

Analysis and recommendations for EC/EU actions in the area of HIV/AIDS and human rights to be considered in the context of the European Programme for Action to Confront HIV/AIDS, Malaria and Tuberculosis through External Action

Introduction

Since the adoption of the Universal Declaration of Human Rights in 1948, several international agreed commitments and declarations have pointed out people's right to access to health care, health promotion and people's right to the highest attainable standard of health¹. Human rights are considered an essential element in the global response to the HIV/AIDS pandemic, Tuberculosis and Malaria.

It is becoming increasingly clear that human right violations contribute to a further spreading of HIV/AIDS and are , Unfortunately he reason for stressing the importance of these human rights is It is becoming increasingly

At the latest United Nations High Level Meeting on HIV/AIDS (UNGASS) in 2006, world leaders committed to undertake all necessary efforts towards the goal of universal access to comprehensive prevention programs, treatment, care and support by 2010.

The spread of HIV/AIDS is exacerbated by a wide range of human rights violations. Examples include sexual violence and coercion experienced by women and girls, denial of the right of young people to information on HIV transmission, dismissal due to HIV+-status, travel restrictions for People Living with HIV (PLWH) and stigmatisation of marginalised populations such as men who have sex with men, sex workers and injecting drug users. A growing concern is the introduction of criminal laws as an instrument to stop further spreading of HIV. This is a violation of human rights and the right to health.

International agreements, continuation of stigma and discrimination of people with HIV and a trend to use criminal laws in the aids response, underline the urgency to promote full respect of human rights of individuals and call for a more central role of and systematic approach towards human rights in the European Programme for Action.

Link to the European Programme for Action

The existing Programme for Action addresses human rights in the context of political and policy dialogue at the country level and as a principle for country strategies in annex 1. However, there is little evidence to suggest that the EU has a coherent strategy for implementing its HIV and human rights commitments.

References, sources of information

EU documents (the European Consensus 2006, MDG Action Plan 2008), the UN Political Declaration on HIV/AIDS (2006), the 2008 UNAIDS report on the global AIDS epidemic, the Open Society Institute report "Human Rights and HIV/AIDS: Now More Than Ever (2007).

¹ Human rights refers to an internationally agreed-upon set of principles and norms that are contained in treaties, conventions, declarations, resolutions, guidelines and recommendations at the international and regional levels. In practical terms, international human rights law is about defining what governments *can do to us, cannot do to us and should do for us*.

EU added value and comparative advantages

As the world's largest aid donor and as a leader in the global response to HIV/AIDS, the EU has a special responsibility to intensify efforts to support a human rights approach to HIV/AIDS.² HIV/AIDS is of a politically sensitive nature since it entails an open dialogue about sex and sexuality and drug use, and requires support and involvement of people who are often at the margins of society. Therefore, political leadership is needed that is courageous and pragmatic and seeks to meaningfully involve people living with HIV(GIPA principle) and other vulnerable and marginalised groups in the response.

The EU is in a strong position to take up this political leadership role, as the world's largest aid donor, and with a strong track record in promoting human rights. The European Commission, alongside EU member states supporting a humane and evidence-based approach to HIV/AIDS, has a vital role to play as a protector, catalyst and a driver of change within the EU and globally with regard to advancing a human rights agenda for HIV/AIDS. The European Commission could make better use of the comparative advantage of the EU by developing a mechanism for sharing best practices among EU Member States with regard to their human rights approach to the HIV/AIDS pandemic.

The Netherlands has a strong track record in promoting human rights in the global HIV/AIDS response. Based on the principle that drugs users have a right to HIV prevention, care and treatment, the Netherlands supports harm reduction activities in many worst-affected countries such as needle exchange programmes in Central Asia and providing social support and health care to drugs users in Pakistan. In Zambia and Zimbabwe, the Netherlands supports its partner organisations to implement social protection programmes; social protection being regarded as a basic human right that should assure people a basic income, health care etc. Another example are the Dutch efforts in South Africa to stop the violence against women a severe form of human rights violation.

Objectives, potential outputs, areas of interventions and levels of EU/EC action

EU/EC action in the area of HIV/AIDS and human rights will have the biggest impact at the country-level. The following key areas for EU/EC interventions are proposed:

- A strong and concerted policy dialogue on human rights with specific attention to
 - 1) HIV/AIDS at the workplace and uplifting the travel restrictions of PLHA
 - 2) Right to health- universal access to prevention, care, support and treatment
 - 3) The application of performance indicators or benchmarks for the reduction of HIV-related stigma and discrimination
- Targeted funding of HIV prevention measures for vulnerable groups. This should include interventions that promote protection against discrimination, awareness raising, capacity strengthening of civil society organisations, enhanced cooperation with police and prison authorities, and empowerment of women and girls.

² This human rights approach should be based on common values as laid down in the Treaty and the European Consensus on Development and its strong track record in promoting human rights.

- Encourage, facilitate and finance the development of national processes and fora to involve civil society at all levels of national HIV/AIDS policy and programming work and ensure that this happens in the EU's own decision-making processes as well.³

Action should result in:

- An increased use of performance indicators or benchmarks for the reduction of HIV-related stigma and discrimination in country strategy papers and national health and HIV strategies⁴.
- There is a supportive legal and policy environment in EU partner countries that addresses barriers to universal access, comprehensive protection to people living with HIV and AIDS and other vulnerable and marginalised groups, and their right to health. There is an increased awareness among partner country governments of the 'ILO Code of Practice on HIV/AIDS and the World of Work'.
- Inclusive national policy and planning processes have been developed at the country-level that allow for meaningful involvement of people living with HIV and AIDS and other vulnerable groups in the development, monitoring and evaluation of national health plans and HIV/AIDS strategies.

Resource requirements, challenges and opportunities

In order to overcome stigmatising and prejudiced views on the rights of people living with HIV and AIDS and other vulnerable and marginalised groups, policy dialogue as a mechanism could be more directly described and reported on in joint EC/EU policy, based on transparent benchmarks. Joint EC/EU guidelines for promoting a human rights approach to the HIV/AIDS response could be developed for country delegations, based on EC and EU Member States' best practices and lessons learned in implementing human rights commitments at the country-level.

One champion or leader, which could be the EC or an EU Member State with a progressive human rights track record, could be appointed at the country-level. This leader could be responsible for coordinating the concerted national human rights dialogue, involving all donors, government representatives, parliament, civil society and relevant UN agencies, such as UNAIDS and UNFPA.

A challenge is to choose financial instruments which strengthen health systems, the aids response and promote human rights at the same time. It requires a tailor-made approach for every country. It depends on the epidemic in the country, major routes of transmission, risk groups, available funding and capacity of governmental institutions, civil society and private sector. In most cases an optimal solution will have to be found in a balance between budget support, sector-, programme- en project support.

³ See also: Accra Agenda for Action, August 2008

⁴ A number of indicators mentioned in the MDG-contracting agreements could be applied. The Stigma Index of UNAIDS-GNP+ (2008) could also be used.

Funding solely based on the Poverty Reduction Strategy Papers (PRSPs) – budget support- might lead to an ignorance of groups most at risk, and be ultimately less effective to stop the epidemic and mitigates its impact. Here is a role for the EC. The EC could analyse the effectiveness of budget support for addressing stigma and discrimination around HIV/AIDS, the needs of groups most at risk and the HIV/AIDS response in general.

Division of labour, external partners

The Netherlands support a division of labour.

Conclusions and recommendations

Based on the analysis above, future actions in the Programme for Action should include:

- A strengthened, concerted and inclusive EU human rights dialogue at country- level, based on an EU programme of work to promote and to report on HIV/AIDS and human rights, including transparent benchmarks, and informed by joint EC/EU guidelines.
- To support national governments of recipient countries to develop processes that allow for meaningful involvement of civil society, including people living with HIV and AIDS and other vulnerable and marginalised groups. This includes facilitating and financing the development of frameworks and processes, capacity building of civil society, and ensuring civil society's engagement with national HIV/AIDS programmes, policy and funding decisions, as well as in the EU's own decision making processes at country level.
- To allocate funding to targeted anti-stigma and discrimination interventions for groups most at risk in order to ensure their access to HIV prevention, treatment, care, and support.
- To do an analysis and gather evidence on the effectiveness of budget support for addressing the needs of groups most at risk and the HIV/AIDS response in general.

Questions for discussion

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.