

**A COMPREHENSIVE ANALYSIS OF THE HIV &
AIDS LEGISLATION, BILLS,
POLICIES AND STRATEGIES IN THE EAST AFRICAN COMMUNITY**

Summary Report

**Submitted jointly by the EAC Secretariat HIV and AIDS Unit
&
UNDP Regional Service Centre for Africa
Addis Ababa (Ethiopia)**



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Background to harmonization of rights-based HIV and health related law, policy and strategy in the East African Community

In accordance with Chapter 21, Article 118 of the Establishment of the EAC, the Partner States of the East African Community (EAC) are required to undertake, among other activities, harmonization of national health policies and regulations and the promotion of exchange of information on health issues in order to achieve quality health within the Community.

The need to harmonize regional responses in law, regulation and policy to HIV and AIDS is a priority for the EAC. In the EAC as in the rest of Africa and the world, there is a growing recognition of the need to formulate rights-based laws, policies and strategies to promote responses to HIV which effectively protect the rights of all populations and promote universal access to HIV prevention, treatment, care and support.

Sub-Saharan Africa remains the region most severely affected by the HIV epidemic. In this region, nearly 1 in every 20 adults is living with HIV and it accounts for 24.7 million (nearly 71%) of the 35 million people living with HIV worldwide. In this region, 58% of the total number of people living with HIV are women. Ten countries in Sub-Saharan Africa, three of which are EAC Partner States (Kenya, Uganda and the United Republic of Tanzania) account for 81% of all people living with HIV in the region.

Further, 2.9 million children aged 0–14, 2.9 million young people aged 15–24 and more than 2.5 million people aged 50 years and older are living with HIV in Sub-Saharan Africa. Of the estimated 1.8 million people living with HIV who were affected by conflict, displacement or disaster in 2006, 1.5 million were living in Sub-Saharan Africa, with this number continuing to increase.

“Box 1: HIV among key populations in Sub-Saharan Africa”

Key populations such as sex workers, men who have sex with men and people who inject drugs share a significant portion of the HIV burden. Median HIV prevalence among sex workers in Sub-Saharan Africa is 20% compared with the global median of 3.9%. While information on HIV prevalence among men who have sex with men remains unavailable in some areas, existing research indicates high HIV prevalence rates in the region. In addition to criminal laws, stigma, discrimination, violence and other human rights violations directed at key populations create significant barriers to access to health care services, heightening the vulnerability of key populations.

Rights-based responses in law and policy have been identified as critical in the response to HIV and AIDS. The Global Commission on HIV and the Law found that the end of the global AIDS epidemic is within reach, but requires science and action to be accompanied by a tangible commitment to respecting human rights and dignity and ending injustice. It found that the law can make a material difference in people’s lives with the power to bridge the gap between vulnerability and resilience to HIV.

“Box 2: International and Regional Instruments guiding rights-based response to HIV”)

At both international and regional level, there are a number of instruments and frameworks guiding rights-based responses to HIV, including more recently the UNGASS 2011 Political Declaration on HIV and AIDS which commits all states to take steps to create enabling legal and regulatory frameworks to protect rights in the context of HIV and AIDS, as well as the African Union Roadmap on Shared Responsibility and Global Solidarity for AIDS, TB and Malaria Response in Africa which calls upon African Union Member States to invest in programmes that support vulnerable people and communities to know and claim their rights to health care.

Comprehensive Analysis of EAC Partner States' HIV-related Laws, Policies and Strategies

From around 2005, there has been a rise in the number of national laws to address HIV in various African countries, including Tanzania, Kenya, Burundi and Uganda. In 2011, the EAC Sectoral Council on Legal & Judicial Affairs advised that a framework for harmonization of national laws on HIV & AIDS be developed as a step towards further regional integration. In the following year, 2012, the East African Legislative Assembly (EALA) passed the EAC HIV and AIDS Prevention and Management Bill 2012. This Bill has since been assented to by the Heads of States of Kenya, Burundi and Uganda and awaits the assent of the other two Partner States.

In a bid to harmonize and standardize health law and policy in East Africa, the EAC in partnership with the Eastern African National Networks of AIDS Service Organisations (EANNASO) and the East African Health Platform (EAHP), with the support of the United Nations Development Programme Regional Service Centre for Africa (UNDP RSCA), has conducted a comparative analysis of Partner States' HIV and health laws, bills, policies and strategies. The analysis aimed to:

- Provide a comparative analysis of the EAC Partners States' HIV, health and related legislation, bills, policies and strategies;
- Identify strategic gaps and challenges in the domestic legal and regulatory frameworks of Partner States, in relation to the EAC HIV and AIDS Prevention and Management Bill;
- Make recommendations for steps to strengthen and harmonize domestic laws and policies, for purposes of regional harmonization; and
- To identify strategy gaps to inform the Post-2015 Agenda for the region.

The methodology used to do the analysis comprised the following:

- A desk review of all the legislations, bills, policies and strategies of the five EAC Partner States
- This was followed by a comprehensive analysis focusing on legal and policy gaps as measured against the EAC HIV and AIDS Prevention and Management Bill 2012.
- Validation meetings conducted with relevant stakeholders in the EAC Partner States to discuss the analysis
- Final comprehensive analysis looking at the gaps and making recommendations.

The following sections of this brief report present the analysis, (a) focusing on a synthesis of HIV and health-related laws, bills, policies and strategies in the five Partner States; (b) identifying legal, policy and strategic gaps; and (c) and recommending a framework to harmonize an enabling legal and regulatory framework for HIV and AIDS.

Contents of EAC HIV and AIDS Prevention and Management Bill 2012

The EAC HIV and AIDS Prevention and Management Bill 2012 seeks to create a uniform rights-based response to HIV in the region, obliging States to protect people living with or affected by HIV and AIDS from discrimination and abuse and provide appropriate prevention, treatment, care and support. Key provisions include protection of the rights of people living with or affected by HIV to non-discrimination including in relation to access to health care services; the right to freedom of movement; the right to privacy and confidentiality and non-disclosure of HIV status; provision for voluntary and confidential HIV testing (including by a young person with the capacity to understand the nature of the test), with pre-test and post-test counselling and a prohibition on compulsory HIV testing including for employment, education, marriage, insurance and travel into a Partner State; the provision of appropriate and accessible HIV education and information; the provision of prevention services including prevention of mother-to-child transmission (PMTCT) of HIV as well as the provision of treatment, care and support services including access to anti-retroviral therapy (ART) and other essential medicines and prophylaxis to treat HIV or prevent opportunistic infections. The Bill also includes protection of the rights of vulnerable populations, defined as including children living with or affected by HIV, women and girls, persons with disabilities, prisoners, older persons, refugees and internally displaced persons, as well as “most at risk populations” which includes “any group of persons who because of their particular personal, behavioural, situational or environmental characteristics are, or perceived to be at an increased level of risk of exposure to infection with HIV.”

Areas of Analysis

The analysis looked at each Partner State's laws, policies, strategies and plans as well as institutional responses to HIV and related health issues. Key areas of analysis included:

- The legal, policy and institutional framework to respond to HIV and AIDS;
- The protection of the rights of people living with HIV and other vulnerable and key populations to equality and non-discrimination;
- The presence or absence of provision in law for the specific criminalisation of HIV transmission;
- Laws and policies relating to voluntary HIV testing, mandatory HIV testing and disclosure;
- Laws and policies relating to access to sexual and reproductive health and rights for people living with HIV and other vulnerable and key populations;
- Laws and policies protecting workplace rights in the context of HIV and AIDS including a prohibition on pre-employment testing for HIV;
- Laws and policies regarding access to HIV and sexuality education and information;
- Laws and policies affecting the rights of key populations such as sex workers, men who have sex with men and people who inject drugs;
- Laws and policies relating to gender inequality, harmful gender norms and gender-based violence in the context of HIV;
- Laws and policies on children and HIV;
- Laws and policies on customs, traditions and religion and their relation to HIV and AIDS;
- Laws and policies on access to health care services;
- Laws and policies on conflict and post-conflict settings;
- Laws and policies on migration, cross-border movements and access to health care; and
- Laws and policies on insurance and HIV and AIDS.

Findings of Analysis

The analysis found that Partner States show a strong commitment to respond to HIV and AIDS through the enactment of a range of laws, policies, strategies and the development of institutional responses. It also shows that in accordance with the principles of the EAC HIV and AIDS Prevention and Management Bill 2012, there is agreement among Partner States on a number of key principles for inclusion in HIV law and policy such as protecting the rights of vulnerable populations in the context of HIV and AIDS such as people living with HIV, women and girls, young people and people with disabilities.

The analysis however also indicates a number of gaps at all levels and the need to harmonize legal and policy recommendations across Partner States in line with the EAC HIV and AIDS Prevention and Management Bill 2012.

Issues around the specific criminalization of HIV transmission and the failure to protect key populations in the context of HIV, particularly within the context of the criminalization of sex work, men who have sex with men and transgender people and people who use drugs, continue to remain contentious and do not align well with the EAC HIV & AIDS Prevention and Management Bill.

Additionally, the analysis found that while there continues to be strong emphases on enactment of laws and on drafting good policies in the context of HIV in Partner States, more needs to be done across the region to ensure that these laws, policies and strategies are applied on the ground and disseminated widely.

Future Imperatives

It is critical that Partner States align their national HIV and health-related laws, bills, policies and strategies to international legal instruments and with the provisions in the EAC HIV & AIDS Prevention and Management Bill.

Next Steps

1. Develop a regional plan to disseminate the Report widely among relevant stakeholders across the Partner States for additional comments and inputs.
2. Support stakeholders in the Partner States to develop action plans for implementation of the recommendations of the Report.
3. Develop modalities for monitoring the implementation of the recommendations to align national laws, policies and strategies to the EAC HIV and AIDS Prevention and Management Bill 2012.
4. Document the best practices undertaken by Partner States in the course of implementing the recommendations for aligning the national laws, policies and strategies to the EAC HIV and AIDS Prevention and Management Bill 2012.

KEY FINDINGS:

Member States

- Are committed to respond to HIV and AIDS
- Affirm the rights, in law and policy, of vulnerable populations in the context of HIV including people living with HIV, women and girls, young people and people with disabilities
- Fail to provide adequate rights protection for key populations such as sex workers, men who have sex with men and transgender people and people who use drugs
- Fail to adequately implement and enforce HIV law and policy.

ANNEX 1: LEGAL AND POLICY GAPS AND PROPOSED REFORMS IN EAC PARTNER STATES

Identified gap	Proposed intervention	Time frame	Resources required	Responsible Party/organisation
ZANZIBAR				
1. Zanzibar has an HIV and AIDS Bill 2013, that was passed by Parliament and awaits presidential signature	- Conduct lobbying for President to sign - Conduct legal literacy	2014 – 2016	Financial, Human Resources, media, sensitisation materials	Ministry of Justice and Constitutional Affairs, MOH, ZAC and CSOs
2. Inadequate involvement of males in PMTCT services	- Develop policy to promote male involvement - Advocacy/ awareness campaign	2014 – 2016	Financial and Human Resources	MOH, Ministry of Justice and Constitutional Affairs, CSO
3. Slow process in law review: Review of laws has been neglected despite the need to be given adequate consideration in line with the fast changing HIV epidemic	- Lobbying/advocate timely review of laws in line with the changing epidemic	2014 – 2016	Financial and Technical Assistance	CSOs, multilateral development agencies, Zanzibar Law Review Commission
4. People with disabilities including those with mental health problems are often left out in policies and strategies regarding access to information on HIV and AIDS	- Lobby and advocate provision or readily accessible and user-friendly IEC materials - Improve infrastructure (including construction of conducive buildings and human expertise in working with people with disabilities) to cater for PWDs)	2014 – 2016	Financial and Technical Assistance	MOH and First Vice President's Office (FVPO)

Identified gap	Proposed intervention	Time frame	Resources required	Responsible Party/organisation
5. Zanzibar does not have a policy or strategy to deals with HIV and AIDS in situation of disasters / emergencies, conflict and post conflict situations.	-Review the existing laws to incorporate provision for management of HIV and AIDS in situations of disasters/ emergencies, conflict/post-conflict	2014 – 2015	Technical Assistance (legal support) and financial resources	Zanzibar Law Review Commission, ZAC and MOH
TANZANIA				
1. Inadequate operationalization of HIV and AIDS (Prevention and Control) Act 2008	-Finalize and operationalize all the regulations (under section 52 of the Act) -Ensure all the regulations embrace the recommendations in this study	One (1) year	Financial & Technical	Ministry of Health and Social Welfare (MOHSW); Tanzania Commission for AIDS (TACAIDS); Attorney General's Office
2. There are some laws with outdated provisions which are not in line with the HIV and AIDS response e.g. <ul style="list-style-type: none"> • The Marriage Act • The Child Act • The Prisons Act 	-Recommend amendment of laws	Six (6) months	Financial & Technical	Ministry of Health and Social Welfare (MOHSW); Tanzania Commission for AIDS (TACAIDS); Attorney General's Office; Law Reform Commission; EAC
3. Contradictory laws i.e. Child Act, Marriage Act and Penal Code. Issues: <ul style="list-style-type: none"> • Age of consent to marriage • Age of consent for HIV testing • Definition of a child 	-Recommend harmonization of these laws	Six (6) months	Financial & Technical	Ministry of Community Development, Gender and Children; Law Reform Commission; Attorney General's Office; EAC

Identified gap	Proposed intervention	Time frame	Resources required	Responsible Party/ organisation
RWANDA				
1. There is no specific law on HIV and AIDS	<ul style="list-style-type: none"> -The Republic of Rwanda should consider strengthening integration of HIV and AIDS in existing laws as well as aligning to regional and international standards -(No need for specific law) 	Medium Term	Meeting costs	MOH; Ministry of Justice; Law Reform Commission; EAC Secretariat; Ministry of EAC
2. Criminalization of HIV: Article 30 of the Gender Based Violence Law (2008) is not clear and needs revision. HIV is no longer considered a terminal disease	<ul style="list-style-type: none"> -Make it more comprehensive to include other communicable diseases 	Long term	Human Resources & Meeting costs	MOH; Ministry of Justice; Law Reform Commission; EAC Secretariat; Ministry of EAC
3. Discrimination based on HIV status e.g. denial of loans, insurance and other services	<ul style="list-style-type: none"> -Enforce implementation of all policies and legal provisions against discrimination 	Short Term	Meeting costs & Human Resources	MOH; Ministry of Justice; Law Reform Commission; EAC Secretariat

Identified gap	Proposed intervention	Time frame	Resources required	Responsible Party/ organisation
<p>4. Mandatory HIV testing & disclosure: The Reproductive Health Bill provides that a health worker may test:</p> <ul style="list-style-type: none"> i. a child or a mentally ill individual ii. Couples engaged/ about to legally marry 	<ul style="list-style-type: none"> -Fast-track adoption of the Bill -The Law should stipulate that no one should be tested without their consent with the exceptions of minors, mentally disabled and in cases of medical emergency -The provision should be deleted. It contravenes the right to Voluntary Counselling and Testing -The policy should be retained -Government to promote awareness of the importance of Voluntary Counselling and Testing for couples engaged to be married 	Short Term	Human Resources & Meeting costs	MOH; Ministry of Gender and Family Promotion; Civil Society; National Council of People with Disabilities
<p>5. The Reproductive Health Bill (2008) does not provide for punitive measures</p>	<ul style="list-style-type: none"> -The Bill should provide corresponding punitive measures for prohibitive provisions 	Short Term		Ministry of Justice; Law Reform Commission
<p>6. HIV in emergency and post-conflict situations e.g. cases of disaster, accidents, wars, rape and other instances of high risk exposure to HIV infection</p>	<ul style="list-style-type: none"> -Put in place a clear protocol on management of such cases vis-à-vis HIV 	Medium Term	Human Resources & Meeting costs	MOH; Ministry of Disaster Management and Refugee Affairs

Identified gap	Proposed intervention	Time frame	Resources required	Responsible Party/organisation
7. Access to HIV and AIDS information for key population and people with disabilities (PWD) particularly the blind and deaf	-Enforce the implementation of Chapter 6 Article 25 of Law No. 01/2007 relating to protection of disabled persons in general		Human Resources & Meetings costs	National Council of People Living with Disabilities; MOH; Civil Society; EAC Secretariat
8. There is no law on high-risk cases such as: customs and traditions hindering the fight against HIV (wet nursing, early marriages, widowhood cleansing, traditional births, scarification)	- Reinforce/enforce existing laws that regulate traditional behaviours and cultural norms hindering HIV prevention/treatment - Continued education and sensitization	ASAP	Human Resources & Meeting costs	MOH
UGANDA				
1. Mandatory testing	-Should be done for medical-legal reasons	May 2014	Human Resources & Meeting costs	Ministry of Health, Ministry responsible for Justice, Parliament, Civil Society
2. Limited access to health (HIV and AIDS) services for care services for key populations, refugees and aliens under emergency situations	-Government should ensure access to health services	Dec 2014	Human Resources & Meeting costs	Ministry of Health
3. Discrimination - Pre-employment mandatory testing for the armed forces	-Lessons and evidence -Lobby Parliament and East African Defence Chiefs to reconsider the current position	Dec 2015	Human Resources & Meeting costs	EAC Secretariat; Ministries responsible for Health; Civil Society (regional and national); EANNASO; Ministry of Defence

Identified gap	Proposed intervention	Time frame	Resources required	Responsible Party/organisation
4. Mandatory disclosure to third party Article 21, subsection (e)	<ul style="list-style-type: none"> -Redraft as it contravenes the Constitution and promotes discrimination -Should apply only to spouses with the consent of both 	June 2014	Human Resources & Meeting costs	Civil Society; Parliament of Uganda; Ministry of Health
5. Criminalization of HIV i. Attempted transmission of HIV – there are no investigations that one would rely on to conclude that there is an attempt to commit an offence ii. Intentional transmission	<ul style="list-style-type: none"> -Recommend deletion -The article is ambiguous – e.g. pregnant mothers, breastfeeding mothers, and discordant couples and not properly elaborated 			
6. Sexual Reproductive Health Rights i. Marital Rape ii. Male involvement	<ul style="list-style-type: none"> -Further analysis on the magnitude of the problem -Sensitise the population about the male involvement strategy -Implement the male involvement strategy 	Dec 2015		Civil Society & Ministry of Health
7. Supportive legal and policy environment for minors i. Pregnancy among school-going children	<ul style="list-style-type: none"> -Need to review of the education policy to ensure it provides for continuation of education in the event of pregnancy among school-going children 			Ministry of Education; Ministry of Gender; Ministry of Justice; Civil Society

Identified gap	Proposed intervention	Time frame	Resources required	Responsible Party/organisation
BURUNDI				
<p>1. The Republic of Burundi has no holistic HIV and AIDS law, but instead has Law No 1/018 of 12th May 2005 which provides for legal protection of people infected with HIV and those living with AIDS which is restrictive</p>	<ul style="list-style-type: none"> -Amend existing law to make it consistent with other regional and international HIV legal instruments -Include detailed text to provide additional guidance and hence make it possible to operationalize the existing HIV law 	<p>December 2015</p>	<p>Financial Resources & Technical Assistance</p>	<p>Ministry of Public Health and Fight Against AIDS, Ministry of Justice</p>
<p>2. Criminalization of wilful transmission of HIV: Art 42 of HIV law: It is not easy to determine if a person wilfully transmits HIV except in case of rape</p>	<ul style="list-style-type: none"> -Included under issues to be considered during amendment of the law. -State clearly under which cases, wilful transmission is to be considered. -Testing should be done for both medical and legal purposes on both the perpetrator and victim. 	<p>December 2015</p> <p>Immediately and at three (3) months after the rape</p>	<p>Human Resources, testing facilities such as reagents and medication (PEP)</p>	<p>Ministry of Justice; Ministry of Public Security; Ministry of Health and Fight Against AIDS</p>

Identified gap	Proposed intervention	Time frame	Resources required	Responsible Party/organisation
<p>3. Discrimination based on HIV status:</p> <ul style="list-style-type: none"> - Mandatory pre-employment HIV testing for armed forces - Pre-registration HIV test result requirement for HOPE University 	<ul style="list-style-type: none"> -Lobby to change this practice to avoid mandatory pre-employment HIV testing for armed forces -Field visit to confirm practice -Sensitise university leadership on the impact of this practice -Provide support to university management to mitigate/change practice 	Complete by December 2014	Human Resources & Financial Resources	Human Rights Commission; CSO; Ministry of Public Health and Fight Against AIDS; Ministry of Defence; Ministry of National Solidarity, Gender, and Human Rights; Ministry of Public Security; Ministry of Higher Education and Scientific Research; NAC
<p>4. Gender inequality, GBV, harmful gender norms and HIV: Inability for women in Burundi to inherit property especially land which puts them in a weak socio economic position, thus increasing their vulnerability to HIV</p>	<ul style="list-style-type: none"> -Advocate a law that provides for women to inherit land in Burundi -Fast track enactment of a law that provides for women to inherit land 	By December 2015	Financial Resources, Technical Assistance and Human Resources	Ministry of National Solidarity, Human Rights and Gender; Ministry of Public Health and Fight Against AIDS; Parliament of Burundi; CSO; Ministry of Justice

Identified gap	Proposed intervention	Time frame	Resources required	Responsible Party/ organisation
5. Limited access to services and information for key populations (people with disabilities, youth, sex workers, prisoners, seasonal workers, truck drivers, men who have sex with men)	<ul style="list-style-type: none"> -Fast track adoption of the draft law on people with disabilities' rights (national assembly adopted). -Build capacity of medical personnel to provide quality services to these groups -Ensure availability of accessible good quality of comprehensive services for these groups -Ensure availability and access to information for the groups in forms that are user-friendly including for the blind and the deaf 	December 2015	Financial Resources & Technical Assistance	Ministry of Public Health and Fight Against AIDS; CSOs; Ministry of National Solidarity, Human Rights and Gender
6. There is no policy or strategy on conflict and post-conflict HIV management	-Recommend a policy or strategy to address this gap	December 2015	Human and Financial Resources	Ministry of Public Health and Fight Against AIDS; Ministry of Public Security/ Multi-sectoral platform handling risk and disaster management

Identified gap	Proposed intervention	Time frame	Resources required	Responsible Party/organisation
KENYA				
1. Gap between the HIV Act 2006 and the HTC Policy <ul style="list-style-type: none"> - The Act requires written consent for children to get tested (under 18) - The age of consent in the policy is 16 with no written permission 	-To harmonize the Act and the HTC in order for children to test without legal impediments from 16 years old	24 months	Financial and Human Resources and consultancy support	MOH & the National Assembly
2. Criminalization of wilful transmission of HIV in the HIV Act, Article 24	-Amend the existing law to clarify and be specific on what 'deliberate transmission' entails	24 months	Financial and Human Resources	NACC; MOH; National Assembly; State Law Office
3. Access to HIV-related information for PWD <ul style="list-style-type: none"> • The Bill of Rights in Article 57(1) (c) of the Constitution 	-Enforcement of the Constitution in programming and implementation	1 month	Financial and Human Resources	NACC & Council for PWD
4. Marital rape in section 43 of the Sexual Offences Act	-Need for a clearer definition and interpretation	1 month	Financial and Human Resources	NACC & State Law Office
5. Alternative medicine/ traditional healers	-Need for regulation on traditional medicine -All practices to be harmonized and managed under one regulatory body	On-going	Financial and Human Resources	MOH; Ministry of Culture, Arts and Sports
6. The HIV Act 2006 is not aligned with Article 43(1)(a) of the Constitution	Amend the HIV Act to define what is exactly 'high standards of HIV care'	24 months	Financial and Human Resources	MOH; National Assembly

ANNEX 2: ADDITIONAL INFORMATION

International and regional instruments pertaining to HIV, health and human rights *United Nations declarations and meetings focused on HIV and AIDS*

United Nations’ Declaration of Commitment on HIV/AIDS (2001) which called for the scaling up of global financing of HIV, targeting at least US\$7 billion to US\$10 billion by 2005. (http://www.unaids.org/sites/default/files/en/media/unaids/contentassets/dataimport/publications/irc-pub03/aidsdeclaration_en.pdf)

United Nations General Assembly Special Session on HIV and AIDS (UNGASS) 2006. The global community endorsed the “**Political Declaration on HIV/AIDS**” and committed itself to universal access to comprehensive prevention, treatment and care programmes by 2010. (http://data.unaids.org/pub/Report/2006/20060615_hlm_politicaldeclaration_ares60262_en.pdf)

The **UN High Level Meeting in June 2011** on the global response to combat HIV and AIDS culminated into the “**Political Declaration on HIV and AIDS: Intensifying Our Efforts to Eliminate HIV and AIDS**”. (http://www.unaids.org/sites/default/files/sub_landing/files/20110610_UN_A-RES-65-277_en.pdf)

International instruments and declarations

The Universal Declaration on Human Rights 1948. (<http://www.un.org/en/documents/udhr/>)

The International Guidelines on HIV/AIDS and Human Rights (2006) are guidelines jointly developed by the UNOHCHR and the UNAIDS. (<http://www.ohchr.org/Documents/Publications/HIVAIDSGuidelinesen.pdf>)

The Millennium Development Goals (MDG) are eight development goals that 189 states agreed to at the Millennium Summit of the United Nations in 2000. Of the eight development goals MDG 5 (“Improving maternal health”) and MDG 6 (“combating HIV and AIDS, malaria and other diseases”) are linked directly to HIV and AIDS. (<http://www.undp.org/content/undp/en/home/mdgoverview.html>)

The International Labour Organization (ILO) ‘HIV and AIDS

Recommendations’ of 2010 expressly requires state parties to, “(A)dopt national policies and programmes on HIV and AIDS, the world of work and on occupational safety and health, where they do not exist”. (http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/normativeinstrument/wcms_194088.pdf)

Regional instruments and declarations pertaining to HIV and AIDS response

The African Union Roadmap on Shared Responsibility and Global Solidarity for AIDS, TB and Malaria Response in Africa:

Developed in 2012 by the African Union Commission (AUC), following the January 2012 African Union (AU) Assembly Decision No: Assembly/AU/Dec.413 (XVIII), the roadmap desires “to work out a roadmap of shared responsibility to draw on African efforts for a viable health funding with support of traditional and emerging partners to address AIDS dependency response”. It presents a set of practical African-sourced solutions for enhancing shared responsibility and global solidarity for AIDS, TB and malaria responses in Africa on a sustainable basis by 2015. The solutions are organized around three strategic pillars: diversified financing; access to medicines; and enhanced health governance. The roadmap defines goals, results and roles and responsibilities to hold stakeholders accountable for the realization of these solutions between 2012 and 2015.

SADC-PF model law on HIV and AIDS: the 24th Plenary Assembly of the SADC Parliamentary Forum adopted, in Arusha, Tanzania, on 24th November 2008, a Model Law on HIV in Southern Africa. The adoption of the Model Law on HIV came at a time when several countries in the sub-region had adopted or were in the process of adopting their HIV laws. In contrast to most HIV-specific legislation adopted in Southern Africa and in sub-Saharan Africa in general, the Model Law on HIV in Southern Africa rejects coercive measures such as the criminalization of HIV transmission, compulsory HIV testing for pregnant women and compulsory disclosure of HIV status. Furthermore, the Model Law on HIV encourages states to consider the de-criminalization of sex work and same sex relationship as specific measures that may advance the response to HIV. (http://www.justice.gov.za/vg/hiv/docs/2008_Model-Law-on-HIV-in-Southern-Africa.pdf)

The Abuja Declaration on HIV/AIDS, Tuberculosis and Other Related Infectious Diseases (2001): In the wake of the September 2000 Millennium Summit, the heads of African Union Member States assembled in Abuja, Nigeria from 24th–27th April 2001, and adopted the Abuja Declaration on HIV/AIDS, Tuberculosis and other Related Infectious Diseases. The primary objective of the Abuja Declaration was for Africa to collectively and individually work towards arresting and reversing the staggering rate at which these diseases were eroding prior progress made in socio-economic development.

Grand Bay Declaration and Plan of Action (1999) was adopted by the First Organization of African Union (OAU) Ministerial Conference on Human Rights in Africa, held in Grand Bay, Mauritius, from 12th–16th April, 1999. It was the first legal instrument to reflect the renewed emphases on human rights. The Ministerial Conference affirmed “the principle that Human Rights are universal, indivisible, interdependent and interrelated” and urged “governments, in their policies, to give parity to economic, social and cultural rights as well as civil and political rights.” The declaration is often cited as manifesting a regional commitment to human rights in addition to the legally binding instruments.

