

5 The Joint United Nations Programme on HIV/AIDS (UNAIDS)

The full text of the OHCHR/UNAIDS Guidelines on HIV/AIDS is reproduced in **Core document 15**

UNAIDS was created in 1995 by a resolution of the Economic and Social Council. UNAIDS brings together the efforts of 10 UN agencies: **UNHCR, UNICEF, WFP, UNDP, UNFPA, UNODC, ILO, UNESCO, WHO**, the World Bank, to a global response to AIDS-HIV.

The Programs of Action adopted by the Cairo and Beijing conferences do not mention LGBT people, while dealing with reproductive and sexual health and rights. On the contrary UNAIDS documents identify clearly *men who have sex with men* as a vulnerable category and underline that homophobia is one of the most important obstacle to tackle the spreading of HIV/AIDS. 'Men who have sex with men' is considered a more inclusive term than gay or homosexual, because some men who have sex with men define their sexual orientation as heterosexual. Further, because some States refuse to recognize their homosexual and bisexual populations the employment of the term MSM, in the international context, is considered a more strategic choice in order to reach this vulnerable group and to tackle the spread of HIV/AIDS spread.

UNAIDS and the Office of the High Commissioner of Human Rights (OHCHR) published some International Guidelines on HIV/AIDS and Human Rights in 1998 (of which Guideline 6 was amended in 2002). These Guidelines represent a progressive and radical voice in regard to homosexuality. They stress the importance of taking a human rights-based approach into consideration in designing and implementing programs and strategies to fight HIV/AIDS. A Consolidated version was launched in August 2006 to coincide with the 16th International AIDS Conference and with the 10th anniversary of guidelines themselves.

http://www.ohchr.org/english/issues/hiv/docs/consolidated_guidelines.pdf

International Guidelines on HIV/AIDS and Human Rights, 2006 Consolidated Version

Discrimination, stigmatization and the criminalization of men to men sexual relations are the main obstacles to tackling the spread of HIV/AIDS within MSM. Indeed, *Guideline 4* states that:

States should review and reform criminal laws and correctional systems to ensure that they are consistent with international human rights obligations and are not misused in the context of HIV/AIDS or targeted at vulnerable groups.

The commentary elaborates as follows:

Criminal law prohibiting sexual acts (including adultery, sodomy, fornication and commercial sexual encounters) between consenting adults in private should be reviewed, with the aim of repeal. In any event, they should not be allowed to impede the provision of HIV/AIDS prevention and care services.

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On anti-discrimination and protective laws, Guideline 5 states in part that:

States should enact or strengthen anti-discrimination and other protective laws that protect vulnerable groups, people living with HIV/AIDS and people with disabilities from discrimination in both the public and private sectors

The commentary provides that:

Anti-discrimination and protective laws should be enacted to reduce human rights violations against men having sex with men, including in the context of HIV/AIDS, in order, inter alia, to reduce the vulnerability of men who have sex with men to infection by HIV and to the impact of HIV/AIDS. These measures should include providing penalties for the vilification of people who engage in same-sex relationships, giving legal recognition to same-sex marriages and/or relationships and governing such relationships with consistent property, divorce and inheritance provisions. The age of consent to sex and marriage should be consistent for heterosexual and homosexual relationships. Laws and police practices relating to assaults against men who have sex with men should be reviewed to ensure that adequate legal protection is given in these situations.

Finally, on women, children and other vulnerable groups, Guideline 8 states that:

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.

The commentary notes that:

States should support the implementation of specially designed prevention and care programmes for those who have less access to mainstream programmes due to social or legal marginalisation, including men who have sex with men.

The Joint statement on condoms and HIV prevention of UNAIDS, UNFPA and WHO issued in July 2004, while recognizing the male latex condom as the single, most efficient and available technology to reduce the sexual transmission of HIV and other sexually transmitted infections, states that effective condoms promotion should target not only the general population but also people at higher risk of HIV exposure, especially women, younger people, sex workers and their clients, injecting drug users and men who have sex with men.

http://data.unaids.org/una-docs/condom-policy_jul04_en.pdf
Position Statement on Condoms and HIV Prevention, July 2004

A policy paper on *Intensifying HIV Prevention* was endorsed by the UNAIDS Coordination Board in mid-2005. This paper strategically recognizes the connection between the risk of getting infected by HIV and the vulnerability that makes some groups of people unable to protect themselves. Although

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comprehensive prevention programs for the general population should be available, the paper underlines that actions should be taken to identify key populations, which include men who have sex with men, and to address their specific needs.

http://data.unaids.org/una-docs/condom-policy_jul04_en.pdf

Intensifying HIV Prevention

This policy paper highlights the importance of including HIV prevention in programs dealing with sexual and reproductive health. The protection of sexual rights, such as the right to control one's own sexuality, free of coercion, discrimination and violence, is a key factor in preventing the sexual transmission of HIV. This is underlined in a special analysis jointly undertaken by the Guttmacher Institute and UNAIDS:

In conclusion, policymakers, donors, service providers, activists and academics at all levels must give more consideration to integrating HIV prevention into reproductive health services as appropriate—and to integrating reproductive health services into HIV-related programs. They must identify approaches that will work and under what conditions integration makes sense. They should assess what will be needed to move forward in terms of planning, logistics, monitoring and evaluation and to upgrade the competency and capacity of personnel, services and health systems. Finally, they must advocate for better policies and increased funding to support integration. The synergies resulting from integration will inevitably accelerate progress towards achieving the ambitious targets set by the global community over the past 10 years. As the HIV pandemic evolves, countries can no longer afford to overlook the new opportunities arising from integration.

<http://www.guttmacher.org/pubs/tgr/07/4/gr070407.pdf>

The role of reproductive health providers in preventing HIV, The Guttmacher Report, Geneva, 2004

A consultation between stakeholders (scholars, international organisations, NGOs) was organized by UNAIDS in November 2005 to deal with HIV prevention for men who have sex with men. Although the UNAIDS policy paper on HIV prevention mentioned vulnerable groups and men who have sex with men, it had not set up a specific framework for action in this field.

http://data.unaids.org/pub/Report/2006/JC1233-MSM_MeetingReport_en.pdf

Men who have Sex with Men, HIV Prevention and Care. Report of a UNAIDS stakeholder consultation, Geneva, 10-11 November 2005

The stakeholders' consultation aimed at designing more specific actions with respect to HIV prevention of MSM. This is an urgent issue, given that less than 10% of men who have sex with men globally have access to HIV prevention (this figure is approximate, as there is still a lack of high-quality epidemiological indicators). The consultation underlines the importance of promoting a rights-based approach in order to scale-up and intensify HIV prevention programs. That meant for example, ensuring the protection of health as a fundamental human right, monitoring human rights violations against men who have sex with men, repealing laws prohibiting male-to-male sex, mentioning MSM as a key affected group in plans for HIV prevention and care, supporting organisations at regional,

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national and international level dealing with sexual and reproductive rights. The consultation resulted in the elaboration of a comprehensive list of essential policy and programmatic actions to undertake:

Policy Actions

- 1. Repeal laws prohibiting male-to-male sex (e.g. existing sodomy laws).**
- 2. Ensure the existence of anti-discrimination legislation on the grounds of sexual orientation, gender identity and HIV status.**
- 3. Ensure specific reference is made to sexuality/sexual orientation in human rights frameworks and antidiscrimination legislation.**
- 4. Promote the effective enforcement of anti-discrimination laws as above.**
- 5. Take action to eliminate: stigma in healthcare settings; homophobic violence.**
- 6. Ensure specific mention of men who have sex with men as a key affected group in plans for HIV prevention and care.**
- 7. Promote sexuality education, which includes respect for sexual diversity, gender equality, and gender identity.**
- 8. Actively monitor human rights violations against men who have sex with men and other sexual minorities.**
- 9. Encourage a strengthened relationship between members of the UNAIDS family with respect to work to meet the prevention, treatment and care needs of men who have sex with men.**
- 10. Promote wider understanding and action to ensure the protection of health as a fundamental human right regardless of sexual orientation or sexual identity.**
- 11. Promote best practices in stigma reduction relevant to men who have sex with men especially with respect to HIV.**
- 12. Ensure access to HIV prevention (including condoms) by men who have sex with men in all male settings and institutions.**
- 13. Ensure the active recruitment and involvement of sexual minorities including men who have sex with men in policy and decision making relating to HIV.**
- 14. Address gender issues through a broader approach which recognizes the rights and circumstances of transgendered people and men who have sex with men.**
- 15. Generalize concern for HIV and men who have sex with men throughout health education and health promotion.**
- 16. Promote research on rectal microbicides.**
- 17. Ensure sufficient resources for the conduct of good quality epidemiological and social research on men who have sex with men.**

Programmatic Actions

- 1. Undertake heightened advocacy among UNAIDS Cosponsors to ensure that concern for HIV prevention, treatment and care among men who have sex with men remains high on the agenda.**
- 2. Give support to and provide technical assistance to countries to build and/or improve a comprehensive programmatic response to men who have sex with men (focusing on prevention and care needs) in all national HIV plans.**
- 3. Help countries identify and define “comprehensive” programmes of relevance to men who have sex with men.**
- 4. Encourage multilateral and bilateral agencies to support men who have sex with men-related**

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HIV prevention and AIDS care programmes.

- 5. Promote initial training and continuing professional development on issues of relevance to HIV and men who have sex with men for national authorities and UN system agencies active in the response to AIDS**
- 6. Harness new opportunities to promote HIV prevention for men who have sex with men within expanded treatment access programmes.**
- 7. Review epidemiological surveillance protocols to insure that men who have sex with men are appropriately addressed within these, even in contexts where the epidemic is not directly driven by male-to-male sex.**
- 8. Ensure the production, dissemination and utilization of voluntary confidential counselling and testing guidelines that are more friendly to men who have sex with men.**
- 9. Provide/produce guidelines and technical assistance to reduce homophobia and ignorance among healthcare workers.**
- 10. Increase access to HIV treatment for men who have sex with men.**
- 11. Encourage good quality social and behavioral research on men who have sex with men even in countries that deny it exists.**
- 12. Promote greater recognition that male-to-male sex is a fact in all societies that should always be considered in all HIV prevention and care programming.**
- 13. Support civil society organisations at local, national and regional level in their work on HIV and sexual rights.**
- 14. Strengthen leadership by UNAIDS on men-who-have-sex-with-men issues.**
- 15. Create an Inter-Agency Task Team on HIV and men who have sex with men.**

At the national level, the rights of men who have sex with men have to be recognized and prevention, care and treatment of MSM should be included in any AIDS action framework. Furthermore, financial resources have to be re-allocated as in most countries funds available for HIV prevention program targeting MSM are inadequate.

These conclusions are confirmed in the UNAIDS policy brief on HIV and men who have sex with men, published in 2006. The need to draw attention to HIV prevention of MSM follows the fact that the HIV epidemic within MSM can be associated with the epidemic in the general population because MSM also have sex with women. For example, in some cities in Central and Eastern Europe, one third of men in gay venues reported having both male and female partners.

http://data.unaids.org/pub/BriefingNote/2006/20060801_Policy_Brief_MSM_en.pdf

UNAIDS, 2006, **Men who have Sex with Men**, Policy Brief

According to the 2006 UNAIDS Global Report fewer than one in twenty men who have sex with men have access to the HIV prevention and care services they need. Homophobia and laws criminalizing same-sex relations are considered as primary obstacles to effective HIV response. A lack of information and awareness of risk renders men who have sex with men a very vulnerable category. Further, in high-income countries achievements against HIV/AIDS for men who have sex with men are being eroded as there is a resurgence of sexual risk behaviors. UNAIDS emphasizes the promotion of prevention campaigns which include the promotion of high-quality condoms, training and education.

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Supporting LGBT organisations is recognized as an important strategy in promoting HIV prevention and care programs.

http://www.unaids.org/en/HIV_data/2006GlobalReport/default.asp

Portal to the full **Report on the global AIDS epidemic 2006**, UNAIDS (24mb)

http://data.unaids.org/pub/GlobalReport/2006/2006_GR_CH05_en.pdf

Chapter 5 of the UNAIDS report 2006: **At risk and neglected, 4 key populations**, including MSM and sex workers

Fact and figures related to the HIV/AIDS epidemic as well as progress achieved in each country can be found in this report. Newly Independent States' (NIS) profiles are annexed at the end of this compilation.