

17 The Commission on Human Rights - Resolution 2005/84

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

The Commission on Human Rights,

Recalling its resolutions 2003/47 of 23 April 2003, 2001/51 of 24 April 2001 and 1999/49 of 27 April 1999, as well as the Declaration of Commitment on HIV/AIDS adopted at the twenty-sixth special session of the General Assembly on HIV/AIDS in 2001, which affirms that the realization of human rights and fundamental freedoms for all is essential to reduce vulnerability to HIV/AIDS and that respect for the rights of people living with HIV/AIDS drives an effective response,

Noting with concern that, according to estimates by the Joint United Nations Program on HIV/AIDS (UNAIDS) and the World Health Organization, at the end of 2004 the number of people living with HIV was 39.4 million, including 4.9 million people newly infected with HIV in 2004, and the number of people who have died of AIDS since the beginning of the epidemic is more than 20 million, including the 3.1 million people who died of AIDS in 2004,

Noting with concern that, according to UNAIDS and the World Health Organization, in the last two years, the number of people living with HIV has risen in every region, with the steepest increases occurring in East Asia, Eastern Europe and Central Asia,

Noting with particular concern that, also according to UNAIDS and the World Health Organization, women and girls are disproportionately affected by the epidemic in that they comprise an increasing proportion of the people infected, particularly in sub-Saharan Africa where women account for 57 per cent of those infected, with young women aged 15 to 24 being three times more likely to be infected than young men of the same age, and in Eastern Europe, Asia and Latin America, where the proportion of infected women continues to grow,

Noting also with particular concern that the situation of children under 15 made vulnerable or orphaned by HIV/AIDS is worsening, with an estimated 2.2 million children living with HIV at the end of 2004, including 640,000 children newly infected that year; that 510,000 children died of AIDS in 2004 and 500,000 children are in need of HIV/AIDS treatment; and that 12 million children have been orphaned in sub-Saharan Africa, with the number expected to rise to more than 18 million by 2010,

Noting with concern that an estimated 95 per cent of all people infected with HIV live in the developing world, mostly in conditions of poverty, underdevelopment, conflict and inadequate measures for the prevention, care and treatment of HIV infection, and that marginalized groups in these societies are even more vulnerable to HIV infection and the impact of AIDS,

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Also noting with concern the devastating impact of HIV/AIDS, including increased mortality and morbidity among men, women and children; higher health and social costs; and, in hardest-hit countries, devastation of human and social capital and development gains, including the reduction of poverty, resulting in a major threat to the achievement of the internationally agreed development goals, including those contained in the United Nations Millennium Declaration,

Taking note of the fact that in the context of the “3 by 5” initiative to treat three million people by 2005, the World Health Organization and UNAIDS have estimated that 700,000 people in developing countries were receiving antiretroviral treatment by the end of 2004, which represented 12 per cent of the 5.8 million people in need of such treatment,

Emphasizing, in view of the increasing challenges presented by HIV/AIDS, the need for intensified efforts to ensure universal respect for and observance of human rights and fundamental freedoms for all so as to reduce vulnerability to HIV/AIDS, to prevent HIV/AIDS related discrimination and stigma, and to reduce the impact of HIV/AIDS,

Concerned that lack of full enjoyment of human rights by persons suffering from economic, social or legal disadvantage heightens the vulnerability of such persons to the risk of HIV infection and to its impact, if infected,

Recalling the Guidelines on HIV/AIDS and Human Rights as summarized in paragraph 12 of document E/CN.4/1997/37, including the summary of the *Revised Guideline 6: Access to prevention, treatment, care and support* (2002), which provide guidance to ensuring the respect, protection and fulfilment of human rights in the context of HIV/AIDS,

Taking note with interest of the reports by the United Nations special procedures that have devoted specific attention, in the context of their mandates, to the critical intersection between the protection of human rights and an effective response to the epidemic, among others, the Special Rapporteurs on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, on the question of torture, on the right to freedom of opinion and expression, on violence against women its causes and consequences, and on the sale of children, child prostitution and child pornography,

Also taking note with interest of general comment No. 3 on HIV/AIDS and the rights of the child, adopted by the Committee on the Rights of the Child at its thirty-second session in January 2003,

Welcoming the fact that positive steps in implementing previous resolutions have been taken, including the enactment of legislation in some countries to promote human rights in the context of HIV/AIDS and to prohibit discrimination against persons infected or presumed to be infected and members of vulnerable groups,

Welcoming also the significant role of UNAIDS in cooperation with relevant bodies of the United Nations system, in particular the Office of the United Nations High Commissioner for Human Rights, and of national and international non-governmental organisations, in particular organisations of

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people living with HIV/AIDS, in promoting and protecting human rights in the context of HIV/AIDS, including fighting discrimination against people living with HIV/AIDS, and in the full range of prevention, treatment and care activities,

Recalling that HIV-related stigma and discrimination are major obstacles to an effective HIV/AIDS response and that discrimination on the basis of HIV or AIDS status, actual or presumed, is prohibited by existing international human rights law, and that the term “or other status” in non-discrimination provisions in international human rights texts should be interpreted to cover health status, including HIV/AIDS,

Welcoming the report of the Secretary-General on the protection of human rights in the context of HIV and AIDS (E/CN.4/2005/79), which provides an overview of action taken by a number of Governments, specialized agencies and international and non-governmental organisations on the implementation of the Guidelines on HIV/AIDS and Human Rights, as summarized in paragraph 12 of document E/CN.4/1997/37, and their dissemination, and which addresses issues of technical cooperation for the promotion and protection of human rights in the context of HIV/AIDS,

Welcoming the appointment by the Secretary-General of Special Envoys on HIV/AIDS for Africa, Asia, the Caribbean and Eastern Europe,

- 1.** *Invites* States, United Nations organs, programmes and specialized agencies and international and non-governmental organisations to continue to take all necessary steps to ensure the respect, protection and fulfilment of HIV/AIDS-related human rights, as contained in the Guidelines on HIV/AIDS and Human Rights, as summarized in paragraph 12 of document E/CN.4/1997/37;
- 2.** *Calls* upon all States to implement in full the Declaration of Commitment on HIV/AIDS adopted at the twenty-sixth special session of the General Assembly on HIV/AIDS in 2001;
- 3.** *Invites* States, United Nations bodies and international and non-governmental organisations, including the international donor community, to further contribute to international cooperation and assistance, with a view to assisting developing countries, particularly the least developed countries, in the context of the “Three Ones” key principles of UNAIDS and in the context of HIV-related human rights through, inter alia, advancing HIV/AIDS prevention and care programmes, including the provision of youth-friendly and gender-sensitive health programmes, facilitating equal access to HIV-related treatment, and sharing knowledge and achievements concerning HIV-related issues;
- 4.** *Invites* States to develop, support and strengthen national mechanisms for protecting HIV-related human rights in consultation with relevant national bodies, including national human rights institutions and professional bodies, to monitor and enforce HIV-related human rights, to eliminate HIV-related stigma and discrimination, and to ensure that codes of professional conduct respect human rights and dignity in the context of HIV/AIDS, so that infected persons who reveal their HIV status, those presumed to be infected and other affected persons are protected from violence, stigmatization and discrimination;

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- 5.** *Urges* States to ensure that their laws, policies and practices, including workplace policies and practices, respect human rights in the context of HIV/AIDS and promote effective programmes for the prevention and treatment of HIV/AIDS and the prohibition of HIV-related discrimination, including through voluntary testing and counselling, education, media and awareness-raising campaigns, improved and equitable access to high-quality goods and health care, particularly to safe and effective medication, assistance to educate people infected with and affected by HIV/AIDS about their rights and to assist them in realizing their rights;
- 6.** *Urges* all States to integrate sexual and reproductive health programmes and the promotion and protection of reproductive rights, as understood in previous international commitments, such as the Program of Action adopted at the International Conference on Population and Development (Cairo, 5-13 September 1994) and the Beijing Declaration and Program for Action adopted at the Fourth World Conference for Women (Beijing, 4-15 September 1995), as strong and robust components of their national strategies on HIV/AIDS, and stresses that women have the right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence;
- 7.** *Requests* States to further develop and, where necessary, establish coordinated, participatory, gender-sensitive, transparent and accountable national policies and programmes for HIV/AIDS response and to translate national policies to district level and local action, involving in all phases of development and implementation non-governmental and faith- and community-based organisations, including women's organisations and advocacy groups and representatives of people living with HIV/AIDS and vulnerable groups;
- 8.** *Also requests* States to take all appropriate measures to protect the human rights of women and children in the context of HIV/AIDS, in particular to address gender inequality, violence against women and girls, harmful traditional practices, as well as the legal and social needs of children orphaned or made vulnerable by HIV/AIDS and the needs of their caregivers;
- 9.** *Calls upon* States to ensure full and equal access for women and children to HIV prevention, information, voluntary counselling and testing, education and care, as well as to high quality medication and treatment, including through the development of efficient national health systems with the necessary human resources, recognizing the need for youth friendly services and the appropriate role and responsibility of parents, families, legal guardians and caregivers in this regard;
- 10.** *Invites* the human rights treaty bodies, when considering reports submitted by States parties, to give particular attention to HIV-related rights and invites States to include appropriate HIV-related information in the reports they submit to the relevant treaty bodies;
- 11.** *Invites* States when preparing their progress reports to the General Assembly on the implementation of the Declaration of Commitment on HIV/AIDS to include information on human rights in the context of HIV/AIDS;

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12. *Requests* all special procedures and open-ended working groups of the Commission to continue to integrate the protection of HIV-related human rights within their respective mandates;

13. *Requests* the Secretary-General to invite Member States and the United Nations organs and programmes, as well as the specialized agencies, to integrate HIV-related human rights into their policies, programmes and activities, including those involving regional intergovernmental human rights and other bodies, and to involve non-governmental and faith- and community-based organisations and the private sector in all phases of development and implementation, to help ensure a system-wide approach, stressing the coordinating and catalytic role of UNAIDS;

14. *Also requests* the Secretary-General to solicit comments from Governments, United Nations organs, programmes and specialized agencies and international and non governmental organisations on the steps they have taken to promote and implement, where applicable, programmes to address the urgent HIV-related human rights of women, children and vulnerable groups in the context of prevention, care and access to treatment as described in the Guidelines on HIV/AIDS and Human Rights, as summarized in paragraph 12 of document E/CN.4/1997/37, and the present resolution, and to submit, in consultation with interested parties, a progress report to the Commission for consideration at its sixty-third session.

61st meeting

21 April 2005

[Adopted without a vote. See chap. XIV, E/CN.4/2005/L.10/Add.14]