

**SUBMISSION BY THE UNITED NATIONS PROGRAMME ON HIV/AIDS (UNAIDS) TO
THE OFFICE OF THE HUMAN RIGHTS COUNCIL ON
THE UNIVIVERSAL PERIODIC REVIEW**

BACKGROUND

Human rights issues are central to effective national responses to HIV. Where human rights are not protected, people are more vulnerable to HIV infection. And where the human rights of HIV-positive people are not protected, they suffer stigma and discrimination, become ill, become unable to support themselves and their families, and if not provided treatment, they die. Where rates of HIV prevalence are high and treatment is lacking, whole communities are devastated by the impact of the virus.

The Government of Ghana has adhered to various commitments to addressing universal access to HIV prevention, treatment, care and support and protection of persons infected and affected by the virus. Some of the commitments are: the Declaration of Commitment on HIV/AIDS, adopted by the United Nations General Assembly at its twenty-sixth special session on 27 June 2001, the 2005 World Summit Outcome, the Gleneagles Communiqué of the Group of Eight (G8) industrialized countries, the Political Declaration on HIV/AIDS adopted at the United Nations General Assembly High-Level Meeting on HIV and AIDS on 2 June 2006 and the High level meeting in New York in June 2011.

“[T]he full realization of human rights and fundamental freedoms for all is an essential element in a global response to the HIV/AIDS pandemic, including in the areas of prevention, care, support and treatment, and [...] it reduces vulnerability to HIV/AIDS and prevents stigma and related discrimination against people living with or at risk of HIV/AIDS”.

Declaration of Commitment on HIV/AIDS (see Annex I)

MEASURES INSTITUTED BY GHANA TO ADDRESS HUMAN RIGHTS AND HIV

- The 1992 Constitution of the Republic of Ghana, Labour Act, Criminal Code and Social Security Act 1991 (PNDCL 247) generally oppose the violation of a person’s human dignity, support privacy of a person, and oppose unfair termination of a worker’s appointment.
- Ghana is implementing the 1994 revised version of the 1969 Population Policy. The revision was done to incorporate emerging issues such as HIV/AIDS, gender equality, protection of the elderly and persons with disabilities and promotion of the education and the welfare of children and the youth.
- As part of commitment to Universal Access declarations and provision of a multi-sect oral approach to the problem of HIV and AIDS, the Ghana AIDS Commission was established by **Act 613 of 2002** to formulate a national HIV/AIDS policy; to develop programmes for the implementation of the policy, direct and co-ordinate programmes and activities in the fight against HIV/AIDS.
- Since then, the Commission has implemented various strategies to address issues on HIV and AIDS and all forms of discrimination against those affected. It has been guided by two previous National Strategic Frameworks of 2002 to 2010 and a current National

HIV and AIDS Strategic Plan 2011 to 2015. The latter strategy focuses on reduction of infections in the next five years with a virtual elimination of mother to child transmission of HIV, as well as sustaining and scaling up the proportion of people living with HIV (PLIHIV) who are on treatment. The plan guides the prioritization and targeting of key populations and regions in the country to ensure HIV services are provided where most needed.

- Issues of HIV in the workplace have been addressed through the National HIV and AIDS Workplace Policy. Majority of governmental bodies, including policy and justice institutions, have institutional mandates have incorporated HIV/AIDS-related issues within a general human rights framework.
- To further address HIV needs of Most at Risk Populations and prevent human right abuses against them, a National Strategy for Most at Risk Populations 2011-2015 has been developed and is being implemented.
- Government has further shown commitment and leadership in addressing HIV and human rights issues by providing financial support in partnership with Development Partners. Examples are the commitment to the Abuja declaration and the pledge of 150 million Ghana Cedis to support the National response. There has further been high level involvement of the Vice President in national and International programmes such as the 2010 and 2011 World AIDS Day Celebrations, Partnership Fora and Business meetings and the High level meeting of June 2011 in New York.
- There has also been the passage of the Domestic Violence Bill on 21 February 2007 and the establishment of the Domestic Violence and Victims Support Unit (DOVSSU) to address various forms of violence at home including gender based violence, abuse, rape and others that infringe on the human rights of women in particular.
- Greater attention has been given to Gender inequality and women issues through the establishment of the Ministry of Women and Children Affairs in 2001. The Ministry has been successful in the abolition of child trafficking; promoting women into decision-making positions, provided advice on countering domestic violence and has achieved significant improvement in domestic violence legislation and protection of women and others.
- Measures have been taken to safeguard human rights issues through the Commission on Human Rights and Administrative Justice (CHRAJ).
- The Mandate of the Ministry of Justice has been strengthened as the defender of the constitutional order, the guarantor of the rights and liberties of the citizens, the protector of the state legal interest, the enforcer of the criminal laws, the developer of the human resources of the legal sector and the championing of the rule of law.
- Civil Society Organizations like the Human Rights Documentation Centre, National Association of Persons Living with HIV (NAP+), Ghana HIV and AIDS Network, West African Project to Combat HIV and AIDS, the Centre For Popular Education and Human

Rights, Centre for Democratic Development, etc. have been supported to provide support to PLHIV, conduct advocacy on human right issues affecting PLHIV and MARPS, conduct Research to unearth problem affecting effective delivery of human Right services, capacity building on stigmatization and human right issues, formulation of legislations on HIV, etc.

MEASURES INSTITUTED BY UNAIDS GHANA TO ADDRESS HUMAN RIGHTS, STIGMA AND DISCRIMINATION ISSUES IN GHANA

- UNAIDS spearheaded the generation of evidence for human rights, stigma and discrimination interventions by commissioning a legal audit in 2010. The findings informed the development of the human rights, stigma and discrimination component of the NSP and the MARPS Strategy for 2011 to 2015.
- Fact sheets on prevention of stigma and human rights of PLHIVs and MARPS have been developed and operationalised. PLHIVs and key MARPS groups have now identified with their rights and know where to go for redress in cases of violations. This was not available before.
- Various levels of capacity building for legal, paralegal groups, the Media and Religious groups have been provided.
- The role of the media in reporting on HIV related stigma and discrimination has been enhanced with prospects of better collaboration with GHANA AIDS Commission and its partners in addressing issues on stigma and discrimination.
- UNAIDS has in collaboration with CDD-Ghana enhanced the understanding of key Parliamentarians, Members of the Judiciary, Ministry of Justice, the Commission on Human Rights and Administrative Justice, the Attorney Generals Department at national and regional levels on stigma and discrimination against PLHIV and MARPS.
- Measures were also instituted to remove punitive laws, policies, practices, that block effective responses to AIDS. They include a code of conduct for the Ghana Police which focused on punishment for members who infringed on the Human Rights of MSM and FSW. Female Sex Workers in the Greater Accra, Eastern, Western and Ashanti Regions were trained as focal points.
- Legal services were also procured for four MSM in the Western Region who were prosecuted on allegations of "Unnatural Carnal Knowledge".
- A draft HIV and AIDS bill intended to create a favourable environment for HIV prevention, treatment, care and support and human rights was developed.
- Religious groups were sensitized to have better understanding on human rights and stigma related issues more than ever before. They have renewed their commitment to the national campaign.

- There is further increased advocacy by CSOs on stigma and discrimination as evidenced by the first ever film festival on Stigma and discrimination by Red Ribbon Film Festival International with support from UNAIDS.

IMPACT ON THE NATIONAL HIV AND AIDS SITUATION

The 2010 national adult HIV prevalence has been estimated at 1.5% with an estimated 221,941 persons made up of 95,206 males and 126,735 females living with HIV and AIDS (Male to Female ratio of 1:1.33) (2010 National HIV and AIDS Sentinel survey, National AIDS Control Programme).

CSW: In 2009, the HIV prevalence among sex workers was 25.1% which is a decline from the 34% in 2006. A recent study on the modes of transmission has indicated that low risk heterosexual sexual activity (30.2%), Casual heterosexual sex, (15.5%) and sex with partners of clients of sex workers (23.0%).

MSM: The only available bio-behavioural data on MSM is from a study by SHARP among 360 MSM in Accra in 2006

CHALLENGES AND CONSTRAINTS

1. The NSP 2011-2015 identifies stigmatization, discrimination and marginalization of PLHIV and MARPS as a key determinant of the spread of HIV in Ghana. These people have difficulties accessing HIV prevention services due to stigma and discrimination, social hostility, fear of losing jobs and families and even verbal and physical violence. According to the 2008 Ghana Demographic and Health Survey, only 32% of women and 43% of men would buy fresh food from a shopkeeper living with HIV. Additionally, only 11% of women and 19% of men aged 15 to 49 years expressed accepting attitudes on all four measures of stigma and discrimination.

2. The size of these populations is also not known and services may not be reaching a significant number of them.

3. Current funding challenges may affect effective delivery of HIV and AIDS services.

4. The legal audit commissioned by UNAIDS and the Ghana AIDS Commission and conducted by the Human Rights Advocacy Centre found the following challenges:

- There are no explicit laws protecting the rights of PLHIV and MARPS in Ghana.
- Anti-discrimination - Several acts strengthen the Constitutional prohibition against discrimination but, they do not address the issue of HIV/AIDS-based discrimination.
- Sexual and Transmission Offences - The law regarding the negligent transmission of HIV is less clear and there have been no cases relating to the transmission of the virus. Domestic violence laws do criminalize the intentional transfer of HIV but there are inconsistencies and the issue of consent to harm is questionable.
- Criminalized PLHIV - There is a lack of protection for commercial sex workers (**CSWs**). Ghanaian policy does not advocate harm reduction programs to prevent the contraction

and spread of HIV amongst intravenous drug users ('IDUs'). The illegality of homosexuality is a recurring problem for Ghanaian laws.

- Prison/Correctional Laws - The laws and policies do not address the prevention of transmission of the virus between prisoners through the provision of condoms.
- Employment - Pre-employment screening is prohibited, but there is a lack of clear implementation, particularly for the Police Service and Armed Forces.
- The lack of attention given to women's issues was also mentioned
- Many institutions have low level of awareness of governmental programs regarding HIV/AIDS; this presents a significant barrier to the protection of PLHIV.

WAY FORWARD

1. The laws and policies need to address ostracized groups, including MSM and certain professions such as commercial sex work. Currently, the activities of these groups are criminalized which inhibits the development of mechanisms to prevent discrimination against them.
2. There's need for a clear policy that regulates the pre-employment screening of members of the public services, security agencies and armed forces. The policy must prescribe the circumstances where mandatory screening is sanctioned.
3. The laws and policies governing the workplace, accommodation, healthcare and education sectors need specific policies to ensure the effective implementation of anti-discrimination provisions.
4. There's need to support increased financial commitment to the national HIV and AIDS response strengthen advocacy to raise awareness of stigma and discrimination, particularly against MARPs, amongst leaders and key professional groups.
5. Provide assistance in sensitizing PLWHA on their rights and strengthen their advocacy skills. Inclusion of PLWHA as a group of persons who are eligible to receive free legal assistance under the Legal Aid Scheme.

References:

1. The national HIV and AIDS Strategic Plan, 2011 -2015
2. UN Declarations on Universal access to Treatment, Care and Support for HIV and AIDS 2000 to 2010
3. [Technical guidance note for Global Fund HIV proposals](#) (UNAIDS/WHO, 2010)