



Five key questions for HIV/AIDS policy makers

- Are people living with HIV/AIDS and vulnerable populations able to participate in policy development, programme design, delivery, monitoring and evaluation?
- Do vulnerable populations such as drug users, sex workers, men who have sex with men and migrant workers have equity in access to HIV/AIDS services?
- Are people living with HIV/AIDS and vulnerable populations protected by policies and laws that guarantee their rights to privacy and non-discrimination?
- Is there a strategy in place to ensure gender equity in all HIV/AIDS programmes?
- Is testing without informed consent prohibited?

Why protect human rights?

Health and human rights are mutually reinforcing. Policy makers can maximize the effectiveness of programmes by aiming to achieve an optimal synergy between human rights and public health outcomes. Violations of rights undermine HIV/AIDS strategies, because if people at risk do not have assurances that their rights will be respected, they will be driven underground and out of reach of HIV services. This is particularly the case for populations that are already socially marginalized, such as sex workers and drug users. Vulnerability to HIV is also exacerbated by gender inequalities and when rights to education, housing, work and basic health and social services are not fulfilled.



Building Human Rights Based Responses to HIV/AIDS

Human rights principles assist governments, businesses, faith based organisations, NGOs, community groups and multilateral agencies to develop policies and programmes that are sustainable and effective, and that respect human dignity.

What rights are important in the context of HIV/AIDS?

- Rights to comprehensive HIV prevention, treatment, care and support services
- Rights to non-discrimination, including in health care services, housing and work
- Rights of all to equality in laws, policies and programmes, in particular women and girls
- Rights of children to education and the services necessary for their health and life
- Rights to privacy, including sexual privacy, confidentiality of HIV status, and informed consent to testing
- Rights to liberty, freedom of movement and protection against arbitrary and oppressive laws and policies
- Rights to security of the person and freedom from violence, including gender based violence
- Rights of people living with HIV/AIDS and vulnerable populations to participate in planning and delivery of programmes affecting their lives



Further reading

- *International Guidelines on HIV/AIDS and Human Rights*, Geneva: OHCHR & UNAIDS 1998
- *HIV/AIDS and Human Rights: Revised Guideline 6*, Geneva: OHCHR & UNAIDS 2002
- *Handbook for Legislators on HIV/AIDS, Law and Human Rights*, Geneva: UNAIDS & Inter-Parliamentary Union 1999
- All available at: http://www.unaids.org/en/in+focus/hiv_aids_human_rights/
- *Recommendations on Integrating Human Rights into HIV/AIDS Responses in the Asia-Pacific Region*, 2004, Available at: www.un.or.th/ohchr/issues/hiv/aids/hivaidmain.html





personal hardship to individuals and their loved ones.

'Employers must test job applicants to ensure safety at work'

Health tests should only be required to assess a person's current ability to perform the essential requirements of their job. HIV cannot be casually transmitted in the workplace. Employers should aim to establish an environment in which workers

'Children who have HIV should be kept out of schools'

Every child has a right to education. There is no risk of HIV spreading in the normal school environment. Welcoming children living with HIV into schools helps to breakdown the stigma associated with AIDS. A child living with HIV does not present a risk to other children or persons.

confidence of these populations in education and health services. This is necessary so that people at risk will cooperate in changing behaviours and in attending for testing and treatment. Protecting the rights of the vulnerable protects the health of the public as a whole. There is generally no need to create new, HIV-specific

'Testing should be automatic: requiring consent stands in the way of identifying the infected and saving lives'

Forced or secret testing of groups such as pregnant women, drug users, prisoners and sex workers, compounds stigma and is not effective in addressing public health concerns. Informed consent ensures that people fully understand the implications of a test result. Voluntary counselling

'Allowing people with HIV to travel spreads the epidemic'

If countries do not allow people living with HIV/AIDS to travel freely, then people will be deterred from testing or disclosing their status. Refusing entry wrongly assumes that people who have HIV are a likely threat to others in the community. Such a policy demonizes people who have tested positive and risks creating a false sense of security in the

Common myths

'Disclosing names protects the public'

Disclosing the names of people living with HIV without their consent adds to AIDS hysteria, compounds stigma and drives people away from services. If people have no confidence that their status will be kept confidential, people will not seek testing and the epidemic will remain hidden. Forced disclosure of HIV status can lead to people being ostracized from their communities, causing great

know that their confidentiality will be protected and that they will not suffer discrimination. Maintenance of confidentiality encourages workers to willingly seek testing, counselling and treatment, and to voluntarily disclose their HIV status to their employers should it be necessary. Compulsory testing adds to stigma and undermines health promotion efforts.

'The law can help stop the epidemic by punishing drug users, sex workers and men who have sex with men'

Laws that criminalize specific behaviour or practices may at first seem attractive. But experience teaches us that criminal laws targeting vulnerable populations actually drive those most at risk away from HIV services. Laws and policies that protect vulnerable populations and uphold their rights are effective because they generate trust and

criminal offences. Special criminal laws for HIV/AIDS can add to stigma and increase the marginalization of vulnerable populations if such laws are used to justify police harassment. Where concerns arise that a person's behaviour is placing others at risk, the person should be offered counselling, education and support. The rare cases of deliberate transmission can normally be dealt with under existing criminal laws.

and testing play a vital part in prevention, as well as being an entry point to care. Consent and counselling procedures prepare people for the social consequences of an HIV diagnosis, which may include decisions regarding child-bearing, rejection from families and loss of livelihood.

general population, reinforcing the myth that HIV is a 'foreign' problem that can be solved by border controls. The public health goal should be to encourage voluntary counselling and testing. Travel bans do not contribute to the achievement of this goal. Attempts to stop AIDS by imposing travel bans have proven futile and expensive, and tend to cause unwarranted distress.