS status.

Objective

- To give participants an opportunity to translate their knowledge into a concrete document examining HIV and AIDS in their workplace

Suggested time

Exercise	30 minutes
Total	30 minutes

Materials

Newsprint or flip chart paper
Coloured markers

Handouts

Handout 13: Code on HIV/AIDS and Employment in the Southern African Development Community (SADC)
Handout 14: HIV/AIDS labour laws

Inputs

None

Suggested method

Exercise (30 minutes)

Break participants into small groups of four or five people. Distribute Handout 13: Code on HIV/AIDS and Employment in the Southern African Development Community (SADC). Ask participants to read the Handout. Explain the history of the SADC Code and how it has impacted on the region. Indicate that the Code can be used as a guide to develop participants' policies.

Distribute newspaper and markers to each group.

Inform participants that this is an opportunity to translate their knowledge into a concrete document. Each group is to discuss and start to develop a workplace policy on HIV/AIDS for their own organisation or workplace. Each group should then present their policy in plenary.

In summary, distribute Handout 14: HIV/AIDS labour laws to illustrate which countries have developed labour laws on HIV and AIDS.



Briefing notes for trainers

Ensure that you are familiar with the SADC Code and its history. You can find important information in Chapter 6C of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*, and the Key Points at the beginning of this section.

It will be important for the trainer to collect and read all of the policies and ensure that the provisions are consistent with human rights. If necessary, feedback can be given to individuals outside of the workshop.

Annexure 1: Scenarios

Scenario 1

Thandi has applied for a job with the defence force. She has passed a written test and has also passed a strenuous fitness test.

Thandi was been told that she will be offered the job, but she must first have an HIV test.

Thandi has test and has tested positive.

Role play the situation where Thandi is informed of her HIV test result and what happens next.

Scenario 2

John works in an office with 5 other employees. He has worked for the same company for 5 years. John was tested for HIV 2 years ago and has been very careful to look after his health since then. He has never been sick.

John has now decided to tell his supervisor, Ann, that he is HIV positive.

Role play the situation where John tells Ann

Scenario 3

Amos works at a factory with many other employees. He has many good friends at his company and enjoys working there.

Amos recently found out that he had HIV and decided to tell one of his colleagues, Thabo. He asked Thabo to keep this information private and not tell anyone else, but Thabo has disclosed this information to everyone working on the same shift as Amos.

Role play what happens when Amos comes to work after Thabo has disclosed his HIV status.

Scenario 4

Esther works at a dry cleaner. She was diagnosed with HIV and was told by her doctor that she should not work with certain chemicals as these could make her sick.

Esther has asked for a meeting with her boss, Peter, to discuss whether she can move to another position that will not require her to come into contact with the chemicals.

Role play this meeting.

Part B: Module 6a

Legal

support

services



MODULE 6D: LEGAL SUPPORT SERVICES

<p>Purpose of module</p> <p>To give participants:</p> <ul style="list-style-type: none"> • Information on Guidelines 7 and 9 of the <i>UNAIDS International Guidelines on HIV/AIDS and Human Rights</i> • An opportunity to discuss awareness of and access to legal services 	<p>Materials required</p> <ul style="list-style-type: none"> • Newsprint or flip chart paper • Two different sets of coloured cardboard sheets • Coloured markers • Prestik/sticky tack or tape • PowerPoint facilities
<p>Methodology</p> <ul style="list-style-type: none"> • Discussion • Group work • Input/presentation 	<p>Handouts and inputs/presentations</p> <ul style="list-style-type: none"> • Chapter 6D of <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 121 - 127 (if participants do not have the manual) • Chapter 9 of <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 162 - 164 (if participants do not have the manual) • Handout 15: Diao v Botswana Building Society • Handout 16: Using litigation to enforce rights • Input L: Legal support services
<p>Trainer's preparation</p> <ul style="list-style-type: none"> • Read Chapter 6D of the <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 121 - 127 and make copies for participants (if they do not have the manual) • Read Chapter 9 of the <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 162 - 167 and make copies for participants (if they do not have the manual) • Make copies of Handouts 15 and 16 for all participants • Read Guidelines 7 and 9 from the <i>UNAIDS International Guidelines on HIV/AIDS and Human Rights</i> • Prepare PowerPoint presentation L • Cut blank A4 sheets of cardboard into equal sizes, making approximately 4 per participant. Do this in two colours. Participants should get 8 cards in total • Stick up two sheets of newsprint. On one, write "Topics" and on the other, write "Target groups" 	<p>Overall time</p> <ul style="list-style-type: none"> • Approximately 2.5 to 3 hours as follows: <ul style="list-style-type: none"> ○ 35 minutes for Part One ○ 75 minutes for Part Two ○ 60 minutes for Part Three

Overview of module

This module is based on Chapter 6D of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*.

This module is divided into three parts, dealing with:

- Guidelines 7 and 9 and what they say about legal services
- How to enhance awareness, education and capacity building on HIV/AIDS and human rights
- How to enhance access to HIV and AIDS legal services

Part One: What do Guidelines 7 and 9 say about legal services?

Key Points

- Guideline 7: Legal Support Services says that states should implement and support legal services that will: Educate people affected by HIV/AIDS about their rights; Provide free legal services to enforce those rights; Develop expertise on HIV-related legal issues; and Utilise means of protection in addition to the courts, such as offices of Ministries of Justice, ombudspersons, health complaints units and human rights commissions
- Legal support services provide legal advice, assistance and litigation in HIV-related cases, for example, legal advice to a child headed household on their inheritance rights
- Guideline 9: Changing discriminatory attitudes through education, training and media says that states should promote the wide and ongoing distribution of creative educational, training and media programmes explicitly designed to change attitudes of discrimination and stigmatisation association with HIV/AIDS

Objective

To introduce Guidelines 7 and 9 and their relevance for legal support services

Suggested time

Input/presentation	15 minutes
Discussion and summary	20 minutes
Total	35 minutes

Materials

PowerPoint facilities

Handouts

None

Inputs
Input L: Legal support services

Suggested method

Input (15 minutes)
Do an input/presentation on legal services using Input L: Legal support services.

Discussion and summary (20 minutes)
Discuss the need for legal services. Ask participants to give examples of legal programmes in their countries for people living with HIV and AIDS. Reiterate the importance of the need for legal services and access to services. Remind participants that, on their own, laws cannot protect and promote rights and that is why legal support services are necessary.



Briefing notes for trainers

Ensure that you are familiar with the *UNAIDS International Guidelines on HIV/AIDS and Human Rights*. You can find important information Chapter 6D of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of this section.

Part Two: How can we enhance awareness, education and capacity building on HIV and rights?

Key Points

- Rights-based education, awareness and capacity building are programmes designed to promote an awareness of the legal and human rights issues relating to HIV/AIDS. Awareness, education and capacity building can help to reduce HIV/AIDS stigma and discrimination in many ways

Objective

To introduce various issues related to rights-based education, awareness and capacity building on HIV/AIDS

Suggested time

Group work	40 minutes
Report back and summary	35 minutes
Total	75 minutes

Materials

8 blank cardboard cards in two different colours
Coloured markers

Prestik/sticky tack or tape

Handouts

None

Inputs

None

Suggested method

Group exercise (40 minutes, 35 minutes for report back)

Divide participants into small groups of five or six, depending on size of group.

Distribute at least 8 blank cardboard cards in two different colours (for example, 4 green and 4 yellow cards), a coloured marker and some prestik/sticky tack or tape to each participant.

Ask participants to individually think about the most important issues for training of communities in terms of HIV/AIDS and human rights. Ask participants to write down one issue per piece of cardboard.

On a different coloured piece of cardboard, participants should think about the target groups for HIV and rights related training

Stick up the newsprint pages with the words “Topic” and “Training”.

After participants have completed their individual work, ask them to interact with their groups and examine their different suggestions for training topics and target groups by trying to see if there were any similarities between the views of participants. Groups should agree on the top three topics and target groups

Ask groups to bring their top three topics to the front and place them on the newsprint marked “Topics”. Ask them to do the same for target groups on the “Target groups” newsprint

Remove any duplicate cards and then facilitate a plenary discussion on the priority topics and target groups for HIV and rights related training

Summarise the session by focusing on the importance of undertaking awareness, education and capacity building on HIV and human rights.



Briefing notes for trainers

Ensure that you are familiar with the *UNAIDS International Guidelines on HIV/AIDS and Human Rights*. You can find important information Chapter 6D of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points in the beginning of this section.

Part Three: How can we enhance access to HIV and AIDS legal services?

Key Points

- The International Guidelines on HIV/AIDS and Human Rights recommend countries can improve access to legal services by:
 - Developing legal aid centres that specialise in HIV and AIDS;
 - Encouraging private law firms to take on HIV and AIDS cases free of charge;
 - Making sure that legal bodies besides the courts (for example, human rights commissions, health complaints units and other government bodies) are able to hear HIV-related disputes
- Legal aid programmes specialising in HIV and AIDS can be separate organisations, or they can be based inside other organisations, like community legal aid centres working on a wide range of legal matters, or ASOs working on HIV and AIDS
- Bodies (such as commissions, councils and ombudspersons) are set up (often by the government) to regulate (control) and hear complaints around different subjects. For example, some countries have: Human Rights Commissions; Gender Commissions; Government ombudspersons; Insurance ombudspersons; Professional councils; Employment forums

Objective

To discuss how to improve access to legal services for people living with HIV and AIDS

Suggested time

Exercise	60 minutes
Total	60 minutes

Materials

None

Handouts

Handout 15: *Diau v Botswana Building Society*

Handout 16: Using litigation to enforce rights

Inputs

None

Suggested method

Exercise (40 minutes, 20 minutes for report back and discussion)

Divide participants into groups of five or six, depending on size of group. Distribute copies of Handout 15: *Diau v Botswana Building Society* and Handout 16: Using litigation to enforce rights.

Ask participants to read the handouts and complete Handout 16.

Facilitate a report back session in plenary.

Summarise the session by referring to the wide range of service services that could be offered to people living with HIV and AIDS. Emphasise that the *UNAIDS International Guidelines on HIV/AIDS and Human Rights* state that these services should be offered by a range of stakeholders including justice departments, NGOs and private lawyers.



Briefing notes for trainers

Ensure that you are familiar with the *UNAIDS International Guidelines on HIV/AIDS and Human Rights*. You can find important information in Chapter 6D and Chapter 9 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of the section.

Part B: Module 6e

HIV/AIDS

and

gender



MODULE 6E: HIV/AIDS AND GENDER

<p>Purpose</p> <p>To give participants:</p> <ul style="list-style-type: none"> • A basic understanding of gender and other related key concepts • An understanding of the links between gender and HIV/AIDS 	<p>Materials required</p> <p>Newsprint or flip chart paper Coloured markers Prestik/sticky tack or tape Blank paper – enough for each participant to have one page</p>
<p>Methodology</p> <p>Discussion Role play Input/presentation</p>	<p>Handouts and inputs/presentations</p>
<p>Trainer's preparation</p> <p>Review Module 4: HIV/AIDS as a human rights issue Prepare newsprint with Annexure 1 (see end of module) Review Annexure 2 (at end of module)</p>	<p>Overall time</p> <p>Approximately 1 to 2 hours as follows: o 60 minutes for Part One</p>

Overview of module

Understanding gender is a crucial part of a rights-based response to HIV/AIDS. Southern Africa is currently the only region where more women than men are infected and where HIV continues to have a disproportionate impact on the lives of women and girls. This module is intended to provide participants with information that will allow them to understand the gender dimensions of HIV and why it is a human rights issue.

The primary purpose of this module is to raise awareness about gender and to help participants understand the negative impact of ignoring gender, particularly in the context of HIV/AIDS. It is unlikely that this training will be able to grapple with, and change, sexist attitudes and views among participants. If this is needed, consideration should be given to providing participants with gender training. It is important for facilitators to note that raising gender issues can often provoke heated discussions and debates. Trainers should anticipate this and be prepared to deal with such discussions. A list of additional resources is provided at the end of the module to assist trainers.

This module is divided into two parts, dealing with:

- the basics of gender and sex
- HIV/AIDS, gender and human rights.

Part One: Understanding the difference between sex and gender

Key Points

- Sex describes the biological differences between men and women. For example, only women become pregnant and give birth.
- Gender describes the differences between men and women that are created by society. These may change over time and there are differences between different cultures. Gender determines what is expected from men and women and how they must behave.
- Society makes assumptions about male and female children.
- This has implications for the way that children are brought up and ultimately the roles that they play in society:
 - in the workplace: nowadays, both women and men work, but women remain responsible for caring for children and performing the other tasks associated with the home (for example, cooking and cleaning). Women are still paid less than men.
 - human rights: women are denied their human rights in many places in the world – they are not able to make decisions about sex and reproduction, they are regarded as second class citizens in some countries and they are subjected to different forms of violence (such as domestic violence, rape and sexual harassment).

Objectives

To introduce key concepts, such as the difference between sex and gender
To help participants to understand that society assigns different roles to women and men.

Suggested time

Exercise and discussion	30 minutes
Exercise and discussion	30 minutes
Total	60 minutes

Materials

Draw the Table on a piece of newsprint (attached as Annexure 1 at end of the module)
Blank pieces of paper – one for each participant

Handouts

None

Inputs

None

Suggested method

Exercise (30 minutes)

Break the participants into small groups of four to five people, depending on the size of the group.

Using the Table in Annexure 1, ask the groups to decide which of the functions are associated with gender and which with sex.

Facilitate feedback in plenary.

Summarise the session by explaining the difference between sex and gender. If necessary, you can also put up the definitions of 'sex' and 'gender' so that participants can then discuss the differences.

Exercise (30 minutes)

Read out the scenario in Appendix 2 at the end of this module.

Ask participants to write down on the paper what sex they would choose for their baby, if they were in the position of the couple. Then ask the participants to write down the reasons they have for choosing the sex that they chose.

Collect the papers and write up on a piece of newsprint, the numbers of participants who chose girls and the number who chose boys. List the reasons for these choices.

During the discussion, try to highlight the assumptions that underpin the choices that participants made in choosing either girls or boys. You may find that those who chose boys may believe that boys will take care of their parents and girls will not (as they get married and become part of their husband's family), boys will inherit, while girls cannot, and boys will carry on the family name and line. It will be important to facilitate a discussion of the different expectations that society has for boys and girls and how boys and girls are socialised in different ways. If many of the participants have chosen boys, use this opportunity to discuss the negative impact of gender roles on women.

(Both exercises were adapted from the Oxfam Gender Training Manual)



Briefing notes for trainers

It is important for trainers to have a good understanding of gender issues. Review Module 4: HIV/AIDS as a human rights issue. Refer to other training resources for more information (see end of module)

Part Two: HIV, gender and human rights

Objective

To help participants to understand that HIV is also a gender issue

Refer to Part Two of Module 4 for exercises.



Briefing notes for trainers

Ensure that you are familiar with links between HIV, gender and human rights. You can find important information in the Key Points at the beginning of this section.

It is also recommended that you read: *HIV Positive Women and Human Rights*, ICW Vision Paper 4, The International Community of Women Living with HIV/AIDS, 2004 and

Women, HIV/AIDS and human rights, Amnesty International, 2004. You can also consult other web-based resources such as UNAIDS – www.unaids.org or UNIFEM – www.unifem.org

Other training resources

The Oxfam Gender Training Manual, Oxfam (United Kingdom and Ireland), 1994
Gender and HIV/AIDS: A training manual for Southern African Media and Communicators, AIDS Law Project, Gender Links, 2004 available at www.genderlinks.org.za

Annexure 1: Sex and gender

FUNCTION/CONDUCT	SEX	GENDER
Breastfeeding		
Cooking		
Menstruation		
Growing a beard		
Caring for sick people		
Knitting		
Fixing a car		
Voice breaking		

Annexure 2: Scenario

A COUPLE ARE TRYING TO HAVE A BABY. THEY DECIDE TO GO TO A SANGOMA/TRADITIONAL HEALER/DOCTOR WHO TELLS THEM THAT THEY WILL HAVE A CHILD, BUT THAT THEY WILL HAVE TO FIRST DECIDE THE SEX OF THE CHILD.

Part B: Module 6f

Vulnerable

Groups



MODULE 6F: VULNERABLE GROUPS

<p>Purpose of module</p> <p>To give participants:</p> <ul style="list-style-type: none"> • An understanding of why certain groups of people are at risk of HIV infection • Information on Guideline 8 of the <i>UNAIDS International Guidelines on HIV/AIDS and Human Rights</i> • Specific information on the vulnerability of children 	<p>Materials required</p> <ul style="list-style-type: none"> • Newsprint or flip chart paper • Coloured markers • Prestik/sticky tack or tape
<p>Methodology</p> <ul style="list-style-type: none"> • Exercises • Discussion 	<p>Handouts and inputs/presentations</p> <ul style="list-style-type: none"> • Chapter 6E of <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. (if participants do not have the manual) • Handout 17: Guideline 8 • Handout 18: Commentary on Guideline 8 • Handout 19: A child's daily life
<p>Trainer's preparation</p> <ul style="list-style-type: none"> • Read Chapter 6E of the <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. and make copies for participants (if they do not have the manual) • Make copies of Handouts 17, 18 and 19 for all participants • Read <i>UNAIDS International Guidelines on HIV/AIDS and Human Rights</i> <p>Stick up a few pages of newsprint around the room</p>	<p>Overall time</p> <ul style="list-style-type: none"> • Approximately 3 to 3.5 hours as follows: <ul style="list-style-type: none"> o 40 minutes for Part One o 75 minutes for Part Two o 75 minutes for Part Three

Overview of module

This module is based on Chapter 6E of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and Guideline 8 of *UNAIDS International Guidelines on HIV/AIDS and Human Rights*.

The module does not deal with women, since this manual contains a module that deals specifically with the gender dimensions of HIV. A training exercise on women is also located in the module dealing with HIV as a human rights issue (Module 4).

This module is divided into three parts, dealing with:

- Vulnerability to HIV infection
- The content of Guideline 8
- Children's rights

Part One: Vulnerability to HIV infection

Key Points

- Vulnerable groups are groups of people who are especially at risk of getting infected with HIV/AIDS and are particularly hard-hit once infected.
- Vulnerable groups may be at risk for different reasons, including:
 - poverty and limited access to resources such as housing and health care
 - inequality and lack of power in relationships
 - being marginalised because they are engaged in unlawful activities such as sex work and injecting drugs

Objective

To get participants to think about who is vulnerable and what contributes to vulnerability.

Suggested time

Exercise	20 minutes
Discussion in plenary	20 minutes
Total	40 minutes

Materials

Newsprint or flip chart paper
Prestik/sticky tack or tape
Coloured markers

Handouts

Handout 17: Guideline 8
Inputs
None

Suggested method

Exercise (20 minutes)

Read the definition of vulnerable groups to participants. The definition is as follows:

Vulnerable groups are groups of people within the population who:

- Are especially at risk of getting infected with HIV and AIDS; and
- Are especially hard-hit once infected by HIV and AIDS

Ask participants to form buzz groups (by turning to their neighbors) and discuss who they think are vulnerable groups. Tell participants that they must give reasons why they have identified these groups.

Facilitate discussion in plenary and note answers down on flip chart paper. At the same time, ask participants to motivate their choices.

In summary, review participants' answers and ensure that they have identified the key groups, which should include:

- Women
- Children
- Sex workers
- Injecting drug users
- Men who have sex with men
- Minorities
- Migrants
- Refugees
- Internally displaced persons
- Prisoners

Ensure that participants have a clear understanding of what is meant by vulnerability and why membership of these groups leads to a higher risk of HIV infection and also why members of these groups may be more affected by HIV than other members of society.

Distribute copies of Handout 17: Guideline 8.



Briefing notes for trainers

Ensure that you are familiar with the *UNAIDS International Guidelines on HIV/AIDS and Human Rights*. You can find important information Chapter 6E of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of the section.

This exercise can raise sensitive issues – groups who are most vulnerable are those who most marginalised by society, including sex workers, men who have sex with men, and gay men. For many participants, this exercise will bring up moral and religious issues and it may be necessary for the trainer to emphasise the human rights dimension of the discussion. It is important to remember that the purpose of the exercise is NOT to build consensus about whether or not particular groups are worthy of protection, but for participants to understand why they are vulnerable, how their vulnerability affects their risk for and the impact of HIV, and, later on, why protecting these groups has benefits for both individuals, the group and society as a whole.

Part Two: Understanding Guideline 8

Key Points

- UNAIDS recommends that all states take steps to protect women, children and other vulnerable groups from HIV by:
 - protecting their rights to equality and non-discrimination
 - providing them with health services that meet their special needs
 - involving them in the response to HIV and AIDS
- Guideline 8 means that every country should take special steps to protect the rights of certain groups in society because they are vulnerable to HIV and AIDS and because members of these groups who are already infected are disproportionately affected.

Objectives

To help participants to understand Guideline 8

To consider the role of civil society in protecting the rights of vulnerable people and assisting them to access the resources they need to protect their health.

Suggested time

Exercise	25 minutes
Report back in plenary	35 minutes
Discussion and summary	15 minutes
Total	75 minutes

Materials

None

Handouts

Handout 18: Commentary on Guideline 8

Inputs

None

Suggested method

Exercise (25 minutes, 35 minutes for report back)

Break participants into small groups of four or five people. Distribute Handout 18. Ask participants to review Handout 17 and read Handout 18.

Ask participants to choose a vulnerable group from the list that was constructed in the first exercise. Ask participants to consider the following questions:

- What are the key issues for this group in your country?
- What special measures must be taken to help vulnerable groups:
- Use their human rights?
- Access health care services, especially if they have HIV-related health needs?

Take control of their lives and make behaviour changes?

- What steps could your organisation take to protect the rights of this group?

Ask each group to report back in plenary.

Summary (15 minutes)

To summarise, ensure that the following measures that states should take have been identified:

Law reform to end discrimination against groups

Policy formulation that will make services and resources more accessible to groups

Programme measures that will increase accessibility and availability of services.



Briefing notes for trainers

Ensure that you are familiar with the *UNAIDS International Guidelines on HIV/AIDS and Human Rights*. You can find important information Chapter 6E of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of the section.

Trainers should also use the opportunity to challenge prejudices and stereotypes that may emerge about certain groups. Again, it may be necessary to emphasise the human rights dimensions, including the universality of these rights (see Module 3: Introduction to Human Rights). If possible, ensure that participants do not only choose those groups that they feel morally acceptable, such as children. If trainers prefer, they can allocate a vulnerable group, rather than allowing participants to choose.

Part Three: Children's rights

Key Points

- Children are a vulnerable group because they:
 - are dependent on adults and cannot make decisions about their lives
 - are dependent on adults to gain access to resources and other benefits
 - are at risk of being exploited
 - may be discriminated against
- Children have a right to information and education, including about HIV/AIDS. When children are not given HIV/AIDS education, they are at increased risk of getting infected
- Children also need access to good health care and health care that is responsive to their needs

Objectives

- To assist participants understand the specific vulnerabilities of children living with HIV and AIDS
- To assist participants identify the factors that increase children's risk of infection.

Suggested time

Exercise	25 minutes
Report back	35 minutes
Discussion and summary	15 minutes
Total	75 minutes

Materials

None

Handouts

Handout 19: A child's daily life

Inputs

None

Suggested method

Exercise (25 minutes, 35 minutes for report back)

Break the participants into small groups of four or five participants, depending on the size of the group.

Distribute copies of the scenarios (see Annexure 1 at the end of the module).

Ask each group to read each card, and then decide why the particular situation makes a child more vulnerable to HIV infection or becoming sick quicker if HIV positive already.

Reconvene in plenary and ask each of the groups to report back on their discussions and answers.

At the end of the report back in plenary, the trainer should summarise why children are a vulnerable group. Trainers should make sure that groups understand that various factors have an impact on vulnerability, including:

The lack of control that children have on their daily lives

Their inability to make decisions about their lives, including their health

Exploitation that many children experience

Discrimination that children experience, including if they have HIV.

As part of this summary, the trainer should point out that the human rights of children are specifically protected by many Southern African countries and in international law, through the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.



Briefing notes for trainers

Ensure that you are familiar with the *UNAIDS International Guidelines on HIV/AIDS and Human Rights*. You can find important information Chapter 6E of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual* and the Key Points at the beginning of the section.

Part B: Module 7

Monitoring

and

enforcing

human rights



MODULE 7: MONITORING AND ENFORCING HUMAN RIGHTS

<p>Purpose of module</p> <p>To give participants:</p> <ul style="list-style-type: none"> • Information on the wide range of ways that human rights can be monitored and enforced. 	<p>Materials required</p> <ul style="list-style-type: none"> • Coloured markers • Newsprint or flip chart paper • Prestik/sticky tack or tape • Coloured cardboard • PowerPoint facilities • Scissors
<p>Methodology</p> <ul style="list-style-type: none"> • Input/presentation • Exercises 	<p>Handouts and inputs/presentations</p> <ul style="list-style-type: none"> • Chapter 7 of the <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 131 – 138, and make copies for participants (if they do not have the manual) • Handout 20: Tata ma problem cards • Handout 21: Tata ma chance cards • Handout 22: The best chance of winning sheet • Handout 23: Monitor ma problem • Input M: Monitoring and enforcing human rights
<p>Trainer's preparation</p> <ul style="list-style-type: none"> • Read Chapter 7 of the <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 131 - 138 and make copies for participants (if they do not have the manual) • Make copies of Handouts 20, 21, 22 and 23 for all participants • Cut Handouts 20 and 21 into cards • Prepare PowerPoint presentation M 	<p>Overall time</p> <p>Approximately 3 to 3.5 hours as follows:</p> <ul style="list-style-type: none"> o 35 minutes for Part One o 95 minutes for Part Two o 45 minutes for Part Three

Overview of module

This module is based on Chapter 7 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*.

The module is divided into three parts, dealing with:

- What it means to monitor and enforce rights
- How people living with or affected by HIV and AIDS can enforce their rights
- How people living with or affected by HIV and AIDS can monitor their rights

Part One: What does it mean to monitor and enforce human rights?

Key Points

- Monitoring is the tracking (following-up) of important human rights based information or watching a situation to check if something is getting better or worse. Monitoring HIV/AIDS and human rights issues involves tracking HIV/AIDS and human rights standards to make sure that they are developed and implemented
- Enforcing HIV-related human rights means holding people responsible for ensuring that human rights are not abused.

Objective

To introduce the concepts of monitoring and evaluation of human rights for people living with HIV and AIDS

Suggested time

Input/presentation	30 minutes
Summary	5 minutes
Total	35 minutes

Materials

PowerPoint facilities

Handouts

None

Inputs

Input M: Monitoring and enforcing rights

Suggested method

Input (30 minutes)

Make an input/presentation using Input M: Monitoring and enforcing human rights.

Answer any questions participants may have on this topic

Summary (5 minutes)

Conclude this session by reiterating that there are many different ways of monitoring and enforcing human rights. This can be done at a local, national, regional or international level. Often NGOs need to be creative and find cost-effective and speedy ways of monitoring and enforcing human rights.



Briefing notes for trainers

This module requires you to be familiar with issues of monitoring and enforcing of human rights. Read Chapter 7 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*, pp. 131 – 138. Also refer to the Key Points at the beginning of this section.

Part Two: How can people living with or affected by HIV and AIDS enforce their rights?

Key Points

- Guideline 11 sets out different ways that states can enforce the human rights of persons living with and affected by HIV or AIDS. They recommend that states take the following steps: Report on HIV/AIDS and human rights information to relevant bodies (for example, regional bodies like the African Union, or international bodies like the United Nations); Support NGOs to help with enforcement of human rights; Support bodies (such as human rights commissions and ombudspersons) to carry out enforcement of human rights
- NGOs and CBOs can enforce HIV-related human rights, for example, by: Exposing human rights abuses in the media; using litigation; using democratic process such as parliamentary committees on HIV/AIDS; at a regional and international level – by reporting information on systemic human rights abuses, and failure to meet human rights standards
- NGOs can refer, or work with legal organisations (like law clinics) to bring HIV-related human rights complaints to forums that can enforce rights, such as: councils (like a health care worker's council); Commissions (like a human rights commission); Courts (like civil, criminal and constitutional courts, or international courts)
- Some of the factors that could be used to help choose an appropriate enforcement mechanisms include: Look at the costs; look at urgency; look at the type of remedy required and objectives you want to achieve rights standards

Objective

To introduce the various types of enforcement mechanisms

Suggested time

Exercise	60 minutes
Report back and summary	35 minutes
Total	95 minutes

Materials

None

Handouts

Handout 20: Tata ma problem cards (cut into cards)

Handout 21: Tata ma chance cards (cut into cards)

Handout 22: The best chance of winning sheet

Inputs

None

Suggested method

Exercise (60 minutes, 35 minutes for report back and summary)
Divide participants into groups of five or six, depending on the size of the group.

Distribute copies of cards from Handout 20 and Handout 21; and Handout 22 to participants.

Ask groups to take each problem listed on Handout 20: Tata ma problem cards and decide which of solutions proposed on the Handout 21: Tata ma chance cards would be the most appropriate way of enforcing the rights that have been infringed. Groups should place the problem card on the table and the corresponding card from the chance cards next to it. More than one chance card could be a decided upon by the group as a solution to each problem card.

Once all cards have been laid out, groups should complete Handout 22, by ranking which enforcement mechanism would be the first, second and third choice in terms of the best way of resolving the dispute. In the final column of the table they must give a reason for their first choice.

When Handout 22 is completed, get the groups to report back to the plenary

Close this session by facilitating a brief discussion on:

- The different roles played by the various enforcement mechanisms
- How to select an appropriate enforcement mechanism in a particular situation and what factors ought to be taken into account

Reiterate that there are many different ways of enforcing human rights. This can be done at a local, national, regional or international level. Often NGOs need to be creative and find cost-effective and speedy ways of enforcing human rights.



Briefing notes for trainers

Read Chapter 7 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*, pp. 131 - 138. Also refer to the Key Points at the beginning of this section.

Part Three: How can people living with or affected by HIV/AIDS monitor their rights?

Key Points

- Monitoring of human rights is an important but often ignored aspect of advocacy
- There are many different ways in which human rights issues may be monitored for example if an NGO was monitoring the human rights implications of a national HIV testing policy it could:
 - Develop checklists to ensure that all of the human rights activities within the implementation plan are being carried out
 - Analyse the ministry of health's budget speech to establish if the testing policy and programme is being fully funded
 - Undertake research with patients to obtain their views on the HIV testing policy

Objective

To introduce issues related to monitoring of human rights and people living with HIV and AIDS

Suggested time

Exercise	20 minutes
Plenary report back	20 minutes
Summary	5 minutes
Total	45 minutes

Materials

None

Handouts

Handout 23: Monitor ma problem

Inputs

None

Suggested method

Exercise (20 minutes, 20 minutes to report back)

Ask participants to go back to their groups. Distribute Handout 22 to participants.

Ask participants to look at the same problems they dealt with in the Handout 19. However they must now consider the ways in which they could monitor this situation to ensure the human rights abuse does not occur again. It is important that participants see the value of both monitoring and enforcement mechanism and how they can be used simultaneously. Move between the groups and remind participants of Input P in which the differences between monitoring and enforcement were discussed.

Ask groups to report back to the plenary on their monitoring proposals.

A sample table for trainers is found in Annexure 1 at the end of this module.

Facilitate a discussion on the differences between monitoring and enforcement and the value of on-going human rights monitoring

Summary (5 minutes)

Conclude this session by emphasizing the importance of monitoring human rights.



Briefing notes for trainers

Read Chapter 7 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*, pp. 131 – 138. Also refer to the Key Points at the beginning of this section.

Annexure 1: Suggestions for possible monitoring options

PROBLEM	WAYS OF MONITORING THIS OR SIMILAR HUMAN RIGHTS ABUSES
A private pre-school refuses to allow a 3-year-old child to be enrolled in the school after the parents disclose that the child is HIV positive	
Write to all private pre-schools in a region to obtain their policies on admitting HIV positive children. If this was done on an annual basis, it could be used to see if there was any change towards non-discriminatory admission practices over a period of time Vusi has always dreamed of being a soldier. He applies for a position with his national defense force. He undergoes a series of physical fitness tests and passes them all well. They also take his blood for an HIV test. After testing HIV positive, Vusi is told that his application to for a position in the military has been unsuccessful	Lobby a political party to ask a question in parliament regarding the testing of soldiers for HIV in the military Lobby a trade union or soldiers union within the military to monitor this practice
Janet is a domestic worker for a family of five. She hurts her back at work and visits her local clinic for treatment. While waiting at the clinic she sees an old friend and they catch up on news and gossip. She doesn't read the notice on the wall saying that unless she asks for the test not to be done her blood will routinely be tested for HIV	Lobby a university research unit to study the experiences of patients visiting the clinic to find out whether they read the notice about HIV testing Lobby the ministry of health to introduce a monitoring and evaluation system which checks whether patient's rights are being violated
Nurses at a rural hospital refuse to wash or feed TB patients as they say they are infectious. They tell family members they must come and care for their loved ones	Lobby a political party to ask a question in parliament about the training that the ministry of health is offering nurses on human rights Lobby a political party to ask a question in parliament about the number of complaints that are received regarding the discriminatory treatment of TB patients
Country X doesn't have a national HIV testing policy	Regularly writing to the ministry of health or the national AIDS council to find out whether a policy has been developed
A pharmacist has manufactured a drug that she claims is a better treatment than ARVs. She is selling it over the counter to people living with HIV and AIDS	Lobby the national drug regulatory authority to monitor this situation Visit the pharmacy on a regular basis to see if the drug is still being offered for sale
The primary health care clinic at the local university is selling condoms to students that it receives free from the state. There is no other clinic close by so students have no choice but to pay the nurses cash for the condoms	Lobby the student representatives council to monitor this situation

PROBLEM	WAYS OF MONITORING THIS OR SIMILAR HUMAN RIGHTS ABUSES
<p>Country Y has decided that strict population control measures are needed to reduce population growth. They pass legislation providing; women with no children may use any form of contraceptive, women with one child may use the IUD as a form of contraceptive and women with two or more children must be sterilised</p>	<p>Partner with a research unit to undertake research on the experiences of women at family planning clinics</p> <p>Lobby a political party to ask a question in parliament about the number of women sterilised each year</p>

Part B: Module 8

Advocating

for

human rights



MODULE 8: ADVOCATING FOR HUMAN RIGHTS

<p>Purpose of module</p> <ul style="list-style-type: none"> • To give participants: <ul style="list-style-type: none"> • Information on advocacy and human rights- based responses to HIV/AIDS • The opportunity to develop advocacy plans using a concrete example of HIV testing 	<p>Materials required</p> <ul style="list-style-type: none"> • Coloured markers • Newsprint or flip chart paper • Prestik/sticky tack or tape • PowerPoint facilities • Four envelopes • Cardboard
<p>Methodology</p> <ul style="list-style-type: none"> • Input/presentation • Exercises 	<p>Handouts and inputs/presentations</p> <ul style="list-style-type: none"> • Chapter 8 of the <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 143 – 157, and make copies for participants (if they do not have the manual) • Handout 24: Background information on the routine HIV testing debate • Handout 25: Developing an advocacy agenda on HIV testing • Handout 26: Developing an advocacy strategy HIV testing • Handout 27: Overview of the advocacy plan on HIV testing • Input N: Advocating for human rights
<p>Trainer's preparation</p> <ul style="list-style-type: none"> • Read Chapter 8 of the <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 143 – 157 and make copies for participants (if they do not have the manual) • Make copies of Handouts 24, 25, 26 and 27 for all participants • Prepare PowerPoint presentation N • Write the following interest groups onto separate pieces of cardboard and place each one in a sealed envelope: a children's rights NGO, a treatment rights NGO, a professional body representing doctors, and a coalition of women's rights NGOs and civic organisations • Blank sheets of newsprint posted in the room 	<p>Overall time</p> <ul style="list-style-type: none"> • Approximately 3 to 3.5 hours as follows: <ul style="list-style-type: none"> o 20 minutes for Part One o 80 minutes for Part Two o 65 minutes for Part Three o 15 minutes for Part Four

Overview of module

This module is based on Chapter 8 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*.

The module is divided into four parts, dealing with:

- Concepts of advocacy and advocacy plans
- How to develop an advocacy agenda
- How to develop an advocacy strategy
- How to develop an advocacy plan on HIV testing

Part One: What are advocacy and advocacy plans?

Key Points

- Advocacy means working for change. Advocacy involves actions aimed at changing the policies and practices. For example, people living with HIV and AIDS may take actions for better health care, to improve their lives.
- Advocacy activities may take different forms, such as: Speaking to decision makers to persuade them to change policies and programmes; taking mass action (for example, going on a march) to challenge decision makers to solve a problem; and bringing court cases to challenge laws and policies
- An advocacy plan is a plan of action that: describes the problem, sets out the changes that are needed to deal with the problem, and how best to bring about this change. An advocacy plan starts with an advocacy agenda, and is followed by an advocacy strategy
- The *UNAIDS International Guidelines on HIV/AIDS and Human Rights* are a useful framework for developing a national or regional advocacy plan around HIV/AIDS and human rights
- Guidelines 3 to 7 recommend ways to develop a strong legal framework. An appropriate framework includes: laws that respect a rights-based response to HIV and AIDS, and legal support services to protect and promote people's rights

Objective

To introduce concepts of advocacy and advocacy plans

Suggested time

Exercise	10 minutes
Input/presentation	10 minutes
Total	20 minutes

Materials

Coloured markers
Newsprint or flip chart paper
Prestik/sticky tack or tape
PowerPoint facilities

Handouts

None

Inputs

Input N: Advocating for human rights

Suggested method

Exercise (10 minutes)

Ask participants for definitions of “advocacy” and an “advocacy plan”. Note the responses on the newsprint. Explain that an advocacy plan is a holistic (comprehensive) document which is a plan of action describing the problem, changes that are need to address the problem and activities that can be used to create the changes. An advocacy plan is developed by first identifying an advocacy agenda (identifying what we want to achieve), and is followed secondly, by an advocacy strategy (details of how these goals will be achieved).

Input (10 minutes)

Make an input/presentation using Input N: Advocating for human rights.

Allow time for questions and clarification.



Briefing notes for trainers

Read Chapter 8, pp. 144 – 153, of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*. Also refer to the Key Points at the beginning of this section.

Part Two: How can we develop an advocacy agenda?

Key Points

- To develop an advocacy agenda you need to: select a problem that needs to be addressed; research the problem; identify the main issues; and identify the objectives of an advocacy campaign

Objective

To develop an advocacy agenda, using HIV testing as a practical example

Suggested time

Exercise	45 minutes
Plenary report back	30 minutes
Summary	5 minutes
Total	80 minutes

Materials

Write the following interest groups onto separate pieces of cardboard and place each one in a sealed envelope:

- A children’s rights NGO,
- A treatment rights NGO,
- A professional body representing doctors,
- A coalition of women’s rights NGOs and civic organisations

Handouts

Handout 24: Background information on the routine HIV testing debate

Handout 25: Developing an advocacy agenda on HIV testing

Inputs

None

Suggested method

Exercise (45 minutes, 30 to report back)

Distribute copies of Handout 24: Background information on the routine HIV testing debate. Explain that this information sheet provides facts on the issue of routine HIV testing. This will be used as a case study throughout this module to facilitate learning on developing an advocacy plan. Allow participants time to read through the Handout.

Divide participants into four groups. Ask the groups to nominate a chair and a person who will report back in plenary.

Distribute copies of Handout 25: Developing an advocacy agenda on HIV testing. Distribute one sealed envelope to each group. Ask groups to open their envelopes in groups. Each envelope contains a card telling the group which lobby group they are representing. They must develop an advocacy agenda for this group

Each group must develop an advocacy agenda on routine HIV testing using the guidelines in Handout 25.

Groups should prepare a brief plenary report back on the key aspects of their advocacy agenda

Summary (5 minutes)

Sum up this session by focusing on the importance of having a clear and achievable advocacy agenda which identifies the goals of an advocacy strategy.



Briefing notes for trainers

Read Chapter 8, pp. 144 - 153, of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*. Also refer to the Key Points at the beginning of this section.

Participants must be encouraged to use the information that they have on routine HIV testing to try and think through each step of developing an advocacy agenda. Encourage participants to think of clearly defined and manageable advocacy objectives. Step one, developing the advocacy agenda, should be seen as a step towards identifying the issue around which they will advocate (for example, a national policy on HIV testing).

In the exercise try to steer participants away from just viewing this as an agenda around "routine HIV testing" to how they can advocate for the scaling up of HIV testing in a which does not infringe human rights.

It is important that participants view the issues from the perspective of their lobby group.

Part Three: How can we develop an advocacy strategy?

Key Points

- To prepare an advocacy strategy you need to identify: who has the power to change the problem, as they will be the targets of your campaign; the resources that will be needed for the campaign; possible collaborators who could support the campaign; the actions or activities that will be undertaken

Objective

To begin to develop an advocacy strategy, using HIV testing as a practical example

Suggested time

Exercise	30 minutes
Plenary report back and summary	35 minutes
Total	65 minutes

Materials

None

Handouts

Handout 26: Developing an advocacy strategy on HIV testing

Inputs

None

Suggested method

Exercise (30 minutes, 35 minutes for report back and summary)

Ask participants to return to their groups. Distribute copies of Handout 26: Developing an advocacy strategy on HIV testing. Ask groups to develop an advocacy strategy based on their advocacy agenda. The strategy must be from the perspective of their particular lobby group.

Ask groups to report back to the plenary on their advocacy strategy

Summarise the session by emphasising that an advocacy strategy must contain clear activities which will achieve the goals described in the advocacy agenda.



Briefing notes for trainers

Read Chapter 8, pp. 144 – 153, of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*. Also refer to the Key Points at the beginning of this section.

Try to ensure that participants think of concrete activities which will achieve their objectives.

Part Four: How can we develop an advocacy plan on HIV testing?

Objective

To begin to develop an advocacy plan, using HIV testing as a practical example

Suggested time

Exercise	10 minutes
Summary	5 minutes
Total	15 minutes

Materials

None

Handouts

Handout 27: Overview of the advocacy plan on HIV testing

Inputs

None

Suggested method

Exercise (15 minutes)

Ask participants to complete this activity by doing an exercise on their own. Distribute Handout 27: Overview of the advocacy plan on HIV testing to each participant. Ask participants to fill in their advocacy agenda and one activity.

Facilitate a very brief discussion on how the advocacy agenda and strategy must be put together to form a holistic advocacy plan

Summary (5 minutes)

Summarise this session by asking participants if they have found this process of developing an advocacy plan in a step-wise fashion to be useful. Conclude by focusing on the need for advocacy agendas to be realistic for the strategies to be achievable and plan to be flexible and able to adapt to the constantly changing needs in HIV policy formulation.



Briefing notes for trainers

Read Chapter 8, pp. 144 - 153, of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*.

There is very little time for the final exercise. The purpose is simply to show participants that in practice the advocacy agenda and strategy must be put together to form an advocacy plan.

Part B: Module 9

Networking



MODULE 9: NETWORKING

<p>Purpose of module</p> <p>To give participants:</p> <ul style="list-style-type: none"> • Information on Guideline 12 <i>UNAIDS International Guidelines on HIV/AIDS and Human Rights</i> which encourages networking on HIV and human rights issues at all levels 	<p>Materials required</p> <ul style="list-style-type: none"> • Coloured markers • Newsprint or flip chart paper • Prestik/sticky tack or tape • Cardboard • Scissors • PowerPoint facilities
<p>Methodology</p> <ul style="list-style-type: none"> • Input/presentation • Exercises • Discussion 	<p>Handouts and inputs/presentations</p> <ul style="list-style-type: none"> • Chapter 9 of the <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 161 - 167 and make copies for participants (if they do not have the manual) • Handout 28: Mapping regional resources which could support networking on HIV as a human rights issue • Handout 29: What can regional networks on HIV and human rights do? • Input O: Regional networking on HIV and human rights
<p>Trainer's preparation</p> <ul style="list-style-type: none"> • Read Chapter 9 of the <i>HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual</i>, pp. 161 - 167 and make copies for participants (if they do not have the manual) • Make copies of Handouts 28 and 29 for all participants • Prepare PowerPoint presentation O • Cut blank A4 sheets of cardboard into equal sizes, make approximately 5 per participant • Write up three separate newsprint sheets with the following questions: "What is a regional network on HIV and human rights?", "Why is a regional network on HIV and human rights important" and "Examples of regional networks on HIV and human rights" 	<p>Overall time</p> <ul style="list-style-type: none"> • Approximately 3 to 3.5 hours as follows: <ul style="list-style-type: none"> o 70 minutes for Part One o 65 minutes for Part Two o 45 minutes for Part Three

Overview of module

This module is based on Chapter 9 of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*.

The module is divided into four parts, dealing with:

- What is regional networking on HIV as a human rights issue and why is it important?
- Who can be part of regional networking initiatives on HIV and human rights?
- What can regional networks on HIV and human rights do?

Part One: What is regional networking on HIV as a human rights issue and why is it important?

Key Points

- Networks are forums at which individuals and organisations meet to assist one another or to work on common goals
- Networks can be; loosely organised or very structured, made up of many different organisations and individuals with common goals or objectives and are generally issue focused
- Networking around HIV and rights takes place when individuals and organisations come together to try and protect and promote the rights of persons infected or affected by HIV/AIDS
- Guideline 12 of the *UNAIDS International Guidelines on HIV/AIDS and Human Rights* says that countries must work with other countries and UN agencies to share knowledge and experiences on HIV and human rights
- Regional networking on HIV and rights is also important as it: highlights regional human rights issues which may be different to the issues in other parts of the world; develops solidarity (links) between different countries around HIV and rights issues; helps to share resources and expertise around HIV and rights; helps develop regional norms and standards on HIV on human rights; helps countries to learn from the successes and failures of others
- AIDS and Rights Alliance for Southern Africa (ARASA) is an example of a regional network on HIV and human rights. ARASA's primary aim is to promote a human rights based response to HIV/AIDS in the SADC region

Objective

- To discuss the importance of regional networking on HIV/AIDS and human rights issues

Suggested time

Exercise	20 minutes
Plenary discussion	30 minutes
Input/presentation	15 minutes
Summary	5 minutes
Total	70 minutes

Materials

PowerPoint facilities

Prepared newsprints with three questions stuck on the walls:

- What is a regional network on HIV and human rights?
- Why is a regional network on HIV and human rights important?
- Examples of regional networks on HIV and human rights

Cardboard pieces

Coloured markers

Prestik/sticky tack or tape

Handouts

None

Inputs

Input O: Regional networking on HIV and human rights

Suggested method

Exercise (20 minutes, 30 minutes for discussion)

Distribute five pieces of blank cardboard, a coloured pen and prestik/sticky tack or tape to each participant.

Ask participants to think quietly about the following question:

- What is a regional network on HIV and human rights and why is it important?

After a few minutes of reflection, ask participants to write down key words or phrases on the cardboard which describe regional networks on HIV and human rights issue, why they are important and any examples of existing networks. Participants should only write one idea per piece of cardboard.

After participants have finished, ask them to come to the front of the room and to stick their cards onto the appropriate newsprints sheets. The sheets should read:

- What is a regional network on HIV and human rights?
- Why is a regional network on HIV and human rights important?
- Examples of regional networks on HIV and human rights

After all the participants have completed this task, quickly remove or group any duplicate cards from the newsprints. Quickly work to rearrange the cards until they form a relevant phrase on each of the newsprints

Key words that could be raised during the exercise include:

- Forums
- Meeting places
- Coalitions
- Common goal of promoting HIV as a human rights issue
- Involve people living with and affected by HIV and AIDS

Facilitate a discussion on regional networking around HIV and human rights.

Input (15 minutes)

Make an input/presentation using Input O: What is regional networking on HIV and human rights?

Summary (5 minutes)

Conclude this session by reiterating that abuses of the rights of persons living with HIV or AIDS is one of the key human rights issues in the region. In this context, it is very important for both HIV and human rights NGOs to take up these issues locally, nationally and regionally.



Briefing notes for trainers

Read Chapter 9, pp. 161 – 167, of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*. Also refer to the Key Points at the beginning of this section.

Part Two: Who can be part of regional networking initiatives on HIV and human rights?

Key Points

- A wide range of groups and individuals could contribute to a regional network on HIV and human rights.
- The following different organisations have been some of ARASA's longest partners and they were all founder members of this regional network:
 - AIDS Law Project (ALP)
www.alp.org.za (South Africa)
 - AAIDS Law Unit, Legal Assistance Centre (ALU)
www.lac.org.na (Namibia)
 - Lironga Eparu (Namibia)
 - SAfAIDS
www.safaims.org.zw (regional, based in Zimbabwe)
 - SCARJOV (Angola)
 - Women and Law in Southern Africa Research Trust (WLSA) (Seven countries of Southern Africa: Botswana, Lesotho, Malawi, Mozambique, Swaziland, Zambia and Zimbabwe)
 - Zambia AIDS Law Research and Advocacy Network (ZARAN)
www.zaran.org

Objective

- To identify who could form part of a regional network on HIV and human rights

Suggested time

Exercise	30 minutes
Plenary report back	30 minutes
Summary	5 minutes
Total time	65 minutes

Materials

Newsprint
Coloured markers
Prestik/sticky tack or tape

Handouts

Handout 28: Mapping regional resources which could support networking on HIV as a human rights issue

Inputs

None

Suggested method

Exercise (30 minutes, 30 minutes for report back)

Divide participants into groups of five or six, depending on the size of the group. Inform participants that they are going to do a mapping exercise.

Distribute one piece of newsprint to each group and some coloured pens. Distribute Handout 28: Mapping regional resources which could support networking on HIV as a human rights issue. Ask groups to review the Handout.

Ask each group to draw a map of all the regional resources that could be brought into a regional network on HIV and human rights (for example, human rights NGOs, nurses organisations etc). Move between groups and help them to identify the less obvious groups. Prompting questions can be used such as:

- Why have you identified X group – what can they add to a regional network?
- Does that group have access to marginalised groups in society?
- What skills can that group offer to the network?

Ask groups to report back on their maps in plenary.

Summary (5 minutes)

Conclude this session by focusing on the wide range of persons or organisations that could be involved in a regional network on HIV and human rights. It is important to not only focus on the health sector, but to look to any individuals or organisations that could contribute meaningfully.



Briefing notes for trainers

Read Chapter 9, pp. 161 – 167, of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy Resource and Training Manual*. Also refer to the Key Points at the beginning of this section.

Part Three: What can regional networks on HIV and human rights do?

Key Points

- There are many rights based activities that can be undertaken at a regional level such as
 - Undertake joint advocacy projects. An example of a joint advocacy project was the lobbying that took place for the development of a SADC Code on HIV/AIDS and Employment
 - Support work in individual countries. For example, the access to treatment campaign spearheaded by the Treatment Action Campaign (TAC) in South Africa was supported by many regional organisations
 - Provide technical assistance (skills) to each other. For example, ARASA undertakes awareness raising workshops for countries in the region to help human rights NGOs respond to HIV issues
 - Share information on best practices around HIV and human rights. For example, on the ARASA website, there is a copy of the UNAIDS policy options on the willful transmission of HIV. See www.arasa/info for more details
 - Develop regional norms and standards on HIV and human rights. For example, ARASA and its partners developed a draft code on Equality for Women which dealt with women and HIV
 - Monitor and enforce human rights at a regional and international level

Objective

To outline the various activities that a regional network on HIV and human rights can undertake

Suggested time

Exercise	20 minutes
Plenary report back	20 minutes
Summary	5 minutes
Total time	45 minutes

Materials

Newsprint or flip chart paper
Coloured markers
Prestik/sticky tack or tape

Handouts

Handout 29: What can regional networks on HIV and human rights do?

Inputs

None

Suggested method

Exercise (20 minutes, 20 minutes report back)

Divide participants into new groups of five or six, depending on the size of the group.
Distribute newsprint and coloured markers to each group.

Distribute Handout 29: What can regional networks on HIV and human rights do?

Ask each group to make a list of the key HIV and human rights issues in their country or region and what a regional network on HIV and human rights could do to respond to such issues. Encourage participants to think broadly about local problems and how regional networks could intervene effectively to offer support.

Ask groups to report back to the plenary

Summary (5 minutes)

Conclude this module by highlighting some of the useful examples that have emerged from the group work on how regional networks on HIV and human rights could support local advocacy initiatives.



Briefing notes for trainers

Read Chapter 9, pp. 161 - 167, of the *HIV/AIDS and Human Rights in Southern Africa: An Advocacy and Training Resource Manual*. Also refer to the Key Points at the beginning of this section.

This exercise needs to focus on very local and current issues. Encourage participants to think broadly about local problems and how regional networks could intervene effectively to offer support.

APPENDIX: TRAINING AGENDAS

1. Human Rights, HIV and AIDS

Day One

Introductions, Expectations etc	hour
Module 2: HIV and AIDS in Southern Africa	2 hours
Module 3: Introduction to Human Rights	3 hours

Day Two

Module 4: HIV as a human rights issue	2 hours
Module 5: Key international and regional human rights instruments	3 hours

Day Three

Module 6: Identifying key human rights issues	hour
Selected focus areas from Modules 6A – 6F	5 hours
Way Forward	1 hour

2. HIV, AIDS and Gender

Day One

Introductions, Expectations etc	hour
Module 2: HIV and AIDS in Southern Africa	2 hours
Module 3: Introduction to Human Rights	3 hours

Day Two

Module 4: HIV as a Human Rights Issue (excluding gender exercise)	1 hour
Module 5: Key international and regional human rights instruments	3 hours
Module 6E: HIV/AIDS and Gender	2 hours

Day Three

Module 6: Identifying key human rights and gender issues	hour
Module 7: Monitoring and Enforcing Human Rights	2 hours
Module 8: Advocating for Human Rights	2 hours
Module 9: Networking	1 hours
Way Forward	hour

3. Advocacy Around HIV, AIDS and Human Rights

Day One

Introductions, Expectations etc	hour
Module 2: HIV and AIDS in Southern Africa	1 hour
Module 3: Introduction to Human Rights	2 hours
Module 4: HIV as a Human Rights Issue	2 hours

Day Two

Module 5: Key international and regional human rights instruments	3 hours
Module 6: Identifying Key Human Rights Issues	hour
Module 7: Monitoring and Enforcing Human Rights	3 hours

Day Three

Module 8: Advocating for Human Rights	3 hours
Module 9: Networking	3 hours
Way Forward	hour

4. HIV, AIDS and Health Rights

Day One

Introductions, Expectations etc	hour
Module 2: HIV and AIDS in Southern Africa	2 hours
Module 3: Introduction to Human Rights	3 hours

Day Two

Module 4: HIV as a human rights issue	2 hours
Module 5: Key international and regional human rights instruments	3 hours
Module 6: Identifying key human rights and Health issues	hour

Day Three

Module 6B: Health Rights	5 hours
Way Forward	1 hour

5. HIV, AIDS and Legal Services

Day One

Introductions, Expectations etc	hour
Module 2: HIV and AIDS in Southern Africa	2 hours
Module 3: Introduction to Human Rights	3 hours

Day Two

Module 4: HIV as a human rights issue	2 hours
Module 5: Key international and regional human rights instruments	3 hours
Module 6D: Legal Services	hour

Day Three

Module 6D: Legal Services	2 hours
Module 7: Monitoring and Enforcing Human Rights	3 hours
Way Forward	hour

6. HIV, AIDS, Human Rights and the UNAIDS Guidelines

Day One

Introduction	hour
Module 4: HIV as a human rights issue (excluding gender section)	1 hours
Module 5: Key international and regional human rights instruments	3 hours
Module 6A: Structures and Partnerships	1 hours

Day Two

Module 6B: Health Rights (selected focus areas)	2 hours
Module 6C: HIV/AIDS at Work	2 hours
Module 6: Legal Services	2 hours

Day Three

Module 6E: HIV/AIDS and Gender	2 hours
Module 6F: Vulnerable Groups	2 hours
Modules 7: Monitoring and Enforcing Human Rights	hour
Module 8: Advocating for Human Rights	hour
Module 9: Networking	1 hour
Way Forward	hour

Part B3:

Appendices on CD

Contents

- B3.1 International HIV/AIDS Alliance Advocacy in Action: A Toolkit to support NGOs and CBOs responding to HIV/AIDS
- B3.2 International Council of AIDS Service Organisations: Advocacy Guide to the Declaration of Commitment on HIV/AIDS
- B3.3 International Council of Aids Service Organisations: An Advocates Guide to the International Guidelines on HIV/AIDS and Human Rights
- B3.4 International Council of Aids Service Organisations: The International Guidelines on HIV/AIDS and Human Rights - How are they being used and applied?
- B3.5 International Council of Aids Service Organisations: NGO Summary of the International Guidelines on HIV/AIDS and Human Rights
- B3.6 Guide to the Southern African Development Community Code on HIV/AIDS and Employment
- B3.7 UNAIDS Handbook for Legislators on HIV/AIDS, Law and Human Rights
- B3.8 UNAIDS HIV/AIDS and Human Rights International Guidelines
- B3.9 The UNAIDS Guide to the United Nations Human Rights Machinery
- B3.10 UNGASS Declaration of Commitment on HIV/AIDS

