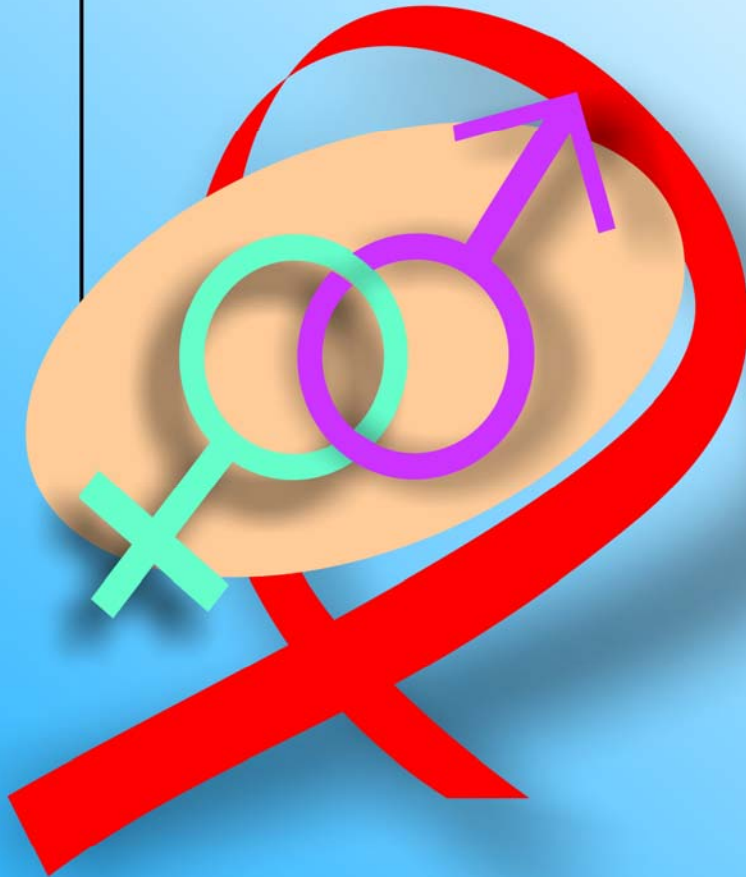




Rights Based Approach

Guidelines



Pakistan National AIDS Consortium

Table of Contents

PREFACE	2
Introduction	3
<i>Purpose of These Guidelines</i>	3
<i>Structure of These Guidelines</i>	3
1. Human Rights, HIV/AIDS and International Law	4
1.1 <i>What are Human Rights?</i>	4
1.2 <i>Human Rights and HIV/AIDS</i>	4
1.3 <i>Sexual Rights</i>	6
“Freedom To” and “Freedom From”	6
1.4 <i>International Legal Policy Environment</i>	7
International Treaties and Conventions	7
International Declarations and Conferences	8
International Guidelines on HIV/AIDS and Human Rights	9
2. The Rights-Based Approach	10
2.1 <i>What is a Human Rights-Based Approach?</i>	10
2.2 <i>A Two-Pronged Strategy</i>	11
2.3 <i>Principles of a Rights-Based Approach</i>	13
Four Key Principles	13
2. The Rights-Based Approach	14
3.1 <i>What is a Rights-Based Approach to HIV/AIDS?</i>	14
3.2 <i>Applying the Principles of a Rights-Based Approach to HIV/AIDS Programming</i>	14
Participation and Inclusion	15
Non-Discrimination and Equality	16
Universality and Indivisibility	16
Accountability	17
3.3 <i>How You Can Integrate a Rights-Based Approach in Your Work</i>	18
Empowering Beneficiaries	18
Strengthening the Accountability of Duty-Bearers	19
Addressing the Underlying Sources of Vulnerability	20
Integrating Human Rights in Service Delivery	20
Additional Strategies and Activities	21
3.4 <i>Gender Integration – Addressing the Vulnerability of Women</i>	22
3.5 <i>Checklists for Operationalising a Rights-Based Approach</i>	23
4. Challenges to Operationalising a Rights-Based Approach	29

PREFACE

This document is the product of collaboration between the Pakistan National AIDS Consortium (PNAC) and Aahung. PNAC approached Aahung to provide technical assistance in the implementation of the Tameer project – a capacity building programme for NGOs working on HIV/AIDS, launched by PNAC. Aahung's services were contracted to enhance the capacity of PNAC and Tameer project staff to implement a rights-based approach to HIV/AIDS programming. As a result, these guidelines have been developed as a tool that programme staff involved in HIV/AIDS-related interventions can use to integrate a rights-based approach in their programmes and activities.

In its discussion on the international framework, key concepts and principles of a rights-based approach to development and HIV/AIDS programming, this document draws substantially on the ideas and content of various international publications. The purpose is to provide a basic overview of literature on the rights-based approach to HIV/AIDS programming as well as to discuss the practical implications of the approach, within a single document.

Dr. Sikander Sohani, Ms. Fatima Hiader and Ms. Arsheen Premji from Aahung facilitated the first workshop which was conducted for members of PNAC staff and project staff of NGOs which are implementing different interventions for different vulnerable groups under Tameer project of PNAC. PNAC also facilitated visits of Dr. Sikander to Larkana, Kohat and Peshawar to evaluate the operationalization of guidelines.

PNAC would like to thank Aahung for its technical assistance and for developing the guidelines. Ms Arsheen Premji played a significant role in compilation of these guidelines which is worth appreciating. We would also like to acknowledge the input of Ms. Gill Long from Active Learning Centre UK, who reviewed the guidelines and gave very valuable recommendations and also Ms. Hira Abbasi Program Assistant PNAC, who revised the guidelines to incorporate the recommendations.

We hope that these guidelines would be of immense value to the organizations working in the field of HIV and AIDS and implementing projects for different vulnerable groups. The understanding of RBA and the checklist for its operationalization will help them in enhancing the effectiveness and impact of their interventions thus making them more meaningful and productive.

Aftab Ahmed Awan

Introduction:

Purpose of These Guidelines

An effective and sustainable approach to HIV/AIDS programming must not only focus on reducing the spread and impact of infection, but must also address the underlying sources of vulnerability. Programmes incorporating the principles of human rights are in accordance with international standards and are necessary for a broad and integrated approach to the epidemic.

The following guidelines have been developed as a tool to facilitate the integration of human rights into development programming on HIV/AIDS and are appropriate for use with program and project staff in:

- Non-governmental organizations
- Community based organizations
- Healthcare delivery organizations

Programme and project staff can use these guidelines to evaluate the extent to which their programmes currently operationalise a right-based approach to HIV/AIDS as well as to devise strategies to integrate human rights in their current and future plans and policies.

Structure of These Guidelines

These guidelines have been organized into the following four sections:

- 1. Human Rights, HIV and International Law:** The first section explores the connections between HIV/AIDS and human rights. In addition, this section examines the international human rights legal and policy environment while taking note of Pakistan's commitments.
- 2. A Rights-Based Approach:** The second section details the key concepts, terminology and principles of a human rights-based approach.
- 3. Applying a Rights-Based Approach to HIV/AIDS:** The third section discusses the practical application of human rights principles to HIV/AIDS programming, and offers potential strategies for operationalising a right-based approach. In addition, practical checklists for the integration of human rights as well as local and regional case studies documenting the successful integration of human rights in programmes and projects are provided.

- 4. **Challenges:** This fourth and final section explores possible challenges in the implementing a rights framework to HIV/AIDS programming.

1. Human Rights, HIV/AIDS and International Law:

1.1 What are Human Rights?

Human rights are a set of **entitlements** that a person **enjoys** simply because he/she is human. Encompassing a full array of civil, political, economic, social and cultural rights enshrined in international law, human rights are basic standards without which a person cannot live a life of dignity. Human rights are universal, inalienable, indivisible, and interdependent:

- **Universal** because everyone is born with the same rights, irrespective of gender, race, or religious, cultural, or ethnic background.
- **Inalienable** because people’s rights can never be taken away, no matter what they do, nor can an individual give up his or her rights.
- **Indivisible and interdependent** because all rights — civil, social, economic, or political — are equally important and none can be fully enjoyed without the others.

Table 1: Rights Vs. Needs	
Right:	Need:
Something to which a person is entitled simply because he/she is human	An aspiration
Enables a person to live with dignity	
Entails responsibilities on the part of	Can occur in isolation of others
<i>Source: Kapur & Duvvury (2006)</i>	
obligation on the part of the government to respect, protect and fulfill it	associated with an obligation on the part of the government – satisfaction of a need cannot be enforced

1.2 Human Rights and HIV/AIDS

Box 1: Human Rights Relevant to HIV/AIDS

- The right to non-discrimination and equality
- The right to the highest attainable standard of health
- The right to liberty and security of the person
- The right to privacy
- The right to seek, receive and impart information
- The right to marry and found a family
- The right to freedom of movement, association, and expression.

Human rights and health are interrelated; both human rights and public health share the common goal of promoting and protecting the well being of all individuals. The right to the highest attainable standard of health was first introduced in the World Health Organization’s (WHO) constitution in 1946, and not only emphasizes the right to timely and appropriate healthcare, but also recognizes that without the underlying determinants of health, such as, access to food and nutrition, housing, safe and potable water, adequate sanitation and health-related

education and information, the right to health cannot be fully enjoyed.

Source: Taken from Paterson (2004)

With respect to the HIV/AIDS pandemic, the importance of human rights has become increasingly evident. The promotion and protection of human rights is crucial in order to empower individuals and communities to respond to HIV/AIDS, diminish the adverse impact of HIV/AIDS on those affected, and reduce vulnerability to infection. Furthermore, human rights violations fuel the spread and exacerbate the impact of HIV infection. This relationship is evident in the disproportionate incidence and spread of HIV/AIDS among groups already suffering from human rights violations and discrimination, that is, the poorest, weakest, least educated and most stigmatized sections of society. Poverty, unemployment, illiteracy, lack of access to quality and affordable social and health services, lack of political will and gender inequality combine to increase vulnerability to HIV infection.

Until recently, Pakistan was categorized as a low-prevalence country with several risk factors that could lead to the development of an epidemic. The estimated number of HIV infected individuals in Pakistan ranges from 80,000 to 150,000, or 0.1% - 0.2% prevalence of the population (UNAIDS Website). However, recent studies suggest a shift in Pakistan's HIV/AIDS status from low prevalence, to a concentrated epidemic established within particular marginalized communities (NACP, 2004; 2005) (see Table 3).

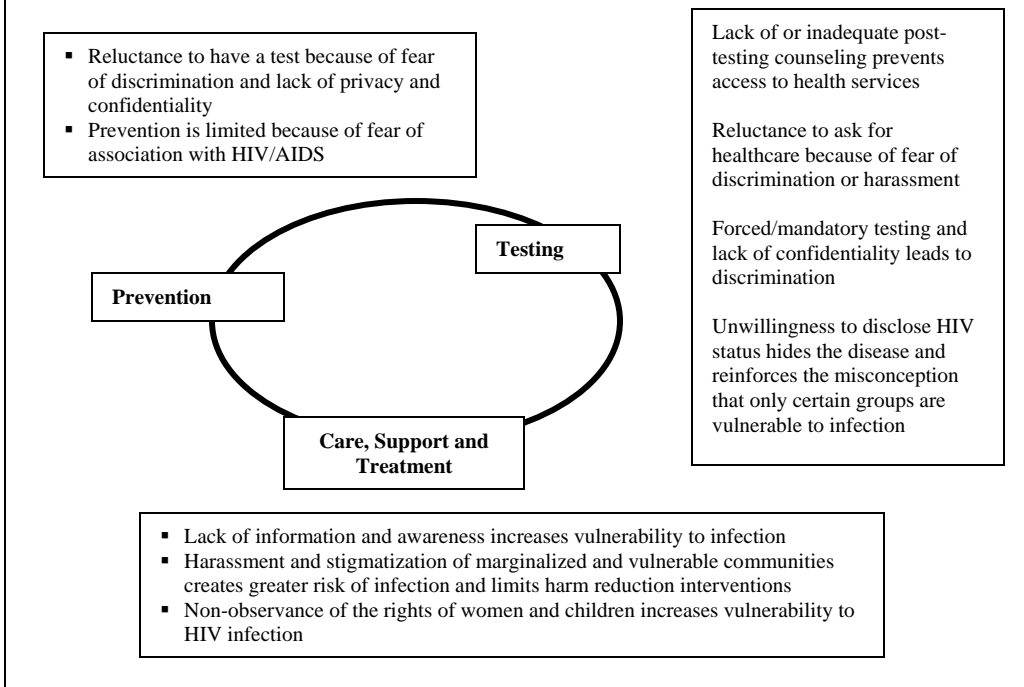
For various reasons, socially marginalized groups are more vulnerable to human rights violations that increase their risk of HIV infection and limit their access to prevention, testing and treatment services. People living with HIV/AIDS and other marginalized groups are unlikely to seek HIV-related services if, as a result, they are faced with discrimination, lack of confidentiality, mandatory testing or other adverse consequences. The stigmatization of these communities drives them underground and deprives them of the information, resources and services required for their health.

Taken together, stigma and discrimination undermine effective prevention measures required to empower individuals and communities to respond adequately to HIV/AIDS. Alternatively, the protection and promotion of human rights reduces the incidence of infection and allows civil society organizations working on HIV/AIDS to respond more effectively to the epidemic.

	Karachi	Lahore
IDUs	26%	0.5%
MSMs	4%	0%
Transgenders	2%	0.5%
FSWs	0%	0.5%
Truckers	0%	1%

Source: National AIDS Control Programme (2005)

Figure 1: How Human Rights Violations Impact HIV/AIDS Prevention, Care and Support



Source: Redrawn and adapted from APCASO (2002)

1.3 Sexual Rights

Sexual rights stem from inherent right of human beings to life, choice, dignity and respect. However, no treaty or convention has been passed on these rights but they can be considered part of universal human rights. These include, among others:

- **The right to information**
- **The right to sexual pleasure**
- **The right to sex education**
- **The right to preventative and curative sexual healthcare services**
- **The right to bodily integrity (to have control over your own body)**
- **The right to family planning**
- **The right to freedom from sexual violence/coercion**
- **The right to equality and to be free from all forms of discrimination**

“Freedom To” and “Freedom From”

- Sexual rights include the *freedom to* make decisions regarding one’s sexuality and sexual body, such as the freedom to choose one’s sexual partners.
- Sexual rights also include *freedom from* harm such as sexual and other forms of violence and coercion as well as from degrading practices, such as forced HIV-testing (see Table 2).

Table 2: “Freedom To” and “Freedom From”	
Freedom To:	Freedom From:
<ul style="list-style-type: none"> ▪ Choose whether or not to marry and found a family ▪ Decide when or whether to have children ▪ Choose a partner ▪ Sexual pleasure ▪ Sexual expression ▪ Sexual and reproductive healthcare ▪ Privacy and confidentiality ▪ Have safe sex ▪ Consensual sexual relations 	<ul style="list-style-type: none"> ▪ Harassment ▪ Stigma and discrimination ▪ Violence/coercion ▪ Unwanted pregnancy ▪ Government interference ▪ Torture and ill treatment ▪ Government interference

1.4 International Legal Policy Environment

By signing and/or ratifying various international human rights instruments, the state is accountable for upholding and implementing the human rights of all individuals under its jurisdiction. In order to fulfil its obligations the state must ensure that its legal policies, national laws, institutions and processes are compatible with international human rights standards and principles. A summary of Pakistan’s status in relation to relevant international human rights treaties and commitments can be found ahead (Table 3), many of these have been ratified by Pakistan. However, ratification does not mean to implementation the ratified treties in legal system instantly and without modification, it means that the country would take steps to implement the policies progressively.

International Treaties and Conventions:

In response to the atrocities of World War II the international community adopted the Universal Declaration of Human Rights in 1948. The war was followed by the realization that the international protection of human rights is necessary in order to promote international peace and progress. Since then, international treaties and conventions have transformed the principles embodied in the declaration into **legally binding** instruments.

Human rights are formally recognized in the following treaties and conventions:

- The International Covenant on Economic, Social and Cultural Rights (1966),
- The International Covenant on Civil and Political Rights (1966)

- The International Convention on the Elimination of All Forms of Racial Discrimination (1965),
- The International Convention on the Elimination of All Forms of Discrimination against Women (1979),
- The Convention on the Rights of the Child (1989).

By ratifying treaties governments are legally obligated to respect, protect and fulfil the rights embodied in those treaties.

- *Respecting a right* means that the state cannot directly violate human rights in laws, policies, programmes or practices;
- *Protecting a right* means that the state must prevent other individuals or groups from violating human rights;
- *Fulfilling a right* means that the state must take legislative, budgetary and judicial actions that allow individuals to fully realize their rights.

International Declarations and Conferences:

International declarations and conferences issued by various international bodies serve as an additional mechanism of government accountability. Although declarations and conferences are not legally binding, they reflect a government's political commitment to issues identified by the international community and can be used as a standard by which governments evaluate their existing laws and policies.

The Declaration of Commitment on HIV/AIDS 2001

The United Nation's General Assembly (UNGASS) Declaration of Commitment on HIV/AIDS establishes time bound targets for prevention and necessary medication as well as for the elimination of discrimination. In addition, the declaration holds governments accountable for the wider participation of people living with HIV/AIDS and for addressing the vulnerability of women and marginalized groups. The declaration was adopted by the government of Pakistan in 2001.

The International Conference on Population and Development Programme of Action 1994 (ICPD)

The International Conference on Population and Development Programme of Action (ICPD) is a central instrument used by organizations working within the realm of sexual and reproductive health and rights. The conference marks the international recognition of sexual and reproductive rights, and expressly addresses HIV/AIDS. The resulting document is the Cairo Program of Action which maintains, among other things, that governments take urgent action to provide services and education to prevent the transmission of HIV, develop and implement national policies and guidelines to protect the rights of people living with HIV/AIDS, ensure voluntary HIV-testing and mobilize all

sectors of society in the response. The Programme of Action was accepted by the 180 countries attending the conference, including Pakistan.

International Guidelines on HIV/AIDS and Human Rights

The International Guidelines on HIV/AIDS and Human Rights, published by OHCHR and UNAIDS in 1998, consist of 12 principles that transform international human rights norms and standards into practical measures that states can adopt in order to respond to HIV/AIDS in accordance with their international obligations. The guidelines were drafted through a participatory process by an expert group of government representatives, human rights advocates and people living with HIV/AIDS. Although not legally binding, governments are urged to adopt the guidelines given their international legitimacy. At present, Pakistan has not officially adopted the guidelines. The measures stipulated in the international guidelines focus on the following three broad and interconnected approaches:

- Improvement of government responsibility for multi-sectoral coordination
- Reform of laws and legal support services with a focus on improving the status of women, children and vulnerable groups
- Support for enhanced private sector and community participation in the response

International Commitment	Pakistan's Status	Salient Features
Universal Declaration of Human Rights	Ratified 1948	Protects basic and inherit human rights to life, choice, dignity and respect without discrimination of any kind
Convention on the Elimination of All Forms of Discrimination Against Women	Ratified 1996 (with reservations)	Defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination
The International Covenant on Economic, Social and Cultural Rights	No Action	Protects social and economic rights, such as, the right to an adequate standard of living, physical and mental health, education (including compulsory, free primary education for children), employment etc.
The International Covenant on Civil and Political Rights	No Action	Protects the right to liberty and freedom of thought and religion. Prohibits torture and inhuman and degrading treatment
The International Convention on the Elimination of All Forms of Racial Discrimination	Ratified 1966 (without reservations)	Commits States parties to change national laws and policies that create or perpetuate racial discrimination and aims to promote racial equality
The Convention on the Rights of the Child	Ratified 1990 (with reservations)	Maintains that children have the right to survival, participation, development, protection from harmful influences, abuse and exploitation
International Conference on Population and Development	Signed 1994	Recognises the importance of sexual and reproductive rights
The Declaration of Commitment on HIV/AIDS	Adopted 2001	Establishes time bound targets for prevention, medication and the elimination of discrimination. Holds governments accountable for the participation of people living with HIV/AIDS and for addressing the vulnerability of women and marginalized groups
Alma Ata Declaration	Signed 1978	Universal access to primary health

Beijing Declaration and Platform For Action	Signed 1995	Endorses ICPD and emphasized women's rights to control sexual & reproductive behaviour
United Nations Millennium Declaration	Adopted 2000	Links poverty to health, education and women's rights

2. The Rights-Based Approach

2.1 What is a Human Rights-Based Approach?

- A rights-based approach to development focuses on the protection and realization of human rights. It integrates the standards and principles of international human rights into the plans, policies and processes of development (OHCHR, 2006). ***In effect, a rights-based approach views the realization of human rights as both the end goal and the means of achieving human development.***
- The approach is built upon the principle that all human beings are entitled to their inalienable human rights. By claiming these human rights, individuals must refrain from violating the rights of others and have a responsibility to support those individuals whose rights are denied or abused. Due to its international human rights commitments, the State is also obligated to uphold and implement human rights. ***In short, every human right entails a corresponding obligation on the part of individuals and couples, families and communities as well as the State to respect, protect and fulfill it.***
- ***Hence, a rights-based approach is essentially a framework of rights and obligations*** (see Box 5). A rights-based approach does not merely focus on satisfying human “needs” but, instead, involves a process of enabling and empowering individuals to demand and exercise their human rights, while holding those responsible, accountable for their human rights obligations.
- ***In addition, the approach is geared toward reducing discrimination, promoting equality and strengthening the capacity of marginalized groups to assert their rights.*** Box (4) illustrates the essence of a rights-based approach to human development.

Box 3: Identifying a Rights-Based Approach

Question: Your organization is working with a community suffering from a shortage of clean drinkable water. Which one of the following strategies can be adopted in order to implement a rights-based approach?

- 1) Dig wells for the community
- 2) Teach individuals in the community how to dig their own wells
- 3) Work with the community and partner organizations to lobby governments and other actors to guarantee access to clean water for everyone.

Answer: Option 3 illustrates the use of a rights-based approach. Development workers concerned with implementing a rights-based approach must not only focus on fulfilling human needs (Options 1 and 2), but must strive toward empowering individuals to demand their rights and to hold responsible actors accountable for their human rights obligations. In addition, communities must identify their own concerns and make their own decisions about how their concerns can be resolved.

Source: Adapted from “A Rights-Based Approach to Development” (AWID, 2002)

Box 4: Key Terminology (Adapted from Ljungman (2004))

A rights-based approach is essentially a framework for action based on the interaction between two groups of actors “rights-holders” and “duty bearers”.

Rights-holders are individuals and social groups that have entitlements under international human rights law. All human beings are rights-holders simply by virtue of being human.

Duty-Bearers are those actors who have an obligation to respect and promote human rights and to refrain from human rights violations. By ratifying international treaties and conventions, the State is the *principal duty-bearer*. While the state is legally bound to respect, protect and fulfill human rights, non-state actors have a moral obligation to uphold human rights. These actors are termed *moral duty bearers* and include (among others):

- Parents
- Teachers
- Police
- Healthcare providers
- Employers
- Institutions and organizations
- Community based organizations
- Non-governmental organizations
- Private sector organizations
- International organizations, i.e. the World Trade Organization, the United Nations, international non-governmental organizations etc.

2.2 A Two-Pronged Strategy

Central to a rights-based approach is a “two-pronged” strategy aimed toward (Ljungman, 2004):

- 1) **Empowering** rights-holders to demand their rights
- 2) **Strengthening** duty-bearers to meet their human rights obligations

This process is illustrated by the following diagram:

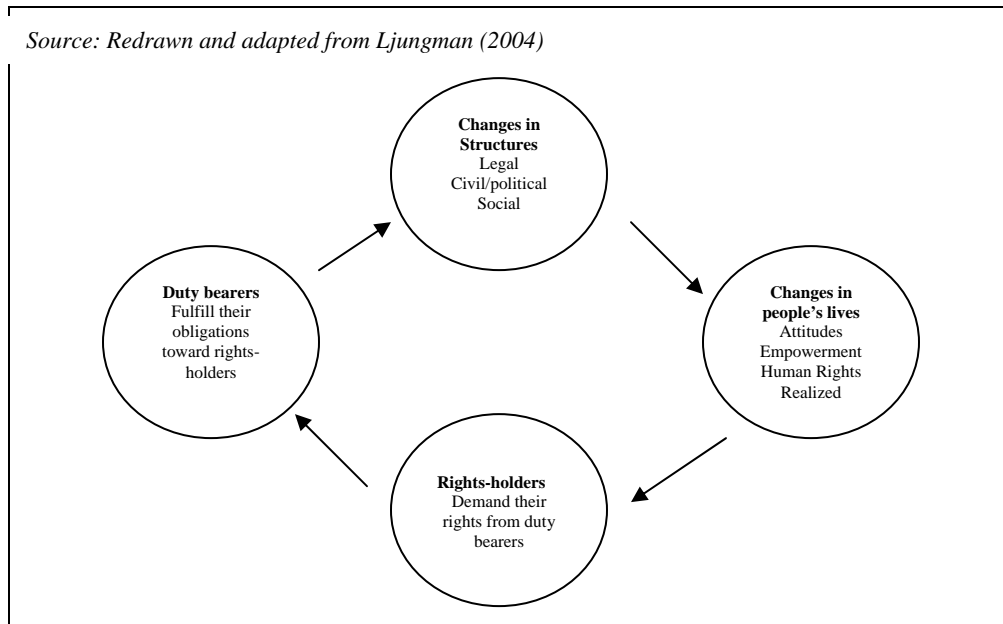


Table 3: Rights and Responsibilities		
Right	Social Responsibility	State Responsibility
The right to sexual pleasure	<p>To give sexual pleasure to one's partner(s) as well as oneself.</p> <p>To respect one's partner's bodily integrity and privacy</p> <p>To respect your partner's freedom to choose, including the right to say no to any sexual initiative or practice</p>	<p>To repeal laws that criminalize certain forms of sexual activity between consenting adults, such as, premarital sex, homosexuality, prostitution etc</p> <p>To ensure universal access to sexuality education/information</p>
The right to safe sex without infection, coercion or violence	<p>To learn the symptoms of STIs and to seek medical attention for the diagnosis and treatment</p> <p>To inform one's partner(s) if there is a possible risk of infection</p> <p>To help one's partner(s) receive diagnosis and treatment</p>	<p>To ensure universal access to quality sexual health related services</p> <p>To ensure universal access to methods of protection (i.e. condoms)</p> <p>To ensure universal access to information about safe and unsafe sexual behaviours</p>

	To use a condom when there is a risk of acquiring or transmitting an infection	To enforce laws that criminalize: <ul style="list-style-type: none"> -Rape, including marital rape -Sexual harassment -Sexual abuse -Sexual Trafficking
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The right to determine one's HIV status	<p>To inform one's partner(s) if HIV positive</p> <p>To educate partner(s) on modes of HIV transmission</p> <p>To use protection during sexual activity if one is HIV positive or if at risk of HIV infection</p>	<p>To ensure universal access to confidential voluntary testing and counselling for HIV and other STIs</p> <p>To ensure access to support services for PLWHAs</p> <p>To prevent violence and discrimination against people living with HIV/AIDS</p> <p>To enforce laws that prosecute abuse such as:</p> <ul style="list-style-type: none"> -Forced testing -Arresting HIV positive persons
The right to sexual health information and services	<p>To seek sexual health information and healthcare</p> <p>To provide one's partner(s), children, peers and community with complete and accurate sexual health information</p>	<p>To ensure universal access to sexual health information, education, counselling and services.</p> <p>To remove legal and socio-cultural barriers to sexual health information and services</p> <p>To ensure that health services are respectful, user-friendly and accessible</p> <p>To provide comprehensive sexuality education in schools</p>

2.3 Principles of a Rights-Based Approach

Four Key Principles

The following four principles have been derived from international human rights law (reviewed in Patterson, 2004; Ljungman, 2004). Their integration in the plans and processes of development is crucial to implementing a rights based approach. The sections below provide a brief explanation of each principle, drawing on the ideas and concepts articulated in several international publications (AWID; 2002, Patterson, 2004; Ljungman, 2004; OHCHR, 2006; UNAIDS, 2005).

1) **Participation and Inclusion:** Participation is a critical feature of the human rights-based approach. Every individual is entitled to participate, contribute to and enjoy civil, economic, social and political development. A rights-based approach acknowledges that without the participation of targeted communities, development programmes and activities are unlikely to be effective for the individuals who need them. According to a rights-based approach, participation must be *free, active and meaningful* (Ljungman, 2004):

- **Free** means participation that is not forced
- **Active** means a participation process **that leads to action**
- **Meaningful** means that the participation process has an impact on goals achieved

2) **Equality and Non-Discrimination:** The principle of equality and non-discrimination entails that all persons are equally entitled to the resources required to fulfil their basic human needs, without discrimination of any kind. This means that development efforts should target marginalized and excluded groups as these individuals often suffer from stigma and discrimination and are, consequently, less able to enjoy their human rights. Stigma and discrimination reinforce social marginalization and inhibit the meaningful participation of marginalized groups in social and political life. **For instance, man and woman are equally entitled to all human rights but in our society women have been kept backward and deprived of their basic rights. Keeping in view this situation if we allocate more resources for women than it would be termed as equity.**

3) **Universality and Indivisibility:** The universality of human rights means that all persons are entitled to human rights. Human rights are inalienable; they cannot be taken away or voluntarily given up. In addition, human rights are indivisible, interdependent and interrelated - no one group of rights is more important than the others, and the realization of one right often depends on the realization of others.

Although all rights are equally important, certain rights can be given priority depending on the context. However, the prioritization of any one right should not directly prevent the realization of other rights. E.g. Education and information are both inter linked rights if a person is given education but deprived of information; it would mean that both his rights are being compromised. Similarly no country claim that she would give some rights and withhold others as these rights are universal.

- 4) **Accountability:** The principle of accountability is rooted in the relationship between rights and responsibilities. Every human right is associated with a corresponding responsibility (see Table 3). Accountability means duty-bearers are answerable for fulfilling their human rights obligations. Demanding accountability of duty bearers is at the core of a rights-based approach and distinguishes this approach from traditional development strategies. Accountability requires that the government, as the legal and principle duty bearer (Ljungman, 2004):

1. Accept responsibility for its influence on people's lives
2. Provide information, undertake transparent processes and hear people's opinions
3. Respond appropriately to people's opinions
4. Put legislation, policies and practices in place that respects the human rights of individuals

3. Applying a Rights-Based Approach to HIV/AIDS

3.1 What is a Rights-Based Approach to HIV/AIDS?

A rights-based approach to HIV/AIDS means:

- Eliminating the human rights violations that promote vulnerability to HIV
- Ensuring universal access to HIV/AIDS services and information
- Reducing the stigma and discrimination associated with HIV/AIDS.
- Addressing the underlying socio-cultural, political and economic sources of vulnerability to HIV infection.
- Ensuring people living with, affected by and vulnerable to HIV/AIDS actively participate in the national response to the epidemic.

3.2 Applying the Principles of a Rights-Based Approach to HIV/AIDS Programming

The following sections discuss the application of each principle of the rights-based approach to HIV/AIDS programming, drawing on the ideas and concepts expressed by Patterson (2004) and Ljungman (2004). Programme staff interested in pursuing a rights-based approach must ensure each principle is integrated in their programme interventions.

Participation and Inclusion

- People living with HIV/AIDS and affected by HIV/AIDS (e.g., the families, partners and peers of HIV positive persons) must participate in the design, implementation and evaluation of HIV/AIDS related programmes and activities.
- Groups vulnerable to HIV infection, such as, commercial sex workers, injecting drug users, men having sex with men, migrant labourers etc., must also participate in programme design, implementation and evaluation.
- Efforts must be made to build the capacity of targeted communities to meaningfully participate in HIV/AIDS programming, and to advocate for the fulfilment of their human rights.

Box 5 illustrates the multiple levels of participation that people living with HIV/AIDS and vulnerable groups can be involved in. A rights-based approach is geared toward transitioning the participation of targeted communities from the lowest to the highest tier of the “pyramid of participation”.

Box 5: “Pyramid of Participation”**Decision Makers**

People living with HIV/AIDS actively participate in decision-making or policy-making bodies

Experts

People living with HIV/AIDS and vulnerable groups are acknowledged as important technical experts who participate in programme design, implementation and evaluation

Implementers

People living with HIV/AIDS and vulnerable groups are involved in the implementation of interventions e.g. as peer educators, field workers, community mobilisers etc.

Speakers

People living with HIV/AIDS and vulnerable groups are involved as spokespersons for awareness raising and behaviour-change campaigns where they share their opinions and views. However, they are not given any real power or responsibility and do not participate in the technical aspects of programming

Contributors

People living with HIV/AIDS and vulnerable groups are involved only nominally in programme activities, usually when the person living with HIV/AIDS is well known. For example, using the image of a famous HIV-positive person on IEC materials and posters

Target Audiences

HIV/AIDS- related prevention, care and support services and awareness raising activities are targeted toward people living with HIV/AIDS and vulnerable groups

Source: Adapted from Patterson (2004)

Non-discrimination and equality

- Programming must attempt to reduce the stigma and discrimination associated with HIV/AIDS, vulnerability or any other status both internally within the organisation as well as within the general population
- Programme staff must ensure that interventions and activities do not directly contribute to or reinforce the stigma that surrounds HIV/AIDS and vulnerable groups
- Programme staff must ensure that their programme interventions and activities do not discriminate against HIV-positive persons and/or vulnerable groups
- Programme staff must ensure that HIV-related services and information are equally accessible to all potential beneficiaries without discrimination of any kind

Box 6: The National AIDS Prevention and Control Act - Philippines

The passage of the National AIDS Prevention and Control Act, Philippines was a result of the advocacy efforts of several Philippine NGOs and human rights advocates. The Act holds the State accountable for upholding the rights of vulnerable communities and requires, among other things, informed consent for HIV testing and prohibits forced HIV testing. The Act also guarantees the right to confidentiality and prohibits discrimination on the basis of HIV status in employment, schools, travel, public service, credit and insurance, health care and burial services.

Source: Rose & Gruskin (2005)

Universality and Indivisibility

- Programming must inhibit the development of policies or initiatives that directly violate human rights. For instance, programme staff involved in HIV service delivery must ensure that clients' privacy and confidentiality is respected during testing and counselling procedures, and that forced testing is prohibited (see Box 7).
- Programmes and interventions should be developed that address a range of interconnected HIV/AIDS-related human rights
- Efforts must be made to raise awareness among targeted communities and the general population on human rights and responsibilities.
- Efforts must be made to raise awareness among principal and moral duty bearers on their human rights obligations through dialogue and advocacy

Box 7: Upholding Privacy and Confidentiality - Larkana, Pakistan

The Social Welfare Association (SWA), Larkana is an NGO that provides HIV-related services to transsexual, transgender, and adolescent male populations involved in commercial sex work. In May 2006 the organisation's programme manager attended a workshop, conducted by Aahung, on the rights-based approach to HIV/AIDS programming. Since the workshop, SWA has begun to place more emphasis on the importance of privacy and confidentiality. Whereas prior to the workshop the clinical facility run by the NGO was contained within a single room, now, rudimentary partitions have been constructed to provide some level of privacy during physical examination and consultation. In addition, efforts have been made to ensure that no other individuals are present, besides from the healthcare provider, during the client's physical examination and consultation.

Source: Interview conducted by Aahung with SWA (Oct. 1st 2006)

Box 7: Violation of Human Rights - Larkana, Pakistan

On June 15th 2003 the Larkana jail authorities referred an inmate, who was jailed on charges of illegal drug use, for HIV testing to the Sindh AIDS Control Program (SACP), Larkana. The inmate tested positive for HIV and the jail authorities reacted in alarm. Eighty jail inmates arrested on drug charges were tested for HIV involuntarily. The jail authorities also began arresting people using drugs on the streets for mandatory testing. A total of 145 drug users were screened without consent, out of which 65 were arrested from the streets. To make matters worse, the local newspapers and local TV channel began to interview the HIV-positive persons without consent. The HIV-positive persons who were now openly identified became a target for stigma and discrimination. As a result, drug users on the streets were driven underground from fear of being jailed and tested.

Source: Adapted from Health and Development Networks (2004)

Accountability

- Programme staff must attempt to hold the State and other duty bearers accountable for their human rights obligations
- Programme staff must attempt to strengthen accountability internally within their organisations and facilities. That is, mechanisms must be in place to ensure that programme staff is accountable for fulfilling their responsibilities in the workplace. In addition, programme staff must be held accountable to their beneficiaries.
- Programming must aim to build the capacity of duty-bearers to fulfil their human rights obligations, for example, through raising awareness on their human rights obligations.
- HIV/AIDS-related programmes should be linked with other programmes and organisations that attempt to improve national and local democracy, governance and participation.

Box 8: Holding the Government Accountable – Narayanganj, Bangladesh

On July, 24th 1999 the local police and officials from the department of social services in Narayanganj, Bangladesh raided and evicted female sex workers residing in the Nimitoli and Tanbazar brothels. Eyewitnesses report that at least 400 sex workers were forcibly sent to government run vagrant homes. The authorities were acting on behalf of a UNDP funded government project to “rehabilitate” the sex workers. Although it is assumed that UNDP does not support violent means, the evicted sex workers were allegedly abused, beaten and looted during the raids. Once in the vagrant homes the women were denied the right to meet their family and reported to have been tortured and sexually abused. On July 29th, evicted sex workers who had escaped detention demonstrated outside the UNDP office, protesting that action be taken against the government. A writ petition, in the form of a public litigation was later filed in the High Court Division by several NGOs on behalf of the sex workers. In its judgment the court ruled that by depriving the sex workers of their livelihood, the eviction of the women was a violation of their right to life and, therefore, unconstitutional and illegal. In addition, the ruling declared that the confinement of the sex workers in the government vagrant homes was illegal and ordered their immediate release.

Source: International Lesbian and Gay Association (1999), Ain o Salish Kendra (n.d.), Network of Sex Work Projects (1999), National Informatics Centre, Gujrat (2002-2003), Ahsan & Ahmede (2003)

Empowering Beneficiaries

Community Mobilisation

Community mobilization is when a particular group of people identifies a common concern and takes action on the basis of that concern (Donahue & Williamson, 1999; UNAIDS, 1997). Community members invest their own resources, such as, money, labour, materials etc., but can seek outside assistance when needed. Programme staff can facilitate this process by sensitizing communities to the connection between HIV and

human rights and by helping communities build their capacity to mobilise and demand their rights (i.e. by providing additional resources, conducting advocacy workshops, implementing civic and human rights education programmes, helping communities network with other stakeholders etc.). However, programme staff cannot decide what specific actions communities undertake, and must allow community members to take ownership of both their successes and failures.

Source: Eldis (n.d.)

Box 9: Empowering Sex Workers – Sonagachi, India

An example of an intervention aimed at empowering and mobilising communities is a project implemented in Sonagachi, a red-light area in Calcutta, India. Since Pakistan and India share a similar cultural context, programme staff can learn many lessons from the Sonagachi project and attempt to replicate a similar model.

In 1992 the STD/HIV Intervention Project (SHIP) created a clinic for sex workers directed toward reducing the prevalence of STIs and increasing condom distribution. The programme has expanded to address issues, such as, gender, class and sexuality. The project also attempts to empower sex workers by allowing them to identify their own concerns and solve their own problems. The sex workers are responsible for devising programme strategies and interventions. In fact, 25 % of managerial positions are set aside for sex workers. The sex workers are also trained as peer educators, clinic assistants and clinic attendants.

The project is based on the following activities and strategies:

- Training sessions were conducted with the sex workers and the surrounding community. The sessions were aimed at increasing the sex workers' self-confidence, and promoting respect for them in the community
- Peer educators provide information not only on STD/HIV prevention and clinical services, but also on how socially defined norms, practices and gender roles increase vulnerability to HIV
- The sex workers have formed alliances with their long-term regular clients to promote safe sexual practices, such as, the elimination of sexual violence.
- Training sessions have been conducted with police from the Calcutta Police Department
- In 1995 a union for sex workers, Durbar Mahila Samanwaya Committee (DMSC) was established. The union works toward decriminalization of adult prostitution, social recognition of sex work as a valid profession, elimination of police harassment of sex workers and securing the right of sex workers to negotiate wages and working conditions. In addition, DMSC organizes literacy and vocational training for the sex workers and provides micro loans.

Strengthening the Accountability of Duty-Bearers

Increasing the Visibility of Human Rights Violations

Programme staff can help hold duty-bearers responsible for their human rights obligations by researching and documenting human rights violations. Organizations can compile a database of human rights violations reported in local and national news media as well as document the abuses they come across when working with people living with HIV/AIDS and vulnerable groups. Programme staff can analyze these abuses against

international law and submit their reports to the media and government agencies directly responsible. In addition, awareness-raising campaigns can be conducted to ensure that the public is accurately informed when human rights violations occur.

Advocating to Repeal Discriminatory Laws, Policies and Practices

Organizations involved in HIV/AIDS programming can advocate repealing discriminatory laws and policies that create barriers for HIV/AIDS prevention, care and support (see Box 9). The argument can be made that such laws fail to meet the requirements of international human rights law and threaten the achievement of national and international development goals. In addition, programme staff can lobby the government to pass and enforce laws that criminalise discriminatory practices and behaviours.

Advocacy is an act of pleading or arguing in favor of something, such as a cause, idea, or policy. Advocacy is about sticking up for people who are at risk of being excluded, ignored or mistreated. It's about helping people to find out what they want and to tell others about it. It's about making sure that people get to do the things that they enjoy and change the things they don't like.

Box 10: Criminalising Sodomy

Section 377 of the Pakistan Penal Code makes sodomy, or anal sex, a criminal offence punishable by up to 10 years in prison, death by stoning, or whipping of 100 lashes along with 2 years to life imprisonment. This law can potentially be used as a tool by law enforcement agencies to harass homosexual and transgender communities. By criminalizing sexual behaviour largely practiced by homosexuals, Section 377 drives same-sex relations underground, creating barriers for HIV/AIDS prevention, care and support. Section 377 does not make it a crime to be homosexual; rather, the law criminalizes certain sexual acts. This fact, however, is often ignored by the authorities, many of who abuse their power over homosexuals through extortion, blackmail and even physical and sexual abuse.

Advocate on the Basis of the International Guidelines on HIV/AIDS and Human Rights

Programme staff can use the International Guidelines on HIV/AIDS and Human Rights as a tool for advocacy by (Garmaise, 1999):

1. Lobbying the government to officially adopt the guidelines:

Programme staff can implement an advocacy campaign aimed at persuading the government to officially adopt the guidelines. Since the guidelines include a series of practical measures that governments can execute in the response to HIV/AIDS, States that officially adopt these guidelines can be held accountable for implementing the actions they contain. In addition, an advocacy campaign on the International Guidelines can help to raise awareness on the relationship between HIV and human rights.

2. Lobbying for government action on certain areas of the guidelines:

Programme staff can choose to focus their advocacy efforts on particular areas of the guidelines. Organizations can advocate that the government fulfil any of the measures stipulated in the guidelines, such as:

- Reforming public health laws to ensure HIV testing is voluntary (Guideline 3);
- Encouraging national and local dialogue on the impact of gender inequality on women’s vulnerability to HIV (Guideline 8);
- Supporting and funding CBOs, NGOs and other civil society organizations to enhance their ability to design and monitor human rights standards (Guideline 11).

Addressing the Underlying Sources of Vulnerability

Multisectoral Approach:

The rights-based approach encourages a multisectoral response to the HIV/AIDS epidemic. The universality and indivisibility of human rights means that programming must attempt to address a range of HIV/AIDS-related human rights. A sustainable response must, therefore, extend beyond the health sector to address the underlying sources of vulnerability such as poverty, lack of education, social and economic inequity, gender inequality, lack of political will etc. Programme staff can adopt a multisectoral response by engaging government agencies and civil society groups working outside of the health sector in the fight against HIV/AIDS. In other words, programme staff can network and build referral systems with government and non-government bodies involved in providing education, legal support, sanitation, social welfare and other social services.

Integrating Human Rights in Service Delivery

Client-Centred Approach:

Programme staff involved in service delivery can integrate a rights-based approach in their work by making their services more client-centred. According to a client-centred approach service providers must be aware of their clients’ needs and respect, protect and fulfil their clients’ rights. The approach places the specific needs, risks, concerns and circumstances of each client at the centre of HIV/AIDS prevention, care and support services. In effect, client and provider communication becomes a two-way dialogue that allows clients to (EngenderHealth, 2004):

- Become aware of their own risks of HIV/STI infection
- Explore their options for reducing risk
- Make informed choices and decisions on the basis of their own needs and social circumstances
- Develop the skills required to successfully carry out their decisions.

Box 11: Clients’ Rights

- Right to information
- Right to access to services
- Right of informed choice
- Right to safety
- Right to privacy
- Right to confidentiality
- Right to dignity and respect
- Right to continuity of care
- Right of expression of opinion

Additional Strategies and Activities

Adopt a Participatory Approach:

- Create a Steering Committee that includes representation from key stakeholders, beneficiaries and relevant programme staff. The Steering Committee can act as the main decision-making body during programme planning, design and evaluation
- Conduct regular focus group sessions with beneficiaries throughout various phases of programme implementation and evaluation. The findings from these discussions can be used to review and adapt programme interventions and activities
- Implement peer education programmes with vulnerable groups

Enhance the Scope of Outreach:

- Conduct awareness raising programmes on HIV/AIDS and human rights with individuals connected with people living with HIV/AIDS and vulnerable groups. For example, programmes targeting injecting drug users can conduct interventions with their families, peers and partners as well as with law enforcement authorities.

Ensure Universality of Healthcare and Reduce Stigma

- Facilities providing HIV/AIDS-related services to vulnerable groups can also offer general health care services to the surrounding community. This strategy improves the accessibility of services by reducing stigma associated with approaching the facility.

Ensure Sustainability

- Implement income generation programmes with targeted communities and help them develop partnerships with micro-finance institutions. Since individuals most vulnerable to HIV infection tend to be those with the least social and economic power, this strategy can help vulnerable communities increase their resources and build their capacity to mobilize

Identify Vulnerable Groups

- When conducting a situational analysis of community needs, disaggregate data according to gender, ethnicity, religion, social status, etc. in order to

determine which categories of people are able or unable to enjoy their human rights. Disaggregated data helps programme designers and other staffs identify the vulnerable groups within a particular community and to reveal HIV/AIDS-related discrimination.

3.4 Gender Integration – Addressing the Vulnerability of Women

Sex and gender play an important role in determining vulnerability to HIV infection. In Pakistan gender roles require that women be ignorant about sex and sexuality and that their autonomy and mobility remain severely restricted. This limits women's access to accurate HIV/AIDS related information, clinical/counselling services and resources. Furthermore, women have less negotiating and decision-making power in relationships than do men and are, therefore, less able to protect themselves from unsafe sex, violence, and infection. Additionally, due to the nature of the female anatomy women are biologically more susceptible to infection. Although the official male to female HIV ratio in Pakistan is currently 7:1 (NACP, 2005); HIV/AIDS could spread rapidly in the female population as a result of these vulnerabilities.

A rights-based approach aims to address the vulnerability of women to HIV infection. Hence, programme staff must design programmes and interventions that are sensitive to gender-based differences in vulnerability, promote more gender equitable relationships and challenge gender discrimination (See Box 12 and 13).

Box 12: Strategies for Mainstreaming Gender Equality

- Advocate for reform of property rights and inheritance laws to promote women's economic independence
- Advocate for reform laws and practices that promote violence against women
- Support organizations working to increase girls' education
- Encourage use of female controlled HIV prevention methods, such as, female condoms
- Develop gender-sensitive M&E indicators to monitor the impact of HIV/AIDS interventions
- Design a BCC strategy that attempts to raise awareness on the relationship between gender and HIV and to promote more gender equitable relationships

Source: National AIDS Control Council, Kenya (NACC) (2002)

Box 13: Life Skills Based Education

Life Skills Based Education (LSBE) can be used as a strategy to promote gender equality and reduce risk of HIV infection. LSBE is an interactive process of teaching and learning which encourages learners to question why people behave the way they do and allows participants to acquire the knowledge, skills and attitudes required to adopt healthy behaviours. In addition, LSBE programmes are designed to promote gender equity and mutually respectful relationships between individuals and their peers, parents, and teachers. Thus LSBE enables learners to better protect and care for themselves and to challenge gender stereotypes.

3.5 Checklists for Operationalising a Rights-Based Approach

The following checklists apply the principles of human rights to HIV/AIDS programming. They can be used as a tool for programme staff to evaluate the extent to which their organisations operationalise a rights-based approach and to design future programmes and interventions. For those organisations directly involved in clinical service delivery an additional checklist has been provided that measures integration of a client-centred approach. The checklist on a client-centred approach has been taken and adapted from COPE® *for Services to Prevent Mother-to-Child Transmission of HIV: A Toolbook to Accompany the COPE® Handbook*, EngenderHealth (2005).

Participation
<ol style="list-style-type: none">1. Are beneficiaries and key stakeholder (including men/boys, women/girls, people living with HIV/AIDS and targeted communities) actively involved in the planning/design of HIV related programmes and activities?2. Are beneficiaries and key stakeholders (including men/boys, women/girls, people living with HIV/AIDS and targeted communities) actively involved in the implementation of HIV related programmes and activities?3. Are beneficiaries and key stakeholders (including men/boys, women/girls, people living with HIV/AIDS and targeted communities) actively involved in the monitoring and evaluation of HIV related programmes and activities?4. Is there adequate representation of beneficiaries/stakeholders (men/boys, women/girls, people living with HIV/AIDS and targeted communities) in project planning/design?5. Are the recommendations of beneficiaries and stakeholders documented and incorporated in future plans/strategies?6. Does your programme attempt to build the capacity of stakeholders and beneficiaries so as to ensure their meaningful participation in programme design, implementation and evaluation?
Equality and Non-Discrimination
<ol style="list-style-type: none">1. Is the same level of information on HIV/AIDS provided to both men/boys and women/girls?2. Do programmes seek to transform gender roles and create more gender equitable relationships (e.g., through implementation of life skills education programmes, couples counselling, etc)?3. Do HIV-related programmes and activities target both men/boys and women/girls equally?4. Do you explain the link between gender inequality and vulnerability to HIV in your discussions?5. Do you discuss gender imbalances in society, traditions and Pakistani culture?6. Do prevention and awareness raising activities target the general population in addition to vulnerable communities so as to avoid stigmatizing vulnerable communities?7. Do communication messages challenge the misconception that only vulnerable groups are at risk of HIV infection?

8. Do communication messages challenge the stigma that surrounds sex and sexuality?
9. Does your organization attempt to reduce HIV-related stigma and discrimination within the surrounding community?
10. Do IEC (Information Education Communication) and BCC (Behaviour Change Communication) materials present positive and respectful images of people living with HIV/AIDS?
11. Do IEC materials present positive and respectful images of vulnerable groups (i.e. injecting drug users, sex workers, men having sex with men, etc.)?
12. Is the language used to provide information non-judgmental (e.g. language that is neutral and objective and does not impose cultural/religious values)?

Examples of Judgmental Language:

- a. Gunna, Sawab
- b. Right/Wrong; Sahee/Galath
- c. Natural/Unnatural
- d. Na-Elaaj
- e. Gher Islami
- f. Beyhooda

13. Do you provide complete and accurate information regarding HIV/AIDS without letting cultural values dilute the quality of information?

Examples of inaccurate and incomplete information influenced by cultural values:

- a. Showing a visual image with two people hugging or kissing with a cross over the image, implying that hugging and kissing are modes of HIV transmission
- b. Visual images or messages that imply that only homosexuals are at risk of HIV infection, such as, an image of two men touching or hugging

14. Does information provided dispel common myths and misconceptions that promote stigma and discrimination?

Examples of myths and misconceptions

- a. HIV is caused by homosexuality
- b. HIV can spread by touching

15. Are non-fear-based positive communication messages used (i.e. IEC Materials)?

Example of a Fear-Based Message:

“If you don’t use a condom you will get AIDS”

Example of a Positive Communication Message:

“Using a condom significantly reduces your risk of HIV infection”

16. Do your programmes and interventions raise awareness on human rights and obligations?
17. Do you provide referrals (for HIV-related services) along with providing information?

18. Are information messages sensitive to the needs of vulnerable communities, such as, young people, IDUs, men, women, migrant labourers and sex workers and their clients?
19. Do your programmes incorporate messages for communities directly associated with vulnerable groups (i.e., the partners, family members and peers of vulnerable groups)?
20. Are the needs of persons with limited or no literacy addressed?
21. Does your organization implement policies against all forms of discrimination within the workplace (e.g. discrimination on the basis of age, marital status, race, HIV status, social status)?
22. Does your organization implement a sexual harassment policy within the workplace?

Universality and Indivisibility

1. Do programme staff ensure that programme policies and interventions do not directly violate any human rights?
2. Is the programme contributing towards the social, economic and political development of targeted communities?
3. Has the programme adequately networked with and sensitized other social service organizations (e.g. health, education, law, sanitation)?
4. Is the programme involved in addressing skill enhancement and vocational training for targeted communities?
5. Do messages promote safe behaviour?
6. Is the community provided with information on all available choices of HIV prevention, care and support?
7. Is there a mechanism in place to protect the privacy and confidentiality of individuals and communities when collecting information from them (i.e, through needs assessments, focus groups discussions, research etc.)?

Accountability

1. Does the program include accountability mechanisms so beneficiaries and other stakeholders can monitor program implementation?
2. Do programmes address state implementation of international declarations and commitments?
3. Is there a mechanism in place to document human rights violations so that action can be taken against them?
4. Do programmes coordinate with the media in order to highlight human rights violations?
5. Are the recommendations of key stakeholders and beneficiaries regularly reviewed and shared with them?
6. Is relevant program documentation available and accessible in local languages?
7. Do your programmes contain monitoring and evaluation mechanisms that guarantee the protection of HIV-related human rights?

8. Do your programmes attempt to mobilize the surrounding community to assert their rights?
9. Do programmes support communities in advocating for respect, protection and fulfilment of their human rights?
10. Do your programmes attempt to repeal national laws and policies that violate HIV related human rights?
11. Do your programmes attempt to reduce violence against:
 - Women?
 - Children?
 - IV drug users
 - Men who have sex with men?
 - Commercial sex workers?
 - Hijras/Transgenders?
12. Does the program promote government accountability for respecting and promoting human rights relevant to HIV/AIDS?
13. Do your programmes or activities raise awareness on HIV/AIDS and human rights amongst policy makers or relevant local governments?

Client-Centred Approach

Right to Privacy and Confidentiality

1. Are services available to men/boys and women/girls in a manner that protects their privacy and confidentiality?
2. Does your facility provide the option of anonymous HIV testing (i.e., where the client does not have to provide any identifying information for testing) either directly or through referrals?
3. Is there a mechanism in place for contacting clients who do not return for HIV test results, without violating their right to confidentiality?
4. Are counselling sessions, physical examinations, and other procedures provided in a private space so that they cannot be seen or overheard by others?
5. When another person is present during a counselling session, an examination, or other procedures, do staff explain to clients why the person is present and ask clients' permission?
6. Are clients' records kept in a safe place and only accessed by authorized staff?
7. Does your facility have a policy on the notification of clients' partners of their risk of HIV infection? If so, is the policy in accordance with the International Guidelines on HIV/AIDS?

Right to Access to Services

7. Do you ensure that HIV-related services are equally accessible to men/boys and girls/women?
8. Does your facility provide HIV/AIDS related services in a way that reduces clients' fears of stigma (e.g., through location or physical design of the facility, or by not only targeting vulnerable groups)?

9. Are potential barriers to accessing services reduced (e.g., by eliminating requirements concerning age, marital status, parental or spousal consent, or by providing transport)?
10. Does your facility provide services affordable for low-income groups?

Right to Information

11. Are HIV- related informational tools sensitive to the needs of illiterate populations?
12. Do staff provide information to their clients using culturally appropriate, nontechnical, local language (e.g., terms for sexual practices, body parts, symptoms, treatment and side effects that clients are able to understand)?
13. Does information provided dispel common myths and misconceptions?

Examples of myths and misconceptions

- Sex with a virgin cures HIV
 - HIV can spread by touching
14. Do staff always explain to clients what sorts of examinations or procedures will be done, what to expect, and why the examinations or procedures are needed?
 15. Are the following topics covered in health talks and HIV pretest counseling (individual or couple)?
 - Modes of HIV transmission
 - Progression and symptoms of HIV infection
 - Strategies for preventing infection and reducing risk
 - Safe and unsafe behaviour
 - The availability of confidential and anonymous HIV testing
 - The process of HIV counseling and testing
 - The meaning of HIV test results and importance of retesting
 - Symptoms of sexually transmitted infections (STIs) and how STIs can promote the spread of HIV
 - Referrals for HIV/AIDS care and support services
 - Where applicable, how to prevent transmission and reduce the risk of HIV infection among injecting drug users (IDUs)
 - How to use condoms (male and female) correctly
 - Assuring clients that information shared during counseling and test results will remain confidential
 - Informing clients that the decision whether to have a test is the client's alone and will be respected
 - Explaining the benefits and possible consequences of talking to partners, family members, and friends about one's test results
 - Encouraging and supporting clients to talk to their partners about their test results
 - Encouraging partners' involvement in HIV counseling and testing

Right to Informed Choice

16. Do health care staff do each of the following?
 - Encourage clients to express their opinions and ask questions
 - Provide clients with sufficient time and attention and answer their questions
 - Discuss clients' needs, circumstances and options

- Help clients make informed decision
- Ask clients whether they have understood the information they have been given and if they have any further questions

17. Is there a mechanism in place to guarantee informed consent for all procedures and treatments?

18. Is there a mechanism in place to prevent forced testing of clients by health care providers?

Right to Dignity and Respect

19. Do staff perform physical examinations, counseling, testing, and other procedures with clients' dignity, modesty, and comfort in mind (e.g., providing clients adequate drapes or covering, as appropriate, and explaining the procedure)?

20. Do staff feel that clients have adequate time with health care providers?

21. Do staff always explain to clients what sorts of examinations or procedures will be done, what to expect, and why the examinations or procedures are needed?

22. Does the facility have a policy prohibiting discrimination against all clients, including people living with HIV/AIDS, young people, sex workers and members of other marginalized groups or populations? If so, do staff follow this policy?

Right to Safe Services

23. Are disposable needles and syringes used and discarded after a single use?

24. Are reusable needles, syringes and other instruments correctly cleaned, sterilized or high-level disinfected and stored prior to reuse?

25. Does the service provider wear appropriate protective clothing, clean gloves or a new pair of gloves during each pelvic examination or when handling blood and other body fluids?

Right to Continuity of Care

26. Are clients and all who accompany them to the facility welcomed and addressed with respect, regardless of their HIV status?

27. Does the facility have sufficient and reliable supplies so that clients can receive laboratory tests, medications and contraceptives, among others without delay?

28. If clients do not return for follow-up care, do staff try and find out why?

4. Challenges to Operationalising a Rights-Based Approach

The following table illustrates possible challenges to operationalizing a rights-based approach and offers solutions for overcoming those challenges

Table 4: Challenges to Operationalizing a Rights-Based Approach		
Challenge	Impact	Solutions
People living with HIV/AIDS and vulnerable groups may not have the skills necessary for effective advocacy and participation in decision-making bodies.	Inhibits the ability of people living with HIV/AIDS and vulnerable groups to raise their voices and assert their rights.	Build the capacity of stakeholders to advocate effectively by organising advocacy workshops and human rights education programmes Network with and train advocates who can represent the needs and interests of people living with HIV/AIDS and vulnerable groups Form alliances with organizations working on human rights related issues
Criminalisation of vulnerable groups	Drives vulnerable communities underground out of fear of being arrested or harassed by local authorities. This creates barriers not only for HIV/AIDS prevention, care and support but also for advocacy and community mobilization. Vulnerable groups will be reluctant to participate in civil and political life if there is a real threat of harassment and imprisonment	Advocate for the repeal of laws that criminalise stigmatized behaviour such as sex work, drug use and homosexuality Sensitize local authorities and encourage their support in the fight against HIV/AIDS (i.e., through raising awareness among local authorities on the relationship between HIV and human rights)
Lack of awareness on civic and human rights and responsibilities	Inhibits the ability of individuals to actively participate in civil and political life and fulfill their civic duties and human rights responsibilities. Prevents proper functioning of democratic processes.	Implement civic education programmes with targeted communities Advocate for the integration of civic education in the national curriculum
Lack of an effective judicial system	Creates barriers for holding the government and other duty-bearers accountable for their human rights obligations. Allows human rights violations to occur unchecked.	Help build the capacity of the justice and law sector by networking with organizations working toward improving democracy, governance and participation. Raise awareness among the justice and law sector on human rights and obligations Support anti-corruption programmes Advocate for the elimination of government censorship of the media
Discriminatory social and cultural practices	Promotes stigma and discrimination against vulnerable communities. Violates international human rights standards	Advocate for the passage and enforcement of laws that criminalise discriminatory social and cultural practices Document and raise awareness on social and cultural practices that violate human rights
Discriminatory laws and policies exist despite the ratification of international treaties	Perpetuates stigma and discrimination and promotes human rights violations	Raise awareness on the existence of laws that do not comply with international standards and advocate for the repeal of those laws
Existence of informal parallel judicial systems based on traditional patriarchal beliefs (i.e., the <i>jirga</i>)	Allows the passage of tribal laws that conflict with international human rights standards. For examples, jirgas often validate honour killings and forced/child marriages	Advocate for parallel judicial systems to be declared illegal. Advocate for the provision of a functional legal system so that people are not forced to refer to <i>jirgas</i> . Raise national and international awareness on human rights violations that occur as a result as the passage of tribal laws

Source: Adapted from Patterson (2004) and Ljungman (2004)

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