

UNAIDS Reference Group on HIV and Human Rights

Statement on mutual responsibility for universal access to HIV prevention, treatment, care and support in the context of the Summit on the Millennium Development Goals, High-level Plenary Meeting of the sixty-fifth session of the General Assembly, 20-22 September 2010

The UNAIDS Reference Group on HIV and Human Rights was established in 2002 to advise the Joint United Nations Programme on HIV/AIDS on all matters relating to HIV and human rights. The Reference Group speaks with an independent voice; thus, its views do not necessarily reflect the views of the UNAIDS Secretariat or any of the UNAIDS Cosponsors

The draft outcome document of the High-level Plenary Meeting of the sixty-fifth session of the General Assembly, the Summit on the Millennium Development Goals, commits to “redoubling efforts to achieve universal access to HIV/AIDS prevention, treatment, care and support as an essential step in achieving MDG-6 [on HIV/AIDS, malaria and other diseases] and as a contribution to reaching the other Millennium Development Goals.”¹ This is laudable; however, it does not sufficiently rebut what is, in the view of the UNAIDS Reference Group on HIV and Human Rights (the Reference Group), a false notion and one that indeed threatens the response to HIV. This is the notion that the HIV epidemic is receiving “too many” resources compared with other urgent global health issues.

Recent achievements in the fight against HIV, which are rightly recognized in the draft outcome document, are the result of (a) placing the needs of affected people before considerations about nationally available resources; (b) emphasizing the responsibility of States to respond effectively to the needs of their own citizens and inhabitants; and (c) mobilizing a global commitment to assist highly affected developing countries for as much and as long as needed. While emphasizing State responsibility under human rights law for people within their jurisdictions, this has also led to robust support to national HIV responses in developing countries through both bilateral and multilateral mechanisms, particularly PEPFAR and the Global Fund to Fight AIDS, Tuberculosis and Malaria.

This approach is inspired by the vision of a global inclusive society, in which States are not only responsible towards their inhabitants, but also towards each other, for delivering what it takes to uphold the dignity and human rights of all human beings. This mutual responsibility, and indeed accountability, is in line with existing commitments under both human rights law and declarations concerning HIV and development:

The Universal Declaration of Human Rights (1948) states that “[e]veryone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized” (Article 28);

The International Covenant on Economic, Social and Cultural Rights states that: “Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures”. (Article 2)

The United Nations Millennium Declaration (2000), in which heads of States and governments acknowledged that “in addition to [their] separate responsibilities to [their] individual societies, [they] have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level” (Paragraph 2);

The United Nations’ Political Declaration on HIV/AIDS (2006), in which heads of States and governments committed themselves to “supporting and strengthening existing financial mechanisms, including the Global Fund to Fight AIDS, Tuberculosis and Malaria, as well as relevant United Nations organizations, through the provision of funds in a sustained manner” (Paragraph 41).

¹ Draft outcome document of the High-level Plenary Meeting of the sixty-fifth session of the General Assembly on the Millennium Development Goals, A/64/L.62, 10 September 2010

The approach of mutual responsibility departs from conventional approaches to international assistance that place “sustainability through nationally available resources” before the needs of people. To be clear, the Reference Group does not recommend that States’ responsibility towards their societies be substituted with a collective global responsibility; it only affirms a global responsibility *in addition to* the responsibility of States towards their inhabitants. This is recognized in the draft outcome document for the MDG High-Level Meeting, which also rightly affirms that protection of human rights lies at the heart of the MDGs (Paragraph 12).

The Reference Group commends the draft outcome document for its repeated references to human rights and gender equality as central to human development. However, the Reference Group is very disappointed that the draft outcome document fails to recognize explicitly some of the groups that are most vulnerable to HIV infection and to the violation of their human rights, such as people who use drugs, sex workers, men who have sex with men and other sexual minorities, refugees, migrants and prisoners.

We acknowledge that the fight against HIV has benefited from more substantial and faster (yet still insufficient) increases of international assistance than other pressing health issues, precisely because of approach involving mutual responsibility. In this regard, the Reference Group believes that the global response to HIV ought to be used as a model for the realization of all elements of the human right to health, as well as other human rights.

It would be a mistake and wrong to weaken the global HIV response for the sake of advancing other global health issues. It would also threaten the concept of mutual responsibility, by accepting that States have only a very limited responsibility towards each other (or no real responsibility at all) and therefore should not be expected to increase the funding for global health, but rather divide funding into ever-smaller parts based on some arbitrary global limit. It would signal a return to the conventional international assistance approach – placing considerations about sustainability through nationally available resources before the needs of people – under which the countries which need additional international assistance the most are deemed to be receiving ‘too much’ of it, i.e. more than they will be able to “sustain” with national resources in the foreseeable future.

In this regard, the Reference Group is dismayed that the draft outcome document does not set clear and time-bound targets for continued and increased funding of the global response to HIV that is sufficient to keep pace with the epidemic. This is in line with top leadership in UNAIDS which has stated “Improved systems of mutual accountability are required to ensure that governments and donors undertake the required actions to meet previously stated commitments if Universal Access is to become more than the latest rhetoric emanating from the international AIDS community.”²

At a time when the replenishment of the Global Fund to Fight AIDS, Tuberculosis and Malaria is in jeopardy, clear and time-bound targets for continued and increased funding of the global response to HIV are precisely what are needed from the MDG High-Level Meeting. The draft outcome document should also have made clear that the global financial crisis is not an excuse for reducing funding commitments to national HIV responses, particularly if the MDGs are to be achieved.

A reduction in HIV funding at this critical juncture would signal the abandonment of one of the most serious attempts to create a global inclusive society, based on the idea that it would be intolerable if a life-saving treatment available to half of the world’s humans would remain inaccessible to the other half. The kind of global responsibility it takes to solve this problem is exactly the kind of global responsibility it will take to slow down climate change, to contain international terrorism, and to address other global development challenges.

² Kent Buse, Michel Sidibe, Desmond Whyms, Ini Huijts and Steven Jensen (2006), *Scaling-up the HIV/AIDS Response: From alignment and harmonisation to mutual accountability*. Overseas Development Institute, London, at p.1.
http://www.odi.org.uk/publications/briefing/bp_aug06_hivscalingup.pdf