



## Compromised Intentions

### **The 2006 U.N. High Level Meeting on HIV/AIDS and Its Failure to Address the Human Rights Abuses Fueling the Pandemic**

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## Introduction

During the week of May 29 to June 2, 2006, approximately seventy five thousand people became infected with HIV. Approximately fifty thousand more died of AIDS.<sup>1</sup> During that same week, the United Nations held a High Level Meeting on HIV/AIDS. Five years since the historic 2001 United Nations General Assembly Special Session on HIV, and recognizing the largely missed goals that followed, state and civil society leaders came together for what many hoped would be three days of serious review and recommitment to combating AIDS. As Secretary-General Kofi Annan stated in his report prior to the Meeting, “the global AIDS response stands at a crossroads.”<sup>2</sup>

Would the global community start down a new road at the meeting? Trepidation about targets and debates about definitions – including that of “vulnerable groups” – formed the centerpiece of a tense meeting that saw strident negotiations, protest, and the expulsion of some civil society representatives from the U.N.<sup>3</sup> With the Meeting’s close came a new Political Declaration on HIV/AIDS. Civil society response was swift and generally critical.<sup>4</sup> For many, the Political Declaration stays the course of opaque goals and lost opportunities.

This briefing paper seeks to critically review the political declaration: to identify missed opportunities to protect human rights and more effectively address the HIV/AIDS pandemic; and to see where, despite its shortcoming, the political declaration can serve as the basis for future advocacy, focusing on how the Declaration can be used to hold governments accountable and how civil society can continue to participate in the process of goal-setting, monitoring, and national reviews envisioned by the Declaration. It examines the Political Declaration’s treatment of five key issues relating to HIV in light of human rights principles: (1) women’s rights as they relate to HIV, (2) children and youth, (3) socially marginalized individuals, (4) treatment, and (5) targets and accountability.

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<sup>1</sup> Both these figures are based on yearly estimates for 2005. UNAIDS. 2006 Report on the global AIDS epidemic. Pg. 8. [http://www.unaids.org/en/HIV\\_data/2006GlobalReport/default.asp](http://www.unaids.org/en/HIV_data/2006GlobalReport/default.asp).

<sup>2</sup> U.N. Declaration of Commitment on HIV/AIDS: five years later. Report of the Secretary-General. A/60/736. 24 March 2006. Pg. 1. <http://daccessdds.un.org/doc/UNDOC/GEN/N06/284/16/PDF/N0628416.pdf?OpenElement>.

<sup>3</sup> World AIDS Campaign. Outraged AIDS protestors evicted from U.N. headquarters. June 1, 2006. [http://www.ungass.org/index.php/en/ungass/news\\_from\\_ungass/outraged\\_aids\\_protestors\\_evicted\\_from\\_un\\_headquarters\\_new\\_york](http://www.ungass.org/index.php/en/ungass/news_from_ungass/outraged_aids_protestors_evicted_from_un_headquarters_new_york)

<sup>4</sup> World AIDS Campaign. International civil society denounce U.N. meeting on AIDS as a failure. June 2, 2006. [http://www.ungasshiv.org/index.php/en/ungass/news\\_from\\_ungass/international\\_civil\\_society\\_denounce\\_un\\_meeting\\_on\\_aids\\_as\\_a\\_failure](http://www.ungasshiv.org/index.php/en/ungass/news_from_ungass/international_civil_society_denounce_un_meeting_on_aids_as_a_failure).

## Why is protecting human rights necessary to combating HIV/AIDS?

Twenty-five years into the pandemic, human rights abuses continue to render individuals vulnerable to HIV infection and bereft of care and treatment once infected. Increasingly governments have acknowledged the link between human rights and HIV/AIDS.

Vague and incomplete references to rights and freedoms undermine this acknowledgment. Government inaction exacerbates the problem. Protection from HIV infection and access to care and treatment for those infected requires commitment, and meaningful targets to translate that commitment into action. The global community must put into practical action the claim that human rights relate to HIV by identifying specific goals for the protection of human rights.

The link between HIV and human rights has been extensively documented. When Ukrainian police harass, intimidate and abuse injecting drug users trying to access clean needles and HIV prevention information, violations of the rights to seek information, assemble and due process contribute to the virus's spread.<sup>5</sup> When discrimination in Jamaica's hospitals and clinics bars HIV patients from available life-saving treatment, death and the spread of HIV become realities while the right to health remains a dream.<sup>6</sup> When U.S. and Ugandan-funded evangelical groups tell young people that condoms have multiple holes through which HIV passes, denial of the right to information undermines the fight against HIV.<sup>7</sup> The failure to protect women from discrimination, sexual abuse and gender-based violence has led to a "feminization" of the AIDS epidemic in many parts of the world.<sup>8</sup> Denying due process and police protection to sex workers<sup>9</sup>, transgender individuals<sup>10</sup>, and migrants<sup>11</sup>, and denying prisoners<sup>12</sup> the

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<sup>5</sup> Human Rights Watch. Rhetoric and Risk: Human Rights Abuses Impeding Ukraine's Fight Against HIV/AIDS. Mar. 2006. Vol. 18, No.2(D). Pg. 3. <http://hrw.org/reports/2006/ukraine0306/>.

<sup>6</sup> Human Rights Watch. Hated to Death: Homophobia, Violence and Jamaica's HIV/AIDS Epidemic. Nov. 2004. Vol. 16, No. 6(B). Pg. 3. <http://hrw.org/reports/2004/jamaica1104/>.

<sup>7</sup> Human Rights Watch. The Less They Know, The Better: Abstinence-Only HIV/AIDS Programs in Uganda. <http://hrw.org/reports/2005/uganda0305/index.htm>; Human Rights Watch. Ignorance Only: HIV/AIDS, Human Rights and Federally Funded Abstinence-Only Programs in the U.S. [http://hrw.org/reports/2002/usa0902/USA0902.htm#P74\\_1500](http://hrw.org/reports/2002/usa0902/USA0902.htm#P74_1500).

<sup>8</sup> Human Rights Watch. A Dose of Reality: Women's Rights in the Fight Against HIV/AIDS. <http://hrw.org/english/docs/2005/03/21/africa/0357.htm>

<sup>9</sup> Human Rights Watch. Ravaging the Vulnerable: Abuses Against Persons at High Risk of HIV Infection in Bangladesh. Vol. 15, No. 6(C). August 2003. Pgs. 21-35. <http://www.hrw.org/reports/2003/bangladesh0803/bangladesh0803.pdf>; Human Rights Watch, Ukraine Report, supra note 6.

<sup>10</sup> Human Rights Watch. Nepal: "Sexual Cleansing" Drive Continues. March 18, 2006. <http://hrw.org/english/docs/2006/03/17/nepal13020.htm>.

<sup>11</sup> International Labour Organization. HIV/AIDS and Work in a Globalizing World. 2005. Pgs. 55-61. <http://www.ilo.org/public/english/protection/trav/aids/publ/globalizing.pdf>.

information and means to control HIV's spread further escalates the epidemic. Turning the tables on HIV -- one of the Millennium Development Goals<sup>13</sup> -- requires preventing and redressing human rights abuses that fuel the pandemic.

## **U.N. High Level Meeting Political Declaration on HIV/AIDS**

Since the late 1980s U.N. agencies have linked human rights and HIV, at least rhetorically.<sup>14</sup> In 2001, the United Nations General Assembly Special Session produced a Declaration of Commitment on HIV/AIDS in which states agreed, among other things, to improve legislation to protect human rights by 2003.<sup>15</sup> This special session was a vitally important opportunity for governments to declare the need for a global, integrated response to HIV/AIDS in which human rights protections would form a centerpiece of fighting the pandemic. However, in 2003, when states reported to the 58<sup>th</sup> Session of the General Assembly, their reports showed, in the words of one commentator, "few concrete national achievements" and "little progress."<sup>16</sup> Three years later, the 2006 Political Declaration acknowledged the continued failures of countries to meet the 2001 goals.<sup>17</sup>

The 2006 High Level Meeting offered the opportunity to respond to these failures and to put forth a broader vision linking human rights to HIV and setting ambitious goals to halt and reverse the pandemic. Unfortunately, the Political Declaration touches on but does not wholly embrace human rights. Some country participants, including Brazil,

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<sup>12</sup> Glenn Betteridge. Prisoners' health and human rights in the HIV/AIDS epidemic. *HIV/AIDS Policy & Law Review*. Vol. 9, No. 3. December 2004. Pgs. 96-99.

<sup>13</sup> U.N. Millennium Development Goals. Goal #6. <http://www.un.org/millenniumgoals/>.

<sup>14</sup> World Health Organization, World Health Assembly, Resolution WHA 40.26, Global Strategy for the Prevention and Control of AIDS, Geneva, WHO, 5 May 1987; UNCHR. 1994. Protection of human rights in the context of HIV and AIDS. U.N. Document E/CN.4/1994/L.60 (1 March 1994). U.N., Geneva. U.N. Commission on Human Rights. The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS). Resolution 2003/47 ("in many countries, many people infected and affected by HIV, as well as those presumed to be infected, continue to be discriminated against in law, policy and practice"); U.N. Economic and Social Council. Second International Consultation on HIV/AIDS and Human Rights (E/CN.4/1997/37, annex I), September 1996.

<sup>15</sup> U.N. General Assembly Special Session on HIV/AIDS. Declaration of Commitment on HIV/AIDS. Resolution A/Res/S-26/2, 27 June 2001 ([www.unaids.org/UNGASS/dosc/AIDSDeclaration\\_en.pdf](http://www.unaids.org/UNGASS/dosc/AIDSDeclaration_en.pdf)).

<sup>16</sup> UNGASS review: reports show little progress on human rights. Patterson, D. *Can HIV AIDS Policy Law Rev.* 2003 Dec; 8(3): 34-8.

<sup>17</sup> U.N. General Assembly. Political Declaration on HIV/AIDS. A/RES/60/262. June 15, 2006. (Political Declaration); For a report on the progress, or lack thereof, from 2001 – 2006, see Report of the Secretary-General, *supra* note 2, pg. 5. This Report details failures to meet the targets regarding antiretroviral treatment, reduction of infants who become infected with HIV at birth, and education about HIV transmission, amongst others.

proposed strong human rights language, but opposition from others, including the United States and the African Group, claimed that human rights issues would be outside the document's scope.<sup>18</sup> The Political Declaration reflects a compromise between these positions. And compromise, rather than accomplishment, has been the hallmark of the global response to AIDS, and the reason for such limited success to date.

### ***Women's rights and HIV/AIDS***

The 2006 UNAIDS Annual Report noted that HIV and AIDS “disproportionate[lly]” impact women, most notably in sub-Saharan Africa.<sup>19</sup> For example, women in sub-Saharan Africa aged 15 to 24 are between twice and six times more likely to have HIV infection than men of the same age range.<sup>20</sup> There is convincing evidence that constraints on women's human rights further the spread of HIV. For example, in Zambia, as in much of Africa, women and girls find themselves pushed into risky sexual relationships through economic dependence, violence, legally inscribed discrimination in access to property and inheritance, and lack of police protection that sustain their subordination and constrain their life choices. Stigmatization of “promiscuous women” and norms of sexual behavior can undermine women's sexual rights, including their rights to choose or refuse sex or negotiate condom use. All these factors lead to the spread of HIV.<sup>21</sup>

The Political Declaration correctly recognizes the link between women's human rights and HIV, though it does not do so comprehensively. The Political Declaration addresses gender equality, economic independence, women's empowerment, sexual and reproductive rights, and gender-based abuse and violence, including sexual violence. Paragraph 15 recognizes that human rights protections and “gender equality and empowerment of women” are necessary for a comprehensive response to HIV. Paragraphs 21, 27, and 34 all refer to sexual and reproductive health, including the need to integrate reproductive health services with HIV/AIDS care. Paragraph 29 commits to the protection of human rights and freedom from discrimination for all.<sup>22</sup>

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<sup>18</sup> Susana T. Fried. UNGASS in SHARP Focus: Sexual Health and Rights and the 2006 UNGASS Review. Issue 1. Pg. 4. [http://www.soros.org/initiatives/health/focus/sharp/articles\\_publications/publications/ungass\\_20060601/ungass1\\_20060601.pdf](http://www.soros.org/initiatives/health/focus/sharp/articles_publications/publications/ungass_20060601/ungass1_20060601.pdf).

<sup>19</sup> UNAIDS 2006 Report, supra note 1, Pg. 8.

<sup>20</sup> Id. at 88.

<sup>21</sup> Human Rights Watch. Suffering in Silence: Human Rights Abuses and HIV Transmission to Girls in Zambia. January 2003. Sec. IV: Background. <http://hrw.org/reports/2003/zambia>.

<sup>22</sup> Political Declaration, supra note 25, pars. 15, 21, 27, 29, 34.

Paragraph 30 and 31 draw together these themes as they focus on rights. Paragraph 30 pledges countries to protect the right of women “to have control over and decide freely and responsibly on matters related to their sexuality to increase their ability to protect themselves from HIV infection.” It also enumerates concerns about coercion, violence, and the “empowerment ... [and] economic independence” of women. Paragraph 31 commits countries to “strengthening legal, policy, administrative and other measures for the promotion of women’s full enjoyment of all human rights.” It commits countries to eliminating “all forms of discrimination.” The paragraph then enumerates prohibited practices, such as sexual exploitation and violence against women.<sup>23</sup>

These paragraphs could have been more concrete, defining “gender inequality” and “women’s empowerment” and setting measurable goals. Nevertheless, the Declaration compels countries to address these issues, and civil society advocates can draw out the substantive content of the Declaration’s commitments into specific actions and targets. For example, the to fulfill the commitments expressed in the Declaration states must ensure adequate criminal justice responses to domestic violence and marital rape, the establishment and enforcement of anti-discrimination laws relating to employment and education, equal access to health services, and equitable property and inheritance laws. Women’s empowerment in the context of HIV requires increased funding for programs targeting women, as well as national HIV/AIDS programs that involve grassroots women’s organizations. Adequate public health policies are required; the Declaration’s references to sexual and reproductive health recognize that national healthcare must provide sexual and reproductive services along with HIV/AIDS services. Finally, gender equality and women’s empowerment requires the abandonment of norms and traditional practices that undermine women’s sexual rights. By declaring in general terms the links between women’s human rights and the fight against HIV/AIDS, states have also declared their commitment to taking the aforementioned concrete steps to protecting women’s human rights.

### ***Children and Youth’s Rights and HIV/AIDS***

Children and youth, like women, are especially susceptible to HIV and human rights abuses. One in every six AIDS death is that of a child.<sup>24</sup> AIDS has robbed many children of parents, families, and homes. In sub-Saharan Africa, AIDS has orphaned at least 12.3 million children – and the number is increasing.<sup>25</sup> This does not include

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<sup>23</sup> *Id.*, pars. 30-31.

<sup>24</sup> UNAIDS Report 2006, *supra* note 1, pgs. 91-92. Rather than use “children and youth” throughout, the remainder of this section uses “children” to refer to both groups.

<sup>25</sup> UNICEF. *Children on the Brink 2004: A Joint Report of New Orphan Estimates and a Framework for Action*. Pg. 2. [http://www.unicef.org/publications/files/cob\\_layout6-013.pdf](http://www.unicef.org/publications/files/cob_layout6-013.pdf).

children living with a sick parent or who live in households with a person with HIV. Children orphaned by HIV are less likely to attend schools, making them more vulnerable to the human rights abuses that spread HIV.<sup>26</sup> In India, for example, schools, health care providers, and orphanages have refused to engage with children affected by HIV, thus denying them their rights to education, health, and housing.<sup>27</sup> Children affected by HIV are often forced into exploitative situations, such as hazardous labor, survival sex, begging, and even human trafficking. In the Democratic Republic of Congo, children are forced into dangerous and degrading lives on the streets, often involving forced labor, where they are more vulnerable to contracting HIV.<sup>28</sup>

Some of the paragraphs in the Political Declaration discussing women also refer to children. Paragraph 30 calls for increasing the ability of “adolescent girls to protect themselves from [HIV] infection.” Paragraph 31 commits countries to combating sexual exploitation and violence against children. Finally, paragraph 15, discussed below in the section on “vulnerable groups,” refers to protecting “the rights of the girl child in order to reduce the vulnerability of the girl child to HIV/AIDS.”<sup>29</sup>

Paragraph 26 discusses children exclusively, committing countries to “addressing” the spread of HIV amongst young people through education, mass media, and health services. This paragraph’s focus on “comprehensive, evidence-based prevention strategies” and its explicit reference to “use of condoms” rather than a reliance on “abstinence-only” approaches to prevention for youth, are strengths.<sup>30</sup> In addition, the reference to “youth friendly health services” represents a positive recognition of the specific needs of children.

In regard to children, civil society advocacy based on the Political Declaration faces a slightly different challenge than it does regarding women. Paragraphs discussing children do not always link human rights to the fight against HIV as tightly as the paragraphs focusing on women. Paragraph 26 is a good example. It couches its commitments in the goal of an “HIV-free future generation” rather than human rights. In order to bring about an “HIV-free future generation,” however, governments must

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<sup>26</sup> Id. at 92; See also UNICEF. *Africa’s Orphaned Generation*. 2003. Pg. 25. <http://www.unicef.org/media/files/orphans.pdf>; Human Rights Watch. *Letting Them Fail: Government Neglect and the Right to Education for Children*. Vol. 17, No. 13(A). October 2005.

<sup>27</sup> Human Rights Watch. *Future Forsaken: Abuses Against Children Affected by HIV/AIDS in India*. <http://hrw.org/reports/2004/india0704/futureforesaken.pdf>. Pg. 7-8.

<sup>28</sup> Human Rights Watch. *What Future?: Street Children in the Democratic Republic of Congo*. Volume 18, No. 2(A), <http://www.hrw.org/reports/2003/africa1203>.

<sup>29</sup> Political Declaration, *supra* note 25, pars. 15, 30-31.

<sup>30</sup> Political Declaration, *supra* note 25, par. 26.

protect children's human rights. Civil society advocates can focus attention on this priority.

For example, the education goals of paragraph 26 relate to the human right to health, education and to information. By calling upon governments to employ pediatric formulations of antiretroviral drugs, civil society advocates can foster protection of the right to health, and work towards an HIV-free generation. To bolster the public health argument for providing accurate HIV/AIDS information to children, civil society advocates can look to the protections afforded by the rights to education and information.

Paragraph 32 also addresses children's unique "vulnerabilities". It commits countries to "addressing as a priority" these vulnerabilities through "support" for children, "particularly in their role as caregivers," as well as development of "child-oriented ... policies and programmes." Crucially, it highlights the need for "increased protection" for orphans. It also enjoins countries to "develop new treatments for children" and "support the social security systems that protect them."<sup>31</sup>

This call for protection of children in light of their unique vulnerability is a strength that civil society can capitalize on by making clear the human rights protections it implies. Paragraph 32 raises many of the central human rights issues, though its terms are general. In particular, protecting children against their unique "vulnerabilities" involves protecting their rights to education, welfare, and property. Children also have a right to adequate care, an especially important point for orphans and children lacking parental protection.<sup>32</sup> Any social security system designed to protect children must take into account these rights. The countries at the High Level Meeting declared their commitment to such systems, and by focusing on the rights aspects involved, civil society advocates can help countries translate general terms into concrete protections.

### ***Socially Marginalized Individuals***

Women and children are especially vulnerable groups. Other "vulnerable" or "key" populations particularly susceptible to HIV infection are sex workers, men who have sex with men, injecting drug users, migrants and prisoners. In China, for example,

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<sup>31</sup> Political Declaration, *supra* note 25, par. 32.

<sup>32</sup> Human Rights Watch, *Letting Them Fail: Government Neglect and the Right to Education for Children*. Vol. 17, No. 13(A). <http://hrw.org/reports/2005/africa1005>; *What Future?: Street Children in the Democratic Republic of Congo*. Volume 18, No. 2(A), <http://www.hrw.org/reports/2003/africa1203>



approximately 20% of those infected with HIV are sex workers and their clients.<sup>33</sup> It is estimated that 73% of Ethiopian sex workers, 68% of Zambian sex workers, and 50% of Ghanaian and South African sex workers have HIV.<sup>34</sup>

Amongst men who have sex with men, fewer than one in twenty have access to necessary information about HIV. Human rights abuses, such as the criminalization of sex between men, discrimination, and stigma bar access to relevant HIV information and prevention because men fear being identified as “homosexuals.”<sup>35</sup> This is particularly troubling because HIV continues to spread amongst members of this group. In Colombia, 20% of men who have sex with men have HIV. Similar figures hold for other areas, including Bangkok and Mumbai.<sup>36</sup>

Injecting drug users and prisoners also suffer widespread human rights abuses. Nearly one-third of new HIV infections outside sub-Saharan Africa arise amongst injecting drug users. In parts of Eastern Europe and central Asia, more than 80% of HIV cases are injecting drug users. Yet research has long shown that realistic prevention strategies – such as needle-exchange programs – can prevent or reverse the spread of HIV amongst injecting drug users.<sup>37</sup> Amongst low and middle-income countries, a mere 36,000 injecting drug users were on antiretroviral therapy (ART) at the end of 2004, and 30,000 of those were in Brazil.<sup>38</sup>

Prisoners are at greater risk than the general populace of HIV infection in many countries, including South Africa, where approximately 41% of prisoners have HIV. In Russia, prisoners are four times more likely to have HIV than non-prisoners. In the United States, female prisoners are *15 times* more likely to have HIV than female non-prisoners. Twenty percent of all HIV positive individuals in the U.S. are estimated to pass through a jail or prison each year.<sup>39</sup> To be sure, there are multiple causal factors for these rates, but it is clear that human rights abuses within prisons increase exposure to

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<sup>33</sup> UNAIDS Report 2006, *supra* note 1, Pg. 106.

<sup>34</sup> *Id.*, Pg. 107.

<sup>35</sup> *Id.*, Pg. 112

<sup>36</sup> *Id.* Pgs. 109-111.

<sup>37</sup> *Id.*, Pgs. 114-115.

<sup>38</sup> World Health Organization. Progress on Global Access to HIV Antiretroviral Therapy: A Report on “3 by 5” and Beyond. March 2006. Pg. 8. [http://www.who.int/hiv/fullreport\\_en\\_highres.pdf](http://www.who.int/hiv/fullreport_en_highres.pdf).

<sup>39</sup> T.M. Hammett, M.P. Harmon, and W. Rhodes. The Burden of Infectious Disease among Inmates of and Releasees from U.S. Correctional Facilities, 1997. *American Journal of Public Health* 92. 2002. 1789-1794.

HIV.<sup>40</sup> The presence of high levels of tuberculosis, including multi-drug resistant varieties, in prisons only exacerbates the vulnerability of this vulnerable population.<sup>41</sup>

The Political Declaration does mention “vulnerable groups” in paragraphs 14, 16, 20, and 29, an improvement given some delegates’ initial reticence to use the phrase. However, paragraphs 11 and 15, which should have mentioned these groups, do not.

The phrase “vulnerable groups” prominently appears in Paragraph 29, which commits countries to “intensify [legislative, regulatory, and other] efforts ... to ensure the full enjoyment of all human rights and fundamental freedoms by people living with HIV and members of vulnerable groups.” The paragraph then enumerates concerns for access to education, health care, and other services and protections, seemingly as a partial list of relevant rights and freedoms. It enjoins countries to “develop strategies to combat stigma and social exclusion connected with the epidemic.” Finally, paragraph 29 does enumerate some rights, including education and health care, and mentions “protecting privacy and confidentiality”<sup>42</sup>, a key to protecting vulnerable groups.

The Political Declaration does not define “vulnerable groups,” reflecting a political compromise reached at the Meeting.<sup>43</sup> Nevertheless, the term has a well-known history, as reflected in the debate at the Meeting and various U.N. documents, such as the 2006 UNAIDS Annual Report discussed above. Nothing in the Declaration suggests that readers should understand “vulnerable groups” to have an unusual meaning. Therefore, civil society advocates should stress the standard definition of the term and call on governments to protect human rights and fundamental freedoms for sex workers, men who have sex with men, injecting drug users, and prisoners. The Political Declaration also commits countries to combating stigmatization and exclusion of these groups.

Civil society advocates should focus the general language of Paragraph 29 by emphasizing scientific evidence that shows that stopping HIV’s spread amongst vulnerable groups requires realistic treatment and prevention. For example, stopping the

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<sup>40</sup> Centers for Disease Control. HIV Transmissions Amongst Inmates in a State Prison System – Georgia, 1992 – 2005. *MMWR Weekly*. [http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5515a1.htm?s\\_cid=mm5515a1\\_e](http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5515a1.htm?s_cid=mm5515a1_e); Hernan Reyes. Health and human rights in prisons. International Committee of the Red Cross. January 12, 2002. <http://www.icrc.org/Web/eng/siteeng0.nsf/>; Elizabeth Kantor. HIV Transmission and Prevention in Prisons. HIV InSite Knowledge Base Chapter. February 2003. <http://hivinsite.ecsf.edu>.

<sup>41</sup> World Health Organization. Tuberculosis in prisons. [http://www.who.int/tb/dots/prisons/story\\_1/en/index.html](http://www.who.int/tb/dots/prisons/story_1/en/index.html).

<sup>42</sup> Political Declaration, *supra* note 25, par. 29.

<sup>43</sup> U.N. Group Sets Compromise on AIDS Policy: Document Sets No Targets, Cites Risks to Women. David Brown. *Washington Post*. June 3, 2006.

spread of HIV in prisons involves bleach availability, clean needle exchange, and free condom and lubricant distribution. Substitution therapy and needle exchange also helps stop the spread of HIV amongst injecting drug users. Advocating for these scientifically-proven programs breathes measurable standards into Paragraph 29's general language.

Paragraphs 11 and 15 discuss essential elements of a comprehensive response to HIV. While both paragraphs share the strength of connecting human rights protections with fighting HIV, neither mentions "vulnerable groups," perhaps the most important and the most often missing part of a "comprehensive" response.<sup>44</sup> Nevertheless, civil society can emphasize this omission by focusing attention to the many paragraphs that do refer to vulnerable groups. Crucial in this regard are paragraphs 14, 16, and 20, which call upon governments to partner with vulnerable groups to, in the words of paragraph 14, "reverse the global pandemic."<sup>45</sup> Such a partnership offers civil society the opportunity to focus attention on the human rights of vulnerable groups in order to create a truly comprehensive response.

## **Treatment**

Worldwide, only 20% of people who need antiretroviral treatment receive it.<sup>46</sup> However, one core obligation under the ICESCR is that states have to "provide essential drugs" as the WHO defines them,<sup>47</sup> which includes antiretroviral medicines for HIV.<sup>48</sup> Further, the U.N. Commission on Human Rights has called for antiretroviral treatment without discrimination.<sup>49</sup> The Convention on the Rights of the Child also requires provision of necessary assistance to children, which the Committee on the Rights of the Child has interpreted to include provision of antiretrovirals to children.<sup>50</sup> In most countries, fewer than 5% of children needing access to antiretroviral medicine have access to them.<sup>51</sup>

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<sup>44</sup> Political Declaration, *supra* note 25, par. 11, 15.

<sup>45</sup> Political Declaration, *supra* note 25, par. 14.

<sup>46</sup> WHO 2006 Report, *supra* note 55, pgs. 9, 23.

<sup>47</sup> General Comment No. 14, *supra* note 62.

<sup>48</sup> WHO Model List (revised March 2005). 14<sup>th</sup> Edition. Sec. 6.4.2.  
[http://whqlibdoc.who.int/hq/2005/a87017\\_eng.pdf](http://whqlibdoc.who.int/hq/2005/a87017_eng.pdf).

<sup>49</sup> U.N. Commission on Human Rights. Access to medications in the context of pandemics such as HIV/AIDS. Resolution 2002/32. 22 Apr. 2002. Par. 6(a).

<sup>50</sup> General Comment No. 3: HIV/AIDS and the Rights of the Child, Committee on the Rights of the Child, 32nd Sess., U.N. Doc. CRC/GC/2003/1 (2003), Pg. 25; Convention on the Rights of the Child, *supra* note 45, Art. 24(2)(a).

<sup>51</sup> UNICEF. New Presidential Leadership Emerging in Fight Against AIDS. June 15, 2006.  
[http://www.unicef.org/uniteforchildren/press/press\\_30157.htm](http://www.unicef.org/uniteforchildren/press/press_30157.htm).

Prior to the Meeting, in resolution 60/224, the General Assembly called for UNAIDS to consult with civil society and the private sector to develop strategies for “scaling up HIV prevention, treatment, care and support with the aim of coming as close as possible to the goal of universal access to treatment by 2010”.<sup>52</sup> This resolution places qualifications on the goal of “universal access” with its use of the phrase “as close as possible”, however the Political Declaration could have eschewed such qualifications and aspired to achieve the target of universal access by 2010, or could have defined a specific minimum threshold for achieving “close” to universal access. Alternatively, the Declaration could have reiterated the importance of treatment being provided without discrimination, and on an equal basis to all individuals, regardless of age, gender, or means of infection. Instead, the Political Declaration calls vaguely for work “towards” the goal of universal access.

The U.N. Commission on Human Rights has also called on States “[t]o facilitate, wherever possible, access in *other countries* to essential preventive, curative or palliative pharmaceuticals or medical technologies used to treat pandemics such as HIV/AIDS.”<sup>53</sup> Paragraphs 38 – 48 of the Political Declaration discuss various issues related to treatment: funding, patents (including the trade-related aspects of intellectual property rights, or TRIPS Agreements), and access to medications, however, none of these paragraphs make a specific mention of human rights. This omission is not in itself a weakness, but civil society advocates must work to ensure that governments ensure access to medications, which is protected by the human rights to health and the right to enjoy the benefits of scientific progress.<sup>54</sup>

In paragraph 43 the Political Declaration largely restates the WTO’s Doha Declaration on public health,<sup>55</sup> but fails to address controversial TRIPS-Plus arrangements (agreements that go beyond the protections provided in the WTO TRIPS agreement) that interfere with the production, procurement and distribution of HIV medications.<sup>56</sup>

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<sup>52</sup> UN General Assembly. Preparations for and organization of the 2006 follow-up meeting on the outcome of the twenty-sixth special session: implementation of the Declaration of Commitment on HIV/AIDS. A/RES/60/224. January 13, 2006.

<sup>53</sup> U.N. Commission on Human Rights. Access to medications in the context of pandemics such as HIV/AIDS. Resolution 2002/32. 22 Apr. 2002. Par. 6(a). [Italics added].

<sup>54</sup> ICESCR, pars. 12 and 15. See also General Comment No. 14, The right to the highest attainable standard of health (art. 12), Adopted at the 22<sup>nd</sup> Session of the Committee on Economic, Social and Cultural Rights, E/C.12/2000/4, August 11, 2000.

<sup>55</sup> Id., par. 40. World Trade Organization. [Doha] Ministerial Declaration. WT/MIN(01)/DEC/1. November 20, 2001. [http://www.wto.org/English/thewto\\_e/minist\\_e/min01\\_e/mindecl\\_e.pdf](http://www.wto.org/English/thewto_e/minist_e/min01_e/mindecl_e.pdf).

<sup>56</sup> Human Rights Watch. Letter from the Affordable Medicines Treatment Campaign to India’s National Human Rights Commission. <http://hrw.org/english/docs/2004/10/22/india9556.htm>; Human Rights Watch. The FTAA, Access to HIV/AIDS Treatment, and Human Rights: A Human Rights Watch Briefing Paper. <http://www.hrw.org/press/2002/10/ftaa1029-bck.htm>.

The U.S. has used bilateral free trade agreements to undermine the WTO TRIPS standards, as it is currently striving to do in negotiations with Thailand. That it has exerted leverage within the WHO on this issue only exacerbates the problem.<sup>57</sup> Thailand recently showed its largest trade deficit in nearly a year.<sup>58</sup> Should Thailand, hoping to increase its access to U.S. markets, sign a restrictive FTA, it could roll back the country's progress in reducing the rate of deaths from AIDS by 66% in one year through widespread production of low-cost generic HIV medications.<sup>59</sup>

Governments have committed to coming as close as possible to universal access. If they are to make good on their commitment, they should build upon this language and work towards more flexible intellectual property rights standards. Civil society advocacy should focus on this point and emphasize that more flexible standards will help to achieve universal access by providing affordable drugs to countries and encouraging local production, within the framework of facilitating access as provided by the U.N. Commission on Human Rights. The governments who participated at the Meeting have set the general goal; civil society needs to advocate for the best path to meeting it. By emphasizing that the human rights to health and enjoyment of scientific progress support the goal of universal access, civil society can emphasize the link between the non-binding Political Declaration and governments' binding treaty obligations.

## Targets and Accountability

Both states and civil society advocates at the High Level Meeting called for quantitative targets to be included in the Political Declaration. Proposals by civil society included a "10 by 10" goal of treating 10 million persons by 2010.<sup>60</sup> The African Common Position paper endorsed by the fifty-three member states of the African Union suggested a goal of treatment and prevention for 80% of those that need it.<sup>61</sup> Some African countries, notably South Africa and Gabon, abandoned these numerical goals despite having agreed to such goals in a preparatory meeting in Abuja.<sup>62</sup> The U.S. as well

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<sup>57</sup> Dylan C. Williams. World health: A lethal dose of US politics. Asia Times. June 17, 2006. [www.atimes.com](http://www.atimes.com).

<sup>58</sup> Thailand posts biggest trade deficit in 11 months. Bloomberg. <http://www.bloomberg.com/apps/news?pid=10000080&sid=akkouKHG4t64&refer=asia>.

<sup>59</sup> Cheap HIV Drugs: Plunge in Aids deaths in 2005. The Nation (Bangkok). Jan. 3, 2006. <http://www.nationmultimedia.com/search/page.arcview.php?clid=2&id=125779&date=2006-01-03&usrsess=>.

<sup>60</sup> "A global fight against AIDS." International Herald Tribune. June 01, 2006. [www.iht.com/articles/2006/06/01/opinion/edlet.php](http://www.iht.com/articles/2006/06/01/opinion/edlet.php).

<sup>61</sup> Africa's common position to the U.N. General Assembly Special Session on AIDS (June 2006). [www.tac.org.za/documents/AfricaPositionforUNGASSMay2006.pdf](http://www.tac.org.za/documents/AfricaPositionforUNGASSMay2006.pdf).

<sup>62</sup> AFRICA: Politics override the needs of vulnerable people at the UNGASS. IRIN. June 1, 2006. <http://www.irinnews.org/AIDSreport.asp?ReportID=6021&SelectRegion=Africa&SelectCountry=AFRICA>. The

lobbied aggressively against quantitative goals for treatment or funding.<sup>63</sup> Ultimately, no new, specific, numerical goals made it into the Political Declaration.

Nonetheless, the Political Declaration does reference some existing and proposed targets. For example, Paragraph 18 relates the “goal of achieving universal access to reproductive health by 2015, as set out at the International Conference on Population and Development” to other development goals, such as the Millennium Development Goals. Importantly, paragraph 49 requires the setting up of “ambitious national targets” in 2006, “including interim targets for 2008 in accordance with the core indicators recommended by the Joint United Nations Programme on HIV/AIDS.”<sup>64</sup> Paragraph 20 calls for work “towards achieving the goal of universal access to comprehensive prevention programmes, treatment, care and support by 2010.”

The goal of universal access reflects the principle of non-discrimination enshrined in U.N. human rights documents as well as pragmatically recognizing what is ultimately required to stopping the spread of HIV. While recent efforts to expand treatment access may have saved 250,000 to 350,000 lives in 2005<sup>65</sup>, more can be done. More than five million people who need life-saving antiretroviral treatment did not receive them in 2005. Comprehensive prevention programs are not addressing the people who need them most, including youth, men who have sex with men, injecting drug users, and sex workers.<sup>66</sup> For example, only 9 percent of men who have sex with men “received *any* type of HIV prevention service in 2005.”<sup>67</sup>

However, setting specific targets, rather than referencing broad aspirations to work “towards” universal access provide an important benchmark that advocates and governments can use as a mechanism for accountability in monitoring progressively realized rights. While the current set of core indicators recommended by UNAIDS for national AIDS programs are specific and measurable, they do not address the fundamental rights abuses that fuel the epidemic, nor track progress towards improving

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Chair of the African Union later reconfirmed commitment of all Union members to the 80% goal. See African Union. Following the AIDS Summit, African Union Chair Recommits to the Targets on HIV/AIDS for Africa and urges Donors to Fund New Efforts to Achieve Universal Access by 2010. Press Release No. 36/2006. June 15, 2006. <http://www.africa-union.org/root/au/index/index.htm>.

<sup>63</sup> World leaders resist AIDS money targets. Houston Chronicle. June 2, 2006.

<sup>64</sup> Political Declaration, *supra* note 25, pars. 18, 20, 49.

<sup>65</sup> UNAIDS Report 2006, *supra* note 1, pg. 153.

<sup>66</sup> Report of the Secretary-General, *supra* note 2, pgs. 7-8. (*italics added*)

<sup>67</sup> *Id.*, pg. 7.

human rights protections. For example, national reporting on key indicators has not been sufficiently sex disaggregated and contains nothing about gender-based violence.<sup>68</sup>

The task for civil society, then, is to build upon the Political Declaration's general targets and to focus attention on those necessary goals that current indicators do not address. This paper raises many of the fundamental human rights that must be protected if the fight against HIV is to succeed. By focusing on a set of strategies, civil society can look ahead and use the Political Declaration as a springboard for a comprehensive human rights approach.

## Looking Ahead

The Draft Political Declaration is now a General Assembly resolution. The challenge for civil society is to insist upon accountability for what was agreed upon, and to engage with governments in the process of target setting and national reviews (in 2008 and 2010) called for in the Declaration.

Civil society was able to influence the drafting of the Political Declaration. Amidst the moralizing clamor of the Meeting, civil society advocates had their voices heard, and the result was a document that at least referred to vulnerable groups, women and youth, and included some human rights principles.<sup>69</sup> These victories can be the basis for larger strides in the fight against HIV.

UNAIDS has already begun looking ahead with five proposals for “moving towards universal access by 2010.” By setting national targets, improving coordination and accountability, increasing engagement with civil society, planning for the US \$20-23 billion funding requirements, and developing a four-year action plan, UNAIDS hopes to build upon the Political Declaration. The proposal to engage with civil society refers to “promot[ing] the AIDS-related human rights of people living with HIV, women and children, and people in vulnerable groups.”<sup>70</sup>

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<sup>68</sup> According to UNAIDS, fewer than 20% of the indicators reported in response to the 2001 UNGASS commitments were disaggregated by gender. UNAIDS. *Monitoring the Declaration of Commitment on HIV/AIDS. Guidelines on the Construction of Core Indicators.* UNAIDS/05.17E. July 2005. available at: [http://data.unaids.org/publications/irc-pub06/jc1126-constrcoreindic-ungass\\_en.pdf](http://data.unaids.org/publications/irc-pub06/jc1126-constrcoreindic-ungass_en.pdf)

<sup>69</sup> UNAIDS. *Outcomes of the High Level Meeting 2006—moving the global response forward.* 18<sup>th</sup> Meeting of the UNAIDS Programme Coordinating Board. UNAIDS/PCB(18)/06.5. June 19, 2006. Pg. 5.

<sup>70</sup> *Id.*, Pg. 7-8.

Civil society advocates must focus their efforts on the setting of national targets and the monitoring of progress. UNAIDS has called for civil society participation. Paragraph 20 of the Political Declaration does the same, asking for “full and active participation of people living with HIV, vulnerable groups, most affected communities, civil society and the private sector”.<sup>71</sup> Civil society can use its engagement with countries during the target setting process to expand upon the Political Declaration’s references to human rights in order to reach the scope of protections needed to truly fight the HIV pandemic.

There are three concrete ways in which civil society can do this. One, civil society advocates can work in the remainder of 2006 to identify structural barriers to human rights protections in particular countries. One example would be identifying the legislative and regulatory barriers, such as the absence of laws on marital rape or discriminatory inheritance laws, that fail to protect women, girls, and orphans, or that criminalize homosexuality. Calling for concrete action, such as the drafting of new, more protective laws, by 2008 would be a realistic position. Two, civil society advocates can work with UNAIDS, donors and their respective governments to develop and expand upon assessment tools, including ones that measure budgetary allocations. These assessment tools make the Political Declaration’s goals more concrete and measurable, which civil society can then point to if governments fail the assessments. Civil society can call for assessment criteria to include goals for protecting human rights. This step must involve calling on assessment tools and UNAIDS reports to become more gender-sensitive. Assessment tools must also highlight the intersection of violence and discrimination against vulnerable groups and HIV/AIDS. Three, civil society can link the Political Declaration with countries’ commitments under human rights treaties. This step should include involvement in treaty reporting processes. Civil society advocates could work with the official reporting process as well as the development of “shadow reports” and work with the media to report on possible failures of implementation. For this reporting to work, civil society must first have helped to create concrete goals and specific measuring tools.

Civil society must now focus on putting the Political Declaration’s general claims into practical action by injecting a human rights perspective into the target-setting and monitoring process. U.N. agencies should provide technical and financial assistance to local, national, regional and international civil society networks toward this end. Finally, civil society should build upon and strengthen the coalitions amongst NGOs, faith-based organizations, youth and women’s groups, and HIV advocates that formed and mobilized prior to the High Level Meeting.

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<sup>71</sup> Political Declaration, *supra* note 25, par. 20.



Civil society and governments face the challenge of breathing content into the Political Declaration's general references to human rights, seizing upon those rare moments when it enumerates relevant rights or protections, and reading the document so as to draw out the principles it only incompletely reflects. For all its weaknesses, the Political Declaration at least gestures towards protecting human rights. In this gesture, it has provided a basis for advocacy.

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## **Annex 1: Human Rights Watch Reports on HIV/AIDS**

“Life Doesn’t Wait’: Romania’s Failure to Protect and Support Children and Youth Living With HIV” August 2006: <http://hrw.org/reports/2006/romania0806/>

“No Bright Future: Government Failures, Human Rights Abuses and Squandered Progress in the Fight against AIDS in Zimbabwe”  
July 2006: <http://hrw.org/reports/2006/zimbabwe0706/>

“Rhetoric and Risk: Human Rights Abuses Impeding Ukraine’s Fight Against HIV/AIDS” March 2006: <http://hrw.org/reports/2006/ukraine0306/>

“What Future?: Street Children in the Democratic Republic of Congo”  
April 2006: <http://hrw.org/reports/2006/drc0406/>

“Letting Them Fail: Government Neglect and the Right to Education for Children Affected by AIDS” October 2005: <http://hrw.org/reports/2005/africa1005/>

“Restrictions on AIDS Activists in China”  
June 2005: <http://hrw.org/reports/2005/china0605/>

“Positively Abandoned: Stigma and Discrimination against HIV-Positive Mothers and their Children in Russia,” June 2005: <http://hrw.org/reports/2005/russia0605/>

“The Less They Know, the Better: Abstinence-Only and HIV/AIDS Programs in Uganda,” March 2005: <http://hrw.org/reports/2005/uganda0305/>

“A Dose of Reality: Women’s Rights in the Fight against HIV/AIDS”  
March 2005: <http://hrw.org/english/docs/2005/03/21/africa10357.htm>

“Access to Condoms and HIV/AIDS Information: A Global Health and Human Rights Concern,” December 2004: <http://hrw.org/backgrounder/hivaids/condoms1204/>

“Hated to Death: Homophobia, Violence, and Jamaica’s HIV/AIDS Epidemic,”  
November 2004: <http://hrw.org/reports/2004/jamaica1104/>

“Future Forsaken: Abuses against Children Affected by HIV/AIDS in India,”  
July 2004: <http://hrw.org/reports/2004/india0704/>

“A Test of Inequality: Discrimination against Women Living with HIV in the Dominican Republic,” July 2004: <http://hrw.org/reports/2004/dr0704/>

“Not Enough Graves: The War on Drugs, HIV/AIDS, and Violations of Human Rights in Thailand,” July 2004: <http://www.hrw.org/campaigns/aids/2004/thai.htm>

“Unprotected: Sex, Condoms, and the Human Right to Health in the Philippines,”  
May 2004: <http://hrw.org/reports/2004/philippines0504/>

“Lessons Not Learned: Human Rights Abuses and HIV/AIDS in the Russian Federation,” April 2004: <http://hrw.org/reports/2004/russia0404/>

“Deadly Delay: South Africa's Efforts to Prevent HIV in Survivors of Sexual Violence,”  
March 2004: <http://hrw.org/reports/2004/southafrica0304/>

“Policy Paralysis: A Call for Action on HIV/AIDS-Related Human Rights Abuses Against Women and Girls in Africa” December 2003: <http://www.hrw.org/reports/2003/africa1203/>

“Injecting Reason: Human Rights and HIV Prevention for Injection Drug Users; California: A Case Study” September 2003: <http://www.hrw.org/reports/2003/usa0903/>

“Locked Doors: The Human Rights of People Living with HIV/AIDS in China,”  
September 2003: <http://www.hrw.org/reports/2003/china0803/>

“Ravaging the Vulnerable: Abuses Against Persons at High Risk of HIV in Bangladesh,”  
August 2003: <http://www.hrw.org/reports/2003/bangladesh0803/>

“Just Die Quietly: Domestic Violence and Women’s Vulnerability to HIV in Uganda,”  
August 2003: <http://www.hrw.org/reports/2003/uganda0803/>

“Fanning the Flames: How Human Rights Abuses Are Fueling the AIDS Epidemic in Kazakhstan,” June 2003: <http://hrw.org/reports/2003/kazak0603/>

“Abusing the User: Police Misconduct, Harm Reduction and HIV/AIDS in Vancouver,” May 2003: <http://www.hrw.org/reports/2003/canada/>

“Borderline Slavery: Child Trafficking in Togo”  
April 2003: <http://hrw.org/reports/2003/togo0403/>

“Double Standards: Women’s Property Rights Violations in Kenya,”  
March 2003: <http://hrw.org/reports/2003/kenya0303/>

“Suffering in Silence: Human Rights Abuses and HIV Transmission to Girls in Zambia,”  
January 2003: <http://hrw.org/reports/2003/zambia/>

“We’ll Kill You If You Cry: Sexual Violence in the Sierra Leone Conflict,”  
January 2003: <http://hrw.org/reports/2003/sierraleone/>

“The FTAA, Access to HIV/AIDS Treatment, and Human Rights, a Human Rights Watch Briefing Paper” October 2002: <http://www.hrw.org/press/2002/10/ftaa1029-bck.htm>

“Ignorance Only: HIV/AIDS, Human Rights and Federally Funded Abstinence-Only Programs in the United States; Texas: A Case Study”  
September 2002: <http://hrw.org/reports/2002/usa0902/>

“Epidemic of Abuse: Police Harassment of HIV/AIDS Outreach Workers in India,”  
July 2002: <http://www.hrw.org/reports/2002/india2/>

“The War Within the War: Sexual Violence Against Women and Girls in Eastern Congo,” June 2002: <http://hrw.org/reports/2002/drc/>

“In the Shadow of Death: HIV/AIDS and Children’s Rights in Kenya”  
June 2001: <http://www.hrw.org/reports/2001/kenya/>

“Scared at School: Sexual Violence Against Girls in South African Schools”  
March 2001: <http://www.hrw.org/reports/2001/safrica/>



# General Assembly

Distr.: General  
15 June 2006

Sixtieth session  
Agenda item 45

## Resolution adopted by the General Assembly

[without reference to a Main Committee (A/60/L.57)]

### 60/262. Political Declaration on HIV/AIDS

*The General Assembly*

Adopts the Political Declaration on HIV/AIDS annexed to the present resolution.

*87th plenary meeting  
2 June 2006*

#### Annex

#### Political Declaration on HIV/AIDS

1. We, Heads of State and Government and representatives of States and Governments participating in the comprehensive review of the progress achieved in realizing the targets set out in the Declaration of Commitment on HIV/AIDS,<sup>1</sup> held on 31 May and 1 June 2006, and the High-Level Meeting, held on 2 June 2006;
2. Note with alarm that we are facing an unprecedented human catastrophe; that a quarter of a century into the pandemic, AIDS has inflicted immense suffering on countries and communities throughout the world; and that more than 65 million people have been infected with HIV, more than 25 million people have died of AIDS, 15 million children have been orphaned by AIDS and millions more made vulnerable, and 40 million people are currently living with HIV, more than 95 per cent of whom live in developing countries;
3. Recognize that HIV/AIDS constitutes a global emergency and poses one of the most formidable challenges to the development, progress and stability of our respective societies and the world at large, and requires an exceptional and comprehensive global response;
4. Acknowledge that national and international efforts have resulted in important progress since 2001 in the areas of funding, expanding access to HIV prevention, treatment, care and support and in mitigating the impact of AIDS, and in reducing

<sup>1</sup> Resolution S-26/2, annex.

HIV prevalence in a small but growing number of countries, and also acknowledge that many targets contained in the Declaration of Commitment on HIV/AIDS have not yet been met;

5. Commend the Secretariat and the Co-sponsors of the Joint United Nations Programme on HIV/AIDS for their leadership role on HIV/AIDS policy and coordination, and for the support they provide to countries through the Joint Programme;

6. Recognize the contribution of, and the role played by, various donors in combating HIV/AIDS, as well as the fact that one third of resources spent on HIV/AIDS responses in 2005 came from the domestic sources of low- and middle-income countries, and therefore emphasize the importance of enhanced international cooperation and partnership in our responses to HIV/AIDS worldwide;

7. Remain deeply concerned, however, by the overall expansion and feminization of the pandemic and the fact that women now represent 50 per cent of people living with HIV worldwide and nearly 60 per cent of people living with HIV in Africa, and in this regard recognize that gender inequalities and all forms of violence against women and girls increase their vulnerability to HIV/AIDS;

8. Express grave concern that half of all new HIV infections occur among children and young people under the age of 25, and that there is a lack of information, skills and knowledge regarding HIV/AIDS among young people;

9. Remain gravely concerned that 2.3 million children are living with HIV/AIDS today, and recognize that the lack of paediatric drugs in many countries significantly hinders efforts to protect the health of children;

10. Reiterate with profound concern that the pandemic affects every region, that Africa, in particular sub-Saharan Africa, remains the worst-affected region, and that urgent and exceptional action is required at all levels to curb the devastating effects of this pandemic, and recognize the renewed commitment by African Governments and regional institutions to scale up their own HIV/AIDS responses;

11. Reaffirm that the full realization of all human rights and fundamental freedoms for all is an essential element in the global response to the HIV/AIDS pandemic, including in the areas of prevention, treatment, care and support, and recognize that addressing stigma and discrimination is also a critical element in combating the global HIV/AIDS pandemic;

12. Reaffirm also that access to medication in the context of pandemics, such as HIV/AIDS, is one of the fundamental elements to achieve progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

13. Recognize that in many parts of the world, the spread of HIV/AIDS is a cause and consequence of poverty, and that effectively combating HIV/AIDS is essential to the achievement of internationally agreed development goals and objectives, including the Millennium Development Goals;

14. Recognize also that we now have the means to reverse the global pandemic and to avert millions of needless deaths, and that to be effective, we must deliver an intensified, much more urgent and comprehensive response, in partnership with the United Nations system, intergovernmental organizations, people living with HIV and vulnerable groups, medical, scientific and educational institutions, non-governmental organizations, the business sector, including generic and research-based pharmaceutical companies, trade unions, the media,

parliamentarians, foundations, community organizations, faith-based organizations and traditional leaders;

15. Recognize further that to mount a comprehensive response, we must overcome any legal, regulatory, trade and other barriers that block access to prevention, treatment, care and support; commit adequate resources; promote and protect all human rights and fundamental freedoms for all; promote gender equality and empowerment of women; promote and protect the rights of the girl child in order to reduce the vulnerability of the girl child to HIV/AIDS; strengthen health systems and support health workers; support greater involvement of people living with HIV; scale up the use of known effective and comprehensive prevention interventions; do everything necessary to ensure access to life-saving drugs and prevention tools; and develop with equal urgency better tools – drugs, diagnostics and prevention technologies, including vaccines and microbicides – for the future;

16. Convinced that without renewed political will, strong leadership and sustained commitment and concerted efforts on the part of all stakeholders at all levels, including people living with HIV, civil society and vulnerable groups, and without increased resources, the world will not succeed in bringing about the end of the pandemic;

17. Solemnly declare our commitment to address the HIV/AIDS crisis by taking action as follows, taking into account the diverse situations and circumstances in different regions and countries throughout the world;

*Therefore, we:*

18. Reaffirm our commitment to implement fully the Declaration of Commitment on HIV/AIDS, entitled “Global Crisis – Global Action”, adopted by the General Assembly at its twenty-sixth special session, in 2001; and to achieve the internationally agreed development goals and objectives, including the Millennium Development Goals, in particular the goal to halt and begin to reverse the spread of HIV/AIDS, malaria and other major diseases, the agreements dealing with HIV/AIDS reached at all major United Nations conferences and summits, including the 2005 World Summit and its statement on treatment, and the goal of achieving universal access to reproductive health by 2015, as set out at the International Conference on Population and Development;

19. Recognize the importance, and encourage the implementation, of the recommendations of the inclusive, country-driven processes and regional consultations facilitated by the Secretariat and the Co-sponsors of the Joint United Nations Programme on HIV/AIDS for scaling up HIV prevention, treatment, care and support, and strongly recommend that this approach be continued;

20. Commit ourselves to pursuing all necessary efforts to scale up nationally driven, sustainable and comprehensive responses to achieve broad multisectoral coverage for prevention, treatment, care and support, with full and active participation of people living with HIV, vulnerable groups, most affected communities, civil society and the private sector, towards the goal of universal access to comprehensive prevention programmes, treatment, care and support by 2010;

21. Emphasize the need to strengthen policy and programme linkages and coordination between HIV/AIDS, sexual and reproductive health, national development plans and strategies, including poverty eradication strategies, and to address, where appropriate, the impact of HIV/AIDS on national development plans and strategies;

22. Reaffirm that the prevention of HIV infection must be the mainstay of national, regional and international responses to the pandemic, and therefore commit ourselves to intensifying efforts to ensure that a wide range of prevention programmes that take account of local circumstances, ethics and cultural values is available in all countries, particularly the most affected countries, including information, education and communication, in languages most understood by communities and respectful of cultures, aimed at reducing risk-taking behaviours and encouraging responsible sexual behaviour, including abstinence and fidelity; expanded access to essential commodities, including male and female condoms and sterile injecting equipment; harm-reduction efforts related to drug use; expanded access to voluntary and confidential counselling and testing; safe blood supplies; and early and effective treatment of sexually transmitted infections;
23. Reaffirm also that prevention, treatment, care and support for those infected and affected by HIV/AIDS are mutually reinforcing elements of an effective response and must be integrated in a comprehensive approach to combat the pandemic;
24. Commit ourselves to overcoming legal, regulatory or other barriers that block access to effective HIV prevention, treatment, care and support, medicines, commodities and services;
25. Pledge to promote, at the international, regional, national and local levels, access to HIV/AIDS education, information, voluntary counselling and testing and related services, with full protection of confidentiality and informed consent, and to promote a social and legal environment that is supportive of and safe for voluntary disclosure of HIV status;
26. Commit ourselves to addressing the rising rates of HIV infection among young people to ensure an HIV-free future generation through the implementation of comprehensive, evidence-based prevention strategies, responsible sexual behaviour, including the use of condoms, evidence- and skills-based, youth-specific HIV education, mass media interventions and the provision of youth-friendly health services;
27. Commit ourselves also to ensuring that pregnant women have access to antenatal care, information, counselling and other HIV services and to increasing the availability of and access to effective treatment to women living with HIV and infants in order to reduce mother-to-child transmission of HIV, as well as to ensuring effective interventions for women living with HIV, including voluntary and confidential counselling and testing, with informed consent, access to treatment, especially life-long antiretroviral therapy and, where appropriate, breast-milk substitutes and the provision of a continuum of care;
28. Resolve to integrate food and nutritional support, with the goal that all people at all times will have access to sufficient, safe and nutritious food to meet their dietary needs and food preferences, for an active and healthy life, as part of a comprehensive response to HIV/AIDS;
29. Commit ourselves to intensifying efforts to enact, strengthen or enforce, as appropriate, legislation, regulations and other measures to eliminate all forms of discrimination against and to ensure the full enjoyment of all human rights and fundamental freedoms by people living with HIV and members of vulnerable groups, in particular to ensure their access to, inter alia, education, inheritance, employment, health care, social and health services, prevention, support and treatment, information and legal protection, while respecting their privacy and



confidentiality; and developing strategies to combat stigma and social exclusion connected with the epidemic;

30. Pledge to eliminate gender inequalities, gender-based abuse and violence; increase the capacity of women and adolescent girls to protect themselves from the risk of HIV infection, principally through the provision of health care and services, including, inter alia, sexual and reproductive health, and the provision of full access to comprehensive information and education; ensure that women can exercise their right to have control over, and decide freely and responsibly on, matters related to their sexuality in order to increase their ability to protect themselves from HIV infection, including their sexual and reproductive health, free of coercion, discrimination and violence; and take all necessary measures to create an enabling environment for the empowerment of women and strengthen their economic independence; and in this context, reiterate the importance of the role of men and boys in achieving gender equality;

31. Commit ourselves to strengthening legal, policy, administrative and other measures for the promotion and protection of women's full enjoyment of all human rights and the reduction of their vulnerability to HIV/AIDS through the elimination of all forms of discrimination, as well as all types of sexual exploitation of women, girls and boys, including for commercial reasons, and all forms of violence against women and girls, including harmful traditional and customary practices, abuse, rape and other forms of sexual violence, battering and trafficking in women and girls;

32. Commit ourselves also to addressing as a priority the vulnerabilities faced by children affected by and living with HIV; providing support and rehabilitation to these children and their families, women and the elderly, particularly in their role as caregivers; promoting child-oriented HIV/AIDS policies and programmes and increased protection for children orphaned and affected by HIV/AIDS; ensuring access to treatment and intensifying efforts to develop new treatments for children; and building, where needed, and supporting the social security systems that protect them;

33. Emphasize the need for accelerated scale-up of collaborative activities on tuberculosis and HIV, in line with the Global Plan to Stop TB 2006–2015, and for investment in new drugs, diagnostics and vaccines that are appropriate for people with TB-HIV co-infection;

34. Commit ourselves to expanding to the greatest extent possible, supported by international cooperation and partnership, our capacity to deliver comprehensive HIV/AIDS programmes in ways that strengthen existing national health and social systems, including by integrating HIV/AIDS intervention into programmes for primary health care, mother and child health, sexual and reproductive health, tuberculosis, hepatitis C, sexually transmitted infections, nutrition, children affected, orphaned or made vulnerable by HIV/AIDS, as well as formal and informal education;

35. Undertake to reinforce, adopt and implement, where needed, national plans and strategies, supported by international cooperation and partnership, to increase the capacity of human resources for health to meet the urgent need for the training and retention of a broad range of health workers, including community-based health workers; improve training and management and working conditions, including treatment for health workers; and effectively govern the recruitment, retention and deployment of new and existing health workers to mount a more effective HIV/AIDS response;

36. Commit ourselves, invite international financial institutions and the Global Fund to Fight AIDS, Tuberculosis and Malaria, according to its policy framework, and encourage other donors, to provide additional resources to low- and middle-income countries for the strengthening of HIV/AIDS programmes and health systems and for addressing human resources gaps, including the development of alternative and simplified service delivery models and the expansion of the community-level provision of HIV/AIDS prevention, treatment, care and support, as well as other health and social services;
37. Reiterate the need for Governments, United Nations agencies, regional and international organizations and non-governmental organizations involved with the provision and delivery of assistance to countries and regions affected by conflicts, humanitarian emergencies or natural disasters to incorporate HIV/AIDS prevention, care and treatment elements into their plans and programmes;
38. Pledge to provide the highest level of commitment to ensuring that costed, inclusive, sustainable, credible and evidence-based national HIV/AIDS plans are funded and implemented with transparency, accountability and effectiveness, in line with national priorities;
39. Commit ourselves to reducing the global HIV/AIDS resource gap through greater domestic and international funding to enable countries to have access to predictable and sustainable financial resources and ensuring that international funding is aligned with national HIV/AIDS plans and strategies; and in this regard welcome the increased resources that are being made available through bilateral and multilateral initiatives, as well as those that will become available as a result of the establishment of timetables by many developed countries to achieve the targets of 0.7 per cent of gross national product for official development assistance by 2015 and to reach at least 0.5 per cent of gross national product for official development assistance by 2010 as well as, pursuant to the Brussels Programme of Action for the Least Developed Countries for the Decade 2001–2010,<sup>2</sup> 0.15 per cent to 0.20 per cent for the least developed countries no later than 2010, and urge those developed countries that have not yet done so to make concrete efforts in this regard in accordance with their commitments;
40. Recognize that the Joint United Nations Programme on HIV/AIDS has estimated that 20 to 23 billion United States dollars per annum is needed by 2010 to support rapidly scaled-up AIDS responses in low- and middle-income countries, and therefore commit ourselves to taking measures to ensure that new and additional resources are made available from donor countries and also from national budgets and other national sources;
41. Commit ourselves 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, while continuing to develop innovative sources of financing, as well as pursuing other efforts, aimed at generating additional funds;
42. Commit ourselves also to finding appropriate solutions to overcome barriers in pricing, tariffs and trade agreements, and to making improvements to legislation, regulatory policy, procurement and supply chain management in order to accelerate

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<sup>2</sup> A/CONF.191/13, chap. II.

and intensify access to affordable and quality HIV/AIDS prevention products, diagnostics, medicines and treatment commodities;

43. Reaffirm that the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights<sup>3</sup> does not and should not prevent members from taking measures now and in the future to protect public health. Accordingly, while reiterating our commitment to the TRIPS Agreement, reaffirm that the Agreement can and should be interpreted and implemented in a manner supportive of the right to protect public health and, in particular, to promote access to medicines for all including the production of generic antiretroviral drugs and other essential drugs for AIDS-related infections. In this connection, we reaffirm the right to use, to the full, the provisions in the TRIPS Agreement, the Doha Declaration on the TRIPS Agreement and Public Health<sup>4</sup> and the World Trade Organization's General Council Decision of 2003<sup>5</sup> and amendments to Article 31, which provide flexibilities for this purpose;

44. Resolve to assist developing countries to enable them to employ the flexibilities outlined in the TRIPS Agreement, and to strengthen their capacities for this purpose;

45. Commit ourselves to intensifying investment in and efforts towards the research and development of new, safe and affordable HIV/AIDS-related medicines, products and technologies, such as vaccines, female-controlled methods and microbicides, paediatric antiretroviral formulations, including through such mechanisms as Advance Market Commitments, and to encouraging increased investment in HIV/AIDS-related research and development in traditional medicine;

46. Encourage pharmaceutical companies, donors, multilateral organizations and other partners to develop public-private partnerships in support of research and development and technology transfer, and in the comprehensive response to HIV/AIDS;

47. Encourage bilateral, regional and international efforts to promote bulk procurement, price negotiations and licensing to lower prices for HIV prevention products, diagnostics, medicines and treatment commodities, while recognizing that intellectual property protection is important for the development of new medicines and recognizing the concerns about its effects on prices;

48. Recognize the initiative by a group of countries, such as the International Drug Purchase Facility, based on innovative financing mechanisms that aim to provide further drug access at affordable prices to developing countries on a sustainable and predictable basis;

49. Commit ourselves to setting, in 2006, through inclusive, transparent processes, ambitious national targets, including interim targets for 2008 in accordance with the core indicators recommended by the Joint United Nations Programme on HIV/AIDS, that reflect the commitment of the present Declaration and the urgent need to scale up significantly towards the goal of universal access to comprehensive prevention programmes, treatment, care and support by 2010, and to setting up and

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<sup>3</sup> See *Legal Instruments Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, done at Marrakesh on 15 April 1994* (GATT secretariat publication, Sales No. GATT/1994-7).

<sup>4</sup> See World Trade Organization, document WT/MIN(01)/DEC/2. Available from <http://docsonline.wto.org>.

<sup>5</sup> See World Trade Organization, document WT/L/540 and Corr.1. Available from <http://docsonline.wto.org>.

maintaining sound and rigorous monitoring and evaluation frameworks within their HIV/AIDS strategies;

50. Call upon the Joint United Nations Programme on HIV/AIDS, including its Co-sponsors, to assist national efforts to coordinate the AIDS response, as elaborated in the “Three Ones” principles and in line with the recommendations of the Global Task Team on Improving AIDS Coordination among Multilateral Institutions and International Donors; assist national and regional efforts to monitor and report on efforts to achieve the targets set out above; and strengthen global coordination on HIV/AIDS, including through the thematic sessions of the Programme Coordinating Board;

51. Call upon Governments, national parliaments, donors, regional and subregional organizations, organizations of the United Nations system, the Global Fund to Fight AIDS, Tuberculosis and Malaria, civil society, people living with HIV, vulnerable groups, the private sector, communities most affected by HIV/AIDS and other stakeholders to work closely together to achieve the targets set out above, and to ensure accountability and transparency at all levels through participatory reviews of responses to HIV/AIDS;

52. Request the Secretary-General of the United Nations, with the support of the Joint United Nations Programme on HIV/AIDS, to include in his annual report to the General Assembly on the status of implementation of the Declaration of Commitment on HIV/AIDS, in accordance with General Assembly resolution S-26/2 of 27 June 2001, the progress achieved in realizing the commitments set out in the present Declaration;

53. Decide to undertake comprehensive reviews in 2008 and 2011, within the annual reviews of the General Assembly, of the progress achieved in realizing the Declaration of Commitment on HIV/AIDS, entitled “Global Crisis – Global Action”, adopted by the General Assembly at its twenty-sixth special session, and the present Declaration.