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**30<sup>th</sup> Meeting of the UNAIDS Programme Coordinating Board**  
Geneva, Switzerland  
5-7 June 2012

**Follow-up to the thematic segment from the 29<sup>th</sup> PCB meeting**  
*HIV and enabling legal environments*

**Additional documents for this item:** *none*

**Action required at this meeting - the Programme Coordinating Board is invited to:**

- a. *Urge* States, with the support of UNAIDS and civil society, to:
  - i. *Recognize* that enabling legal environments are critical to effective and rights-based AIDS responses and work to achieve, through law, law enforcement and access to justice, the commitments made in the *2011 Political Declaration*.
  - ii. *Conduct* legal audits to assess the impact of laws, law enforcement and access to justice in the context of HIV, with a view to improve these three components so that they support universal access and HIV prevention, treatment, care and support.
  - iii. *Implement* programmes to support police, lawyers, parliamentarians religious leaders, and judges (including labour judges, labour administration authorities and labour inspectors) to be sensitized to and informed about HIV-related issues and protect people living with, vulnerable to or affected by HIV from discrimination and violence and support their access to HIV services; and protect the rights of women and children in the context of HIV, including their property and inheritance rights, as well as their right to be free from domestic and other violence that increases their vulnerability to HIV.
  - iv. *Increase* access to justice and reduce stigma and discrimination for people living with HIV, including their families, women, children and key populations by expanding programmes to: reduce stigma and discrimination in the general population and among health care workers, with an emphasis on ensuring confidentiality and informed consent in health care settings; improve legal literacy and provision of legal services; and eliminate violence against women, as well as gender norms that put women and men at risk of HIV infection.
  
- b. *Call upon* UNAIDS to support these Recommendations through the activities listed in paragraph 19.

**Cost implications for decisions:** *none*

## BACKGROUND

1. At its 26th meeting, the Joint United Nations Programme on HIV/AIDS (UNAIDS) Programme Coordinating Board agreed that the topic of the thematic segment of the 29th meeting would be *HIV and Enabling Legal Environments*. The objective of the session was to provide participants with an opportunity to gain a more in-depth understanding of the relevance of the legal environment to HIV, including that it can help or hinder national HIV responses. It also aimed to enable participants to reflect on the challenges and opportunities in ensuring that legal environments support effective national responses to HIV, and in this regard, to review best practices that facilitate access to HIV prevention, treatment, care and support services.
2. In the thematic segment Background Note: *HIV and Enabling Legal Environments* (Background Note), reference was made to States' commitments regarding the legal environment in the *2011 Political Declaration on HIV and AIDS: Intensifying Our Efforts to Eliminating HIV and AIDS (2011 Political Declaration)*.<sup>1</sup> In the *2011 Political Declaration*, States reaffirmed their commitment to "fulfil obligations to promote universal respect for and the observance and protection of all human rights and fundamental freedoms for all" in their responses to HIV.<sup>2</sup> They also renewed their commitment "to intensify national efforts to create enabling legal, social and policy frameworks in each national context in order to eliminate stigma, discrimination and violence related to HIV and promote access to HIV prevention, treatment, care and support."<sup>3</sup> In the *Political Declaration*, States also acknowledged that access to treatment and medication is key to the HIV response and that "improvements can be made, *inter alia* through national legislation [and] regulatory policy."<sup>4</sup> With regard to access to justice, States committed in the *2011 Political Declaration* to implement "programmes aimed at eliminating stigma and discrimination against people living with and affected by HIV, including their families, including through sensitizing police and judges, training health care workers in non-discrimination, confidentiality and informed consent, supporting national human rights learning campaigns, legal literacy, and legal services, as well as monitoring the impact of the legal environment on HIV prevention, treatment, care and support."<sup>5</sup> The *2011 Political Declaration* reaffirmed the sovereign rights of all States and noted the need for each State to implement these commitments in accordance with its "national laws, national development priorities and international human rights."<sup>6</sup>
3. The thematic segment was also relevant to the *UNAIDS Strategy 2011-2015: Getting to Zero (UNAIDS Strategy)*.<sup>7</sup> The *UNAIDS Strategy* urges States to implement protective laws and measures to guarantee that all people benefit from HIV programmes and have equal and affordable access to justice regardless of health

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<sup>1</sup> UNAIDS/PCB(29)/11.27 (December 2011) ([http://www.unaids.org/en/media/unaids/contentassets/documents/pcb/2011/thematic%20segment\\_final\\_correction2Dec.pdf](http://www.unaids.org/en/media/unaids/contentassets/documents/pcb/2011/thematic%20segment_final_correction2Dec.pdf)).

<sup>2</sup> *Political Declaration on HIV and AIDS* (2011), United Nations General Assembly, para 38 ([http://www.un.org/ga/search/view\\_doc.asp?symbol=A/65/L.77](http://www.un.org/ga/search/view_doc.asp?symbol=A/65/L.77)).

<sup>3</sup> *Id.* at para 77.

<sup>4</sup> *Id.* at para 36.

<sup>5</sup> *Id.* at para 80.

<sup>6</sup> *Id.* at para 2.

<sup>7</sup> *UNAIDS 2011-2015 Strategy: Getting to Zero* (2010), p 43

([http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2010/JC2034\\_UNAIDS\\_Strategy\\_en.pdf](http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2010/JC2034_UNAIDS_Strategy_en.pdf)).

status, sexual orientation, drug use or sex work.<sup>8</sup> It describes specific goals and actions necessary to ensure that the legal environment works for the HIV response, not against it.<sup>9</sup>

4. To further highlight the importance of the legal environment, the PCB NGO delegation dedicated its December 2011 report to the PCB to legal issues and the HIV response.<sup>10</sup> The report was built on data compiled by focus groups from around the world that centred on understanding how the legal environment affects HIV prevention, treatment, care and support.<sup>11</sup> Those who participated in the focus groups reinforced the importance of the legal environment in the HIV response and strongly supported the view that punitive laws and policies, as well as stigma and discrimination, undermine the HIV response by limiting access to and/or discouraging uptake and use of HIV-related services.<sup>12</sup>
5. As discussed in the Background Note and raised by J.V.R. Prasada Rao, Commissioner for the Global Commission on HIV and the Law, in the introduction to the thematic segment, the Global Commission on HIV and the Law (Commission), led by the United Nations Development Programme (UNDP) on behalf of the UNAIDS family, also focuses on the impact of legal environment on the HIV response.<sup>13</sup> The Commission was established to interrogate the relationship between legal responses, human rights and HIV. It examines the ways in which legal environments can block effective HIV responses, and also the ways in which laws, law enforcement and access to justice can support more effective HIV responses. The Commission will release its actionable, evidence-informed and rights-based recommendations for the HIV response in July 2012.
6. The Background Note to the thematic segment described the three components of the legal environment: law, law enforcement and access to justice.<sup>14</sup> It was noted that each component is critical to effective, rights-based HIV responses and can be supported by concrete programmatic actions. The first component, law (whether its source be national legislation, jurisprudence, tradition/custom, religion or international law) can embody existing social values, but may also set standards, such as non-discrimination and equality—including gender equality—to which the society aspires and which, among other things, helps support the development and implementation of effective and inclusive responses to HIV. The law can also establish a legally recognized comprehensive framework for the national HIV response, including legally guaranteed rights to prevention and treatment, either specifically in reference to HIV or more generally in reference to the right to health. As for criminal laws that may act as barriers to HIV prevention, care, treatment and support, the Background Note emphasized that reforming such laws can involve a

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<sup>8</sup> *Id.* at 44.

<sup>9</sup> *Id.*

<sup>10</sup> Report by the NGO representative to the Board at the 29th meeting, UNAIDS/PCB(29)/11.18.rev.1 (December 2011) ([http://unaidspcbngo.org/?page\\_id=15047](http://unaidspcbngo.org/?page_id=15047)).

<sup>11</sup> *Id.* at 3.

<sup>12</sup> Report by the NGO representative to the Board at the 29th meeting, UNAIDS/PCB(29)/11.18.rev.1 (December 2011).

<sup>13</sup> [www.hivalwcommission.org](http://www.hivalwcommission.org). Background Note: *HIV and Enabling Legal Environments*, UNAIDS/PCB(29)/11.27, p 17-18 (December 2011)

([http://www.unaids.org/en/media/unaids/contentassets/documents/pcb/2011/12/20111125%20Thematic%20segment\\_en.pdf](http://www.unaids.org/en/media/unaids/contentassets/documents/pcb/2011/12/20111125%20Thematic%20segment_en.pdf)).

<sup>14</sup> Background Note: *HIV and Enabling Legal Environments*, UNAIDS/PCB(29)/11.27 (December 2011)

([http://www.unaids.org/en/media/unaids/contentassets/documents/pcb/2011/12/20111125%20Thematic%20segment\\_en.pdf](http://www.unaids.org/en/media/unaids/contentassets/documents/pcb/2011/12/20111125%20Thematic%20segment_en.pdf)).

range of actions, including de-penalization, decriminalization, regulation or legalization.<sup>15</sup> In addition, the law can protect against HIV-related discrimination, ensure that social support is provided and ensure access to prevention and treatment information, commodities and services, as well as legal assistance, in the context of HIV.

7. It was noted that law enforcement, the second component of the legal environment, addresses issues related to the police and the judiciary. For effective HIV responses, it is critical that law enforcement facilitates access to HIV services, does not increase vulnerability to HIV infection, and refrains from abusive practices, such as harassment, arbitrary arrest, extortion, violence and rape, particularly of key populations<sup>16</sup> such as sex workers, people who use drugs, men who have sex with men and transgender people. If properly sensitized to issues related to HIV and key populations, police and judges can be leaders in the HIV response, helping to ensure that people living with HIV, women, children and key populations are protected from discrimination and violence and have access to HIV services. The final component of the legal environment critical to the HIV response is access to justice. In order to have a rights-based response to HIV, people living with or vulnerable to HIV should be able to turn to the justice system to obtain redress if their human rights have been violated. To support them in realizing their rights requires, among other things, the establishment of programmes to provide legal literacy, legal services and training of police, lawyers and judges.
8. Though the legal environment can play a protective and enabling role, it can also pose significant barriers to an effective and rights-based approach to HIV. As noted in the Background Note,<sup>17</sup> as of 2010, one in three countries reported that they still did not have laws prohibiting discrimination against people living with HIV.<sup>18</sup> In the same year, 46% of countries acknowledged the existence of laws, regulations and policies that obstructed access to prevention, treatment, care and support services for populations at higher risk.<sup>19</sup> As of 2011, some 47 countries continued to impose some form of restriction on the entry, stay and residence of people living with HIV.<sup>20</sup> Furthermore, many countries have laws that criminalize behaviours associated with certain key populations, including sex workers,<sup>21</sup> people who use drugs,<sup>22</sup> men who

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<sup>15</sup> *Id.* at 16.

<sup>16</sup> Nothing in this paper precludes any group from being classified as a key population, the determination of which should depend on the epidemiological context. See *2011 Political Declaration*, para 29.

"Each country should define the specific populations that are key to its epidemic and response, based on the epidemiological and national context." See also *UNAIDS 2011-2015 Strategy: Getting to Zero* (2010), endnote 41, which defines key populations as "groups of people who are more likely to be exposed to HIV or to transmit it and whose engagement is critical to a successful HIV response. In all countries, key populations include people living with HIV. In most settings, men who have sex with men, transgender people, people who inject drugs and sex workers and their clients are at higher risk of exposure to HIV than other groups. However, each country should define the specific populations that are key to their epidemic and response based on the epidemiological and social context."

<sup>17</sup> Background Note: *HIV and Enabling Legal Environments*, UNAIDS/PCB(29)/11.18rev.1, p. 6-7.

<sup>18</sup> Based on UNGASS country reports, see UNAIDS, Report of the Global AIDS Epidemic, 2010, p. 128 ([http://www.unaids.org/globalreport/documents/20101123\\_GlobalReport\\_full\\_en.pdf](http://www.unaids.org/globalreport/documents/20101123_GlobalReport_full_en.pdf)).

<sup>19</sup> *Id.* at 126.

<sup>20</sup> For list maintained by the UNAIDS Secretariat, see [http://www.unaids.org/en/media/unaids/contentassets/documents/priorities/20110620\\_CountryList\\_TravelRestrictions\\_en.pdf](http://www.unaids.org/en/media/unaids/contentassets/documents/priorities/20110620_CountryList_TravelRestrictions_en.pdf).

<sup>21</sup> More than 100 countries criminalize some aspect of sex work. 2009 Country Reports on Human Rights Practices, United States Department of State, Bureau of Democracy, Human Rights and Labor (<http://www.state.gov/g/drl/rls/hrrpt/2009/index.htm>).

<sup>22</sup> Most countries have policies or laws that result in those dependent on drugs being subject to criminal penalties, including incarceration, which can further increase vulnerability to HIV infection. "Drugs, punitive laws, policies, and policing practices, and HIV/AIDS: a briefing paper". New York,

have sex with men and transgender persons.<sup>23</sup> In terms of access to justice, a 2009-2010 study conducted by UNDP, UNAIDS and the Global Fund to Fight AIDS, Tuberculosis and Malaria regarding the Global Fund's HIV portfolio for Rounds 6 and 7 found that 23% of the programmes that would support access to justice were not budgeted for or implemented.<sup>24</sup> The study also found that less than one quarter of the planned programmes specifically targeted key, and often criminalized, populations, including men who have sex with men, people who inject drugs, sex workers, transgender people and prisoners.<sup>25</sup>

## **PCB THEMATIC DISCUSSION OF OPPORTUNITIES AND CHALLENGES POSED BY THE LEGAL ENVIRONMENT IN THE CONTEXT OF HIV**

9. The thematic segment opened with a message from Paul De Lay, UNAIDS Deputy Executive Director, on the importance of the legal environment in the HIV response. He noted that there has not been a health condition in human memory that has resulted in so much stigma and discrimination, nor has there been a health condition that involved so many people who are already marginalized and criminalized. While it is not the role of UNAIDS to challenge the national sovereignty of countries to pass laws, it is the role of UNAIDS to support every branch of government and every part of society, including leaders in the legal world, to implement effective and rights-based AIDS responses, including those that provide universal access to HIV services. J.V.R. Prasada Rao also spoke about the increased need to ensure that legal environments facilitate effective national AIDS responses in a world where funding is scarce and HIV prevention and treatment efforts face serious constraints.
10. Through a lively interactive dialogue, based on the format of the Regional Dialogues of the Global Commission on HIV and the Law and moderated by Riz Khan, well-known international journalist, participants in the thematic segment expressed a variety of views concerning the legal environment and its impact on national AIDS responses. One participant stated that legal environment, which is often a reflection of the social environment, should be sensitive to the national context and epidemiological situation. In his view, it was of highest importance that barriers to access to services be overcome within that social and legal environment. Some participants, including representatives of various key populations, provided testimonials in which they asserted that their safety, well-being and health had been undermined in the context of HIV by punitive laws concerning sex work, drug use, sexual orientation and gender identity. They also stated that in many countries, there is insufficient protective legislation and/or failure to implement existing protective laws, including anti-violence and non-discrimination laws.<sup>26</sup> Testimonies were given concerning overly-broad and disproportionately harsh laws that criminalize HIV nondisclosure, exposure and transmission. Moreover, there were

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Human Rights Watch and the International Harm Reduction Association, 2009 (<http://www.hrw.org/en/news/2009/11/30/drugs-punitive-laws-policies-and-policing-practices-andhiv aids>)

<sup>23</sup> It is reported that 76 countries continue to criminalize same-sex sexual relations between consenting adults, with five countries retaining the possibility of the death penalty for such acts. Eddie Bruce-Jones and Lucas Paoli-Itaborahy, State-sponsored homophobia—a world survey of laws prohibiting same sex activities between consenting adults, International Lesbian, Gay, Bisexual, Trans and Intersex

Association, 2011 ([http://old.ilga.org/Statehomophobia/ILGA\\_State\\_Sponsored\\_Homophobia\\_2011.pdf](http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2011.pdf)).

<sup>24</sup> UNDP, UNAIDS and the Global Fund to Fight AIDS, Tuberculosis and Malaria, *Human rights programmes in Global Fund-supported HIV responses in Rounds 6 and 7*. New York, United Nations Development Programme.

<sup>25</sup> *Id.*

<sup>26</sup> See also Report by the NGO representative to the Board at the 29th meeting, UNAIDS/PCB(29)/11.18.rev.1 (December 2011).

examples that concerned severe restrictions on women's sexual and reproductive health, including the forced sterilization of women living with HIV. Participants also provided testimonies of how members of key populations, such as sex workers, have been the subject of abusive or discriminatory police practices. Some speakers expressed their views that these practices not only violate human rights, thereby increasing risk and vulnerability, but also make it very difficult for programmes to reach key populations or for them to take up HIV-related services.

11. Some participants also discussed how many people living with HIV and members of key populations are not aware of their rights, especially as they relate to national laws that impact them in the context of HIV.<sup>27</sup> Other participants stated that HIV cannot be addressed through the use of criminal sanctions, which in their view, often increases vulnerability by driving at-risk behaviour underground and away from health care services. These participants asserted that such laws also tend to increase marginalization, abuse and violence. Some participants called for the decriminalization of certain key populations, such as men who have sex with men, people who use drugs and sex workers, asserting that decriminalization would enable these groups to reduce their risk of acquiring HIV and more freely access HIV prevention, care, treatment and support services. Another participant noted that enacting protective laws will hamper national and international efforts to combat HIV and requested respect for differing points of view. This participant stated that law reform must come from within a society, and that because there are major social and cultural sensitivities around many of these issues, social change must occur before legal reform may be feasible. Several participants emphasized UNAIDS' role to support governments and civil society to establish and maintain protective legal environments that enable an effective HIV response.

## **EXAMPLES OF BEST PRACTICES**

12. Some participants also shared examples of how the legal environment can improve responses to HIV and how the legal and social environments can be improved by specific programmes. Many participants emphasized the need to increase access to treatment through various laws and policies, including using the flexibilities of the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and ensuring that trade agreements do not undermine treatment access. Participants underlined that increasing access to treatment is not only critical for those in need of such treatment, but also critical to advance HIV prevention. A participant emphasized that it is vital to ensure the best available services for all people living with HIV, regardless of how they were infected or whether their behaviour was legal or not. Some participants described how, in some places, police and law enforcement have been sensitized to the nature and objectives of the national AIDS response and have been encouraged to play a role in supporting HIV outreach to and protection against violence for key populations.
13. Several participants spoke about stigma and discrimination reduction, either through the use of media campaigns and films, or through the implementation of anti-discrimination policies in various important sectors, such as employment. Some participants spoke of the need to expand the engagement of the police, the judiciary and faith-based groups in national AIDS responses. Others agreed that expanded

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<sup>27</sup> *Id.*

partnerships and dialogue among relevant stakeholders are vital to the development of programmes that ensure human rights and access to HIV services. Some speakers noted that they had enacted programmes, such as those involving harm reduction, that were considered by some as controversial, but it was precisely such programmes that were successful in addressing the HIV epidemic and public health generally.

14. In addition, many speakers recognized that it is critical for women, children, people living with HIV and key populations to have equal, affordable, accessible and available access to justice. They urged governments to scale up programmes on legal literacy, legal services, dispute resolution and training of law enforcement and health care workers. One speaker pointed out that though the importance of legal aid was generally recognized, many lawyers and judges are not trained to work with HIV cases or with groups vulnerable to HIV. Some participants presented examples of policies, programmes and initiatives, run by either government or civil society, which focused on increasing access to justice and called for the strengthening of programmes that empower women, sex workers or other affected groups to know and demand their rights in the context of HIV.
15. Thus, throughout the thematic segment on *HIV and Enabling Legal Environments*, participants commented on the critical impact of the legal environment, for good or bad, on those living with and vulnerable to HIV and on access to HIV prevention, treatment, care and support services. They also discussed a wide range of practical and concrete actions by which governments and civil society can establish enabling legal environments for national AIDS responses, pointing out through various interventions that, when enabling, legal environments, can:
  - a) Facilitate access to HIV prevention, treatment, care and support services for those living with and vulnerable to HIV;
  - b) Protect against discriminatory, violent and degrading treatment of people living with HIV, women, children and key populations;
  - c) Strengthen and expand the reach of the justice system and access to it; and
  - d) Promote a greater knowledge of human and legal rights in the context of national AIDS responses.

## CONCLUSION

16. In the closing session of the thematic segment, the Honourable Michael Kirby, former Justice of the High Court of Australia and Commissioner from the Global Commission on HIV and the Law, summed up many of the critical points made during the session. In his remarks, he underlined that law can be both a help and a hindrance in the HIV response. He highlighted various personal testimonies and examples of good practices that were shared during the segment, noting that the common theme was that law, while it can be punitive, can also be protective, a great educator, and a restraint from wrongdoing. Mr Kirby noted that actors in the HIV response must set aside differences and take action urgently. One way to take action is for States to review the impact of the legal environment on national AIDS responses, with an aim to ensuring that the legal environment does not act as an obstacle to universal access. He asserted that, within this context, States should use their legal environments to achieve the human rights and health commitments made at the June 2011 High Level Meeting in New York.



17. Jan Beagle, Deputy Executive Director of UNAIDS, brought the session to a close by noting that in every national legal environment and in each component of the legal environment (law, law enforcement and access to justice), there is much that can be accomplished through political, programmatic and pragmatic efforts tailored to the challenges posed by every national epidemic. She expressed appreciation to participants for the dialogue, exchanges and learning that occurred throughout the day and thanked Riz Khan for his very able moderation and Michael Kirby for his inspiring summation.

## RECOMMENDATIONS

18. Based on the discussions from the December 2011 thematic segment, the Board is invited to:

- a. **Urge States, with the support of UNAIDS and civil society, to:**
  - i. **Recognize** that enabling legal environments are critical to effective and rights-based AIDS responses<sup>28</sup> and work to achieve, through law, law enforcement and access to justice, the commitments made in the *2011 Political Declaration*.
  - ii. **Conduct** legal audits<sup>29</sup> to assess the impact of laws, law enforcement and access to justice in the context of HIV, with a view to improve these three components so that they support universal access and HIV prevention, treatment, care and support.<sup>30</sup>
  - iii. **Implement** programmes to support police, lawyers, parliamentarians, religious leaders, and judges (including labour judges, labour administration authorities and labour inspectors) to be sensitized to and informed about HIV-related issues and protect people living with, vulnerable to or affected by HIV from discrimination and violence and support their access to HIV services;<sup>31</sup> and protect the rights of women and children in the context of HIV, including their property and inheritance rights, as well as their right to be free from domestic and other violence that increases their vulnerability to HIV.<sup>32</sup>
  - iv. **Increase** access to justice and reduce stigma and discrimination for people living with HIV, including their families, women, children and key populations by expanding programmes to: reduce stigma and discrimination in the general population and among health care workers, with an emphasis on ensuring confidentiality and informed consent in health care settings; improve legal literacy and provision of legal services;<sup>33</sup> and eliminate violence against women, as well as gender norms that put women and men at risk of HIV infection.<sup>34</sup>

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<sup>28</sup> *2011 Political Declaration*, para 77.

<sup>29</sup> The term "legal audit" is an umbrella term which refers to some form of analysis of laws, policies and practices, in this case that impact the HIV response. According to the *UNAIDS, Guidance Note: Addressing HIV-related Law at National Level*, September 2008, legal audits can include an assessment of: (a) existing laws on the books in critical areas that are relevant to HIV prevention, treatment, care and support, (b) how law enforcement through the courts, police and prisons impacts HIV, (c) the role of Parliamentarians in leadership, legislation and budget authorization for the response to HIV, and (d) whether the Ministries of Interior, Justice, Immigration, and Gender are engaged, and have the capacity to be engaged, in a meaningful multisectoral response.

<sup>30</sup> *2011 Political Declaration*, para 78.

<sup>31</sup> *Id.* at para 77, 80, 85.

<sup>32</sup> *Id.* at para 81.

<sup>33</sup> *Id.* at para 80.

<sup>34</sup> *Id.* at para 81.

**b. Call upon UNAIDS to support these Recommendations through the activities listed below.**

19. The following paragraphs describe specific activities that UNAIDS will undertake to support these outcomes. For explanatory purposes, there is also text that describes desirable outcomes<sup>35</sup> related to the Recommendations. The Recommendations derive from and support the commitments made in the *2011 Political Declaration*. The activities for UNAIDS also derive from and support the *2012-2015 Unified Budget, Results and Accountability Framework* (UBRAF). Reporting on the relevant outcomes may be done through the UBRAF yearly reporting process.

**Recommendation 1:** Recognize that enabling legal environments are critical to effective and rights-based AIDS responses<sup>36</sup> and work to achieve, through law, law enforcement and access to justice, the commitments made in the *2011 Political Declaration*.

Desirable Outcomes:

- a) Greater understanding of and commitment from Member States to protective legal environments in the context of HIV;
- b) States taking sufficient steps, based on costed and budgeted plans, to ensure protective legal environments in the context of HIV;
- c) UNAIDS expanding efforts to support governments and civil society to implement and benefit from protective legal environments through the identification of best practices and provision of guidance and technical support; and
- d) National capacities strengthened to monitor and improve the impact of the legal environment and to implement programmes to reduce stigma and discrimination and increase access to justice, as provided in the *2011 Political Declaration*.

Activities for UNAIDS:

- a) Identify best practices regarding legal protections and access to justice for people living with HIV, women, children and key populations and promote the inclusion of such best practices into national AIDS responses;<sup>37</sup>
- b) Support countries to include, fund and implement programmes to reduce stigma and discrimination and increase access to justice through national strategic plans, with an emphasis on the 30+ countries;<sup>38</sup>
- c) Provide guidance on the costing and budgeting of such programmes;<sup>39</sup> and
- d) Assist in ensuring engagement and dialogue in a multi-sectoral response to HIV, including through developing links among the Ministries of Justice, Interior and

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<sup>35</sup> Please note that desirable outcomes refer to general outcomes that would be supported by action by States, civil society and UNAIDS. Whereas, the PCB's Decisions/Recommendations outline specific activities for the Joint Programme.

<sup>36</sup> *2011 Political Declaration*, para 77.

<sup>37</sup> Connected with UBRAF Goal C1: "Countries with punitive laws and practices around HIV transmission, sex work, drug use or homosexuality that block effective responses reduced by half." UNAIDS, *2012-2015 Unified Budget, Results and Accountability Framework*, UNAIDS/PCB(28)/11.11 (May 2011)

([http://www.unaids.org/en/media/unaids/contentassets/documents/pcb/2011/20110511\\_UBRAF%20Part%202\\_final\\_en.pdf](http://www.unaids.org/en/media/unaids/contentassets/documents/pcb/2011/20110511_UBRAF%20Part%202_final_en.pdf)).

<sup>38</sup> Connected with UBRAF Outcome C1.2: "Stigma and discrimination reduced and access to justice increased for people living with HIV and other key populations in all countries."

<sup>39</sup> *Id.*

Gender, parliaments, National Human Rights Commissions, the judiciary, civil society, religious leaders and the health sector.<sup>40</sup>

**Recommendation 2:** Conduct legal audits<sup>41</sup> to assess the impact of laws, law enforcement and access to justice in the context of HIV, with a view to improve these three components so that they support universal access and HIV prevention, treatment, care and support.<sup>42</sup>

Desirable Outcomes:

- a) Protective laws concerning non-discrimination and non-violence with regard to people living with HIV, women, children and key populations enacted, disseminated, resourced and enforced;
- b) Programmes to improve the legal environment expanded;
- c) Promotion of programmes, laws and policies that will increase access to treatment;
- d) Provision of legal protection against discrimination for people living with HIV, women, children and key populations in various sectors, including housing, labour, education and social services; and
- e) Expanded means by which to obtain redress for discrimination and violence in the context of HIV.

Activities for UNAIDS:

- a) Provide guidance and support to governments and civil society in terms of conducting legal audits;<sup>43</sup>
- b) Work with governments and civil society on the removal of HIV-related restrictions on entry, stay and residence;<sup>44</sup>
- c) Support governments to strengthen national legislative systems to make use of TRIPS flexibilities to work towards universal access;<sup>45</sup> and
- d) Provide guidance on protective laws and law enforcement that facilitate access to HIV prevention, care, treatment and support services for people living with, affected by or vulnerable to HIV, taking into account a country's specific epidemiological and social situation.<sup>46</sup>

**Recommendation 3:** Implement programmes to support police, lawyers, parliamentarians, religious leaders and judges (including labour judges, labour administration authorities and labour inspectors) to be sensitized to and informed about HIV-related issues and protect people living with, vulnerable to or affected by HIV from discrimination and violence and support their access to HIV services;<sup>47</sup> and protect the rights of women and children in the context of HIV, including their property and

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<sup>40</sup> Connected with UBRAF Goal C1: "Countries with punitive laws and practices around HIV transmission, sex work, drug use or homosexuality that block effective responses reduced by half."

<sup>41</sup> Please refer to footnote 29.

<sup>42</sup> 2011 Political Declaration, para 78.

<sup>43</sup> Connected with UBRAF Goal C1: "Countries with punitive laws and practices around HIV transmission, sex work, drug use or homosexuality that block effective responses reduced by half."

<sup>44</sup> Connected with UBRAF Goal C2: "HIV-related restrictions on entry, stay and residence eliminated in half of all national HIV responses."

<sup>45</sup> Connected with UBRAF Goal B1.2: "Increased access to and availability of affordable HIV-related commodities."

<sup>46</sup> Connected with UBRAF Goal C1: "Countries with punitive laws and practices around HIV transmission, sex work, drug use or homosexuality that block effective responses reduced by half."

<sup>47</sup> 2011 Political Declaration, para 77, 80, 85.

inheritance rights, as well as their right to be free from domestic and other violence that increases their vulnerability to HIV.<sup>48</sup>

Desirable Outcomes:

- a) Illegal or abusive policing activities that target key populations and hinder access to HIV prevention, treatment, care and support eliminated;
- b) Law enforcement practices that support the uptake of HIV prevention, treatment, care and support services increased; and
- c) Police, lawyers, judges, parliamentarians and prison staff sensitized to the HIV-related rights and needs of people living with HIV, women, children and key populations.

Activities for UNAIDS:

- a) Develop guidance materials for police, lawyers, parliamentarians and judges to assist them in addressing the HIV-related rights and needs of people living with HIV, women, children and key populations and reduce abusive and discriminatory behaviour amongst law enforcement;<sup>49</sup>
- b) Assist countries in training police, parliamentarians, lawyers, judges (including labour judges, administration authorities and inspectors) on issues related to human rights and HIV, including HIV-related discrimination in employment,<sup>50</sup> and
- c) Develop and disseminate guidance materials for prison staff and prisoners that promote access to HIV prevention, treatment, care and support services.<sup>51</sup>

**Recommendation 4:** Increase access to justice and reduce stigma and discrimination for people living with HIV, including their families, women, children and key populations by expanding programmes to: reduce stigma and discrimination in the general population and among health care workers, with an emphasis on ensuring confidentiality and informed consent in health care settings; improve legal literacy and provision of legal services;<sup>52</sup> and eliminate violence against women and gender norms that put women and men at risk of HIV infection.<sup>53</sup>

Desirable Outcomes:

- a) National capacities strengthened to provide or scale-up legal aid and legal literacy programmes for people living with HIV, women, children and key populations;
- b) Health care workers sensitized on their own HIV-related rights, as well as the importance of non-discrimination, duty to treat, informed consent, and confidentiality for people living with, affected by and vulnerable to HIV;
- c) Programmes developed and implemented that change gender norms and practices that put women and men at risk of HIV infection, reduce violence against women, and empower women and girls affected by HIV; and
- d) Expanded programmes to reduce stigma and discrimination.

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<sup>48</sup> *Id.* at para 81.

<sup>49</sup> Connected with UBRAF Goal C1: "Countries with punitive laws and practices around HIV transmission, sex work, drug use or homosexuality that block effective responses reduced by half."

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> 2011 Political Declaration, para 80.

<sup>53</sup> *Id.* at para 81.

Activities for UNAIDS:

- a) Conduct a review to identify the gaps regarding programmes to reduce stigma and increase access to justice, with an emphasis on the 30+ countries;<sup>54</sup>
- b) Update and widely disseminate guidance on the establishment or scaling-up of legal services and legal aid;<sup>55</sup>
- c) Assist in the development of trainings for health care workers on HIV, including how to treat and address the needs of people living with HIV and vulnerable populations, including the rights to informed consent, non-discrimination and confidentiality;<sup>56</sup>
- d) Encourage and support the development and implementation of “know your rights and laws” campaigns and other legal literacy and patients’ rights programmes;<sup>57</sup> and
- e) Expand programmes to reduce violence against women, gender norms that put men and women at risk of HIV infection, and violations of property and inheritance rights.<sup>58</sup>

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<sup>54</sup> Connected with UBRAF Outcome C1.2: “Stigma and discrimination reduced and access to justice increased for people living with HIV and other key populations in all countries.”

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> Connected with UBRAF Goal C3: “HIV-specific needs of women and girls are addressed in at least half of all national HIV responses.”