

2ND MEETING OF THE UNAIDS ADVISORY GROUP ON HIV AND SEX WORK

28-30 June 2010, UNAIDS Secretariat, Geneva

Notes for Record

Co-Chairs: Jenny Butler (Senior Technical Advisor, UNFPA) and Ruth Morgan Thomas (Interim Global Coordinator, NSWP).

The agenda is attached at Appendix 1.

Present:

Adrienne Cruz (UNAIDS - ILO)
Antonio Gerbase (UNAIDS - WHO)
Chris Castle (UNAIDS - UNESCO)
Jana Villayzan Aguilar (Independent – NSWP nominated
Global Transgender Representative, REDLACTRANS)
Jenny Butler (UNAIDS - UNFPA)
Joanne Csete (Independent – Columbia University)
Kieran Daly (Independent – ICASO)
Macklean Kyomya (NSWP - WONETHA, Uganda)
Mandeep Dhaliwal (UNAIDS - UNDP)
Marie Denou (NSWP - DANAYA SO, Mali)
Meena Seshu (Independent - SANGRAM)
Nandinee Bandyopadhyay (Independent - PLRI)
Naomi Akers (NSWP - St James Infirmary, USA)
Ruth Morgan Thomas (NSWP – ICRSE, UK)
Selvi Abdullah (NSWP – APNSW, Malaysia)
Steve Kraus (UNAIDS Secretariat)

Apologies:

Andrew Hunter (NSWP – APNSW, Thailand)
David Wilson (UNAIDS - World Bank)
Elena Reynaga (NSWP – RedTraSex, Argentina)
Gabriela Leite (NSWP – DAVIDA, Brazil)
Riku Lehtovuori (UNAIDS - UNODC)

Observers/Invited Experts:

Andy Seale (Global Fund – permanent observer)
Anna Torriente (ILO)
Els Klinkert (UNAIDS Secretariat)
Fabian Chapot (ASPASIE, Switzerland)
George Tembo (UNAIDS Secretariat / UNFPA)
Kate Thomson (UNAIDS Secretariat)
Matthew Warner-Smith (UNAIDS Secretariat)
Michael Bartos (UNAIDS Secretariat)
Sally Smith (UNAIDS Secretariat)
Susan Timberlake (UNAIDS Secretariat)

In attendance:

Annika Wendland (Intern – UNAIDS WHO)
Neil McCulloch (Advisory Group Secretariat) – notes
Nina Sun (Intern – UNAIDS Secretariat)
Rocío Moreno (UNAIDS - UNFPA) – notes

DAY 1

Welcome and Introductions

The co-chairs welcomed everyone to the meeting and noted the apologies. Minor changes to the agenda were agreed.

A letter from Elena Reynaga, who was unable to attend, was read to the group. Her comments, in particular in relation to punitive laws and policing, were noted.

International Labour Standard on HIV and AIDS

The International Labour Organisation (ILO) gave a presentation about the new provisional standard which is the first human rights instrument in relation to HIV in the workplace and includes sex work. All ILO member states are expected to comply with the standard, which covers the need to protect workers in all occupations, their families and dependants, from HIV and AIDS. The standard covers all workers in any workplace, in both formal and informal economies. Whilst sex work is not specifically mentioned within the standard itself, the discussions and the agreement are on record, with the clear understanding that sex work is covered by this instrument. The Note for the Record of the discussion will be posted on the website¹ in all UN working languages.

Action & Recommendations:

- The group encourages ILO to continue to raise the issue of sex work as work.
- It was noted that sex work is still criminalised and taboo within some member states and UN support is needed to address the political sensitivities around sex work and encourage change.
- Given the dissonance between what happens at global and regional and local levels, good recording of how countries implement the standard is required to ensure sex workers are included.
- There is a need to document and disseminate any other work ILO is doing on sex work in other settings, especially at country level (e.g. the Brazil experience).
- Incorporate the ILO standard into programmes around the economic empowerment of sex workers.
- Some participants suggested that ILO produce a summary of the standard and its relevance for sex workers and sex work settings.

Agreeing the process for finalising & getting approval of the annexes and launching the Guidance Note

The Advisory Group (AG) discussed and clarified the status of the working group papers, in line with the Terms of Reference. It was agreed that it is within the AG's remit to produce the 4 annexes and advise Michel Sidibé.

After some discussion the following points were **agreed**:

- The documents are annexes to the Guidance Note, not separate papers, and will be combined in one document, both in electronic form and hard copy.
- The text of the Guidance Note will not be revised, but it will only go out with the annexes for clarification and further guidance.

The Global Fund – Round 10 Process & Survey on Eligibility Criteria

¹HIV/AIDS and the world of work - Report of the Committee on HIV/AIDS Provisional Record No.13 (Rev) http://www.ilo.org/global/What_we_do/Officialmeetings/ilc/ILCSessions/99thSession/pr/lang--en/docName--WCMS_141773/index.htm

There was a brief presentation from The Global Fund (GF) on the process for Round 10. Key timelines: launched in May, there is a 12 week period for developing applications, providing technical assistance, information road shows and a mock technical review panel providing feedback to applicants before they submit. The deadline for submissions is **1200hrs (CET) on 20th August 2010**. Once the technical review panel meet w/c 25th October, score applications and decide which they wish to take forward, the Board will make a final decision at the Board Meeting on 15-17th December 2010.

It was noted that Civil Society Action Team (CSAT) had produced a helpful briefing on Round 10 which was made available to the group and will be placed on the collaborative workspace.

Key discussion points / actions:

- The question was raised as to how Global Fund would consider specific activity for particular vulnerable populations (e.g. transgender) and the TRP will be briefed on this.
- GF Round 10 ring-fenced funds for key populations has the potential to significantly increase funding for sex work projects and networks.
- Sex work currently sits under the Sexual Orientation and Gender Identity (SOGI) Strategy and is not included in the Gender Strategy. It was also noted that there are no sex worker champions (male, female and transgender), and very few sex work experts employed within the Global Fund, UNAIDS or other international organisations. Increasing the number of sex worker champions and sex work experts within these institutions would help ensure better programming, as has been done for men who have sex with men and drug users.
- A review undertaken by the Asia Unit of Global Fund funding indicated that only 3% of grants went into sex work programmes and interventions, and additionally much of what was funded was not rights-based (e.g. mandatory testing, rehabilitation or detention). It was felt that the AG should encourage the Executive Directors of UNAIDS and GFATM, to duplicate such reviews in all regions and review UNAIDS and the cosponsors' funding of sex work programmes and interventions.
- The AG, through the Guidance Note and annexes, should have a role in assisting the GF to develop standards that would influence Phase 2 contract negotiations and therefore ensure a rights-based focus within sex work interventions supported by the Global Fund.
- The Country Co-ordinating Mechanism (CCM) guidelines review aims to ensure a multi-sectoral voice and greater community ownership of country priorities.
- Eligibility to GF resources is currently based on income status of a country. A questionnaire has been developed and sent out. It is critical that the AG engage in this process. Individual emails from sex work champions might be a good way of ensuring information on what works and what doesn't work in sex work funding penetrate through to the TRP.
- It was agreed a small group of the AG will pull together advice for GF consideration around collaborative work with UNAIDS in relation to in-reach training and the implementation of the Agenda for accelerated action on women and girls and gender equality (Appendix 2).
- There was a call to ask Michel Sidibé to encourage the Regional Support Teams in supporting a review of GF funding going into sex work in the different regions and to examine if the money has been well spent through working with the UN inter-agency task teams. It was suggested the World Bank would participate in the analysis.

Conflation of Sex Work and Trafficking – whole AG discussion

There was a full group discussion on the UN Office on Drugs & Crime (UNODC) comments on the above draft document.

Key discussion points:

- UNODC wished to reframe references to debt as debt bondage. The AG agreed this would conflate those subjects and potentially undermine sex workers legitimate access to credit. It was suggested that a glossary to clarify terms in the annexes should be prepared.
- UNODC comments regarding anti-trafficking measures: it was agreed the paper should clearly state that trafficking is a gross violation of human rights which must be addressed. However, the fact that anti-trafficking initiatives have violated the human rights of sex workers, discouraged sex workers and brothel keepers from reporting suspected victims, including within global north countries, and in some situations sex workers have been deported - should be explicitly acknowledged to avoid repetition and further bad programming.
- The evidence available to support the claims of the success of anti-trafficking measures and the scale of trafficking region by region was questioned.

Global Commission on HIV and the Law - presentation

UN Development Programme (UNDP) gave a brief presentation. The Commission has been set up to develop human rights-based recommendations for effective AIDS responses and protect the rights of people living with HIV. The Commission will analyse existing evidence and generate new evidence, increase awareness amongst key policy makers (including law and policy makers), and develop recommendations. Resources for the Commission have already been committed by UN agencies and they will fundraise from governments, academic institutions and possible private sector partners to ensure a mix of donors and better buy-in. No further meetings of the Technical Advisory Group (TAG) will be held in the USA until the travel restrictions on sex workers have been clarified, subsequent to the refusal of entry of one of the TAG members.

Key discussion points / actions:

- Regarding winning hearts and minds in regional consultations, the Commission wish to have as broad a dialogue as possible, including ministries of justice, law enforcement agencies and other suggestions people may have.
- New technologies including new ways of working e.g. blogs, Twitter etc are being considered and oral submissions and videos would also be accepted.
- It was confirmed the Commission would also look at the broader legal framework and not only focus on criminal law.
- The first meeting of the TAG discussed the idea of embedding regional hearings within Human Rights institutions, e.g. having a joint hearing – seen as a very positive move forward.
- There was a request to share information between TAG and the Priority Area Working Group (PAWG) for Business Case on MSM, SW and TG. Five AG members are on the PAWG.

Travel Restrictions on Sex Workers entering the USA

The Commission on HIV and The Law TAG (above) has written a letter of concerns and noted its decision not to hold its meetings in the US until the situation is clarified.

Actions:

- The AG agreed to draft a similar response, to challenge travel restrictions for sex workers.
- The letter should call on Michel Sidibé to defend sex workers and their advocates right to travel.
- Concerns were also raised regarding the impact on the International AIDS Conference planned for Washington DC in 2012, and the group resolved to raise this with the conference organisers and to call on other agencies to address the issue as fits their mandates.
- The AG resolved not to hold future meetings in the USA until this issue was resolved.

DAY 2

Economic Empowerment draft paper

This paper is still in note form, based on the discussion at last meeting. The following points were made to assist in the development of the paper:

- Decriminalisation is good economic practice: following the New Zealand experience and government evaluation of impact, sex workers were more able to get bank accounts and participate in local economies. It was also noted that laws on recruitment of sex workers and encouragement of sex work limit the ability of sex workers to teach one another how to build better businesses.
- The paper should not focus on exiting, but highlight examples of good and bad practice (e.g. coercive programmes conditional on exiting).
- Economic equity should be emphasised, access to banking, credit, finances, health insurance, pensions, etc.
- Expanding skills including those required to remain in as well as those required to move on from sex work.
- Recognising the positive social contribution that sex workers make in supporting their families and communities. A family centred approach which includes economic resources and children.
- Give examples of economic disempowerment (e.g. bonds, migrant workers) as very undesirable practices.
- Background to include inability to invest in property, or open bank accounts and resultant extreme marginalisation. Examples of lack of access to insurance, social/economic exclusion in terms of inheritance rights, disaster protection, employment insurance, retirement.
- Include good practice examples, e.g. USHA Cooperative, and highlight the difference it can make in terms of health and HIV outcomes – e.g. Brazil recognising sex work as an occupation, sex workers have access to bank accounts etc, Sex workers with higher levels of social capital report higher levels of consistent condom use with clients and have lower STI rates.
- It was agreed that UNDP and UNODC should be approached re lobbying regarding banking access and financial regulatory authorities and the unintended consequences of laws e.g. 'living off earnings' restrictions preventing bank accounts from being opened.

Reduction of Demand for Unprotected Paid Sex draft paper

Discussion raised the following key points for the re-draft:

- The paper should highlight that 'end demand for paid sex' approaches have garnered little evidence as to their effect on HIV transmission.
- The issue of violence within sex work is a constant, and the paper needs to state where there is less violence, and sex workers rights are protected, sex workers will be able to better take care of their health.

- It was suggested that the paper by Peacock et al on Men, HIV and Human Rights may provide good policy and programme solutions to working with individual groups.
- There was vibrant discussion of the efficacy of 100% condom use programmes, including examples of alternative resources and approaches, the harm caused by some such programmes with their lack of consultation and meaningful participation, and human rights violations. Asia Pacific sex work consultation will focus on 100% condom access programmes rather than the punitive approach of the 100% condom use programming.
- The paper should highlight the particular point of the Guidance Note which leads us to produce this annexe. Although 100% condom use is not specifically mentioned in the Guidance Note, clarification is required on this point. The AG accepts that 100% condom use programming does not fit within a rights-based approach because of the punitive elements that involved law enforcement agencies within its implementation.
- Other examples of including targeting clients regarding condom use, respect, attitudes and violence against sex workers should be incorporated (e.g. FairPlay at World Cup 2006, VAMP model). Alongside the recognition of sex workers as educators of clients.

Removal of Punitive Laws, Policies and Practices draft paper

Discussion raised the following points:

- The paper will include discussion of UN commitments about laws that are an impediment to universal access - highlighting that sex work is caught in a net of repressive laws, including moral codes being used as a tool of repression, and will encourage countries to review existing law and enforcement ensuring it does not stand in the way of the universal access to HIV prevention, treatment, care and support for sex workers.
- The paper should include discussion of laws, law enforcement and access to justice.
- The paper should highlight that sex workers often represent the primary or secondary source of income for law enforcement officers due to extortion and lack of protection of the law.
- Communication laws (re prevention of association and publicity) often used against sex workers, make collective working and advertising services impossible. No other business is penalised for allowing a third party to make a profit, and it should be recognised that this is not necessarily exploitation, but places sex workers in a more protected work setting rather than working in isolation.
- Highlight positive examples in addition to New Zealand, such as Uruguay and Brazil.
- The paper will make initial recommendations but point to sources of further reading. The framework should show the scope of the legal issues, including the impact of laws, access to justice, and law enforcement. It should highlight what we are recommending in terms of criminalisation and what protections we wish to see in place.
- Forced treatment and rehabilitation should also be addressed in the paper.
- The paper needs to go at least as far as the Outcome Framework. There is a need to remain concise, while clear and comprehensive, and get information out in the public domain, whilst pointing to where further work is required.
- It was agreed that the paper should not attempt to address the issue of under 18's in sex work at this time. It was suggested that this AG and other groups need to begin to address this issue at some point, particularly in light of statistics regarding HIV infection rates amongst 15-24 year olds in Asia (95% of new infections).

Conflation of Sex Work and Trafficking draft paper

The paper should start with definitions of 'sex work' and trafficking', then go on to say why conflating the issues is damaging (i.e. as they are totally different and conflating them causes harm to both sex workers and trafficked persons). The section on self determination and autonomy will be strengthened, showing how these are denied within trafficking situations. Trafficking involves exploitation by someone else, but is also not a fixed or everlasting state. Individual circumstances are fluid and a person can get to a point where they are in control and are no longer trafficked.

Examples of good practice (self regulation as in Sonagachi) and bad practice (UK resources wasted through Operation Pentameter which lead to poor results in terms of protecting individuals). Key discussion points:

- Highlight that conflating sex work with trafficking supports the view that sex work is inherently victimising and assumes that sex work is degrading or morally wrong.
- Concern was expressed that those within the UN family discussing trafficking protocols were not always those best placed to do so. The AG called for a joint (UNDP, UNODC & UNFPA) meeting on the conflation of sex work and trafficking.
- Empowering sex workers is critical for good prevention and care in HIV.
- There was discussion regarding why employment choices were so limited. It was felt that as sex work is a rational, not a hysterical, choice; poorer people use their agency to survive and increase their social capital, by entering sex work. Many non sex workers are unhappy within their chosen employment. The issue is to address abuse and exploitation within the work rather than challenge the choice itself.

Closing Comments

Taking into account discussion over the first two days of meetings regarding the status and structure of the four papers, it was agreed that an introduction be drafted. This would highlight the history of the development of papers and identify the key issues to be addressed from the Guidance Note.

DAY 3

Finalising the draft Annexes to the Guidance Note

Action and Agreements:

- In the short-term it was **agreed** that the UNAIDS Secretariat would fund the copy-editing element of the completion of the annexes to the Guidance Note from within its resources.
- Copy-editing for the most part will not focus on content; the copy editor will work with group leads and a review process, focusing on consistency of language, clarity of expression/ tone.
- Economic Empowerment paper will however require content editing support.
- Each working group lead would collate and revise the draft documents based on the comments noted. **The deadline was agreed as Sunday 15th August.**
- These would then be sent to the NSWP Secretariat to arrange for them to be copy-edited with peer review, provided by a small group.
- A glossary to clarify terms in the annexes should be prepared.
- All four copyedited annexes would then be circulated to the AG with a short deadline for approval.
- It was agreed it was critical to have the Guidance Note and Annexes published and ready for the Global Fund Round 10 Technical Review Panel which meets w/c 25th October to assist their decision making about funding of rights-based sex work programming.

Annexe Headings

It was agreed that the following blocks be used as indicators of content (rather than actual headings) for consistency.

- What are the issues?
- What they mean / do not mean?
- Why this is significant in terms of HIV and universal access?
- Good / poor practice examples
- Red flags for contentious points / dangerous practice
- Conclusions and recommendations

Criteria for Monitoring Country Roll-out of Guidance Note

Discussion took place as to how to identify the countries which the AG will monitor the roll-out of the Guidance Note. Initial criteria were identified as follows:

- Countries perceive need for external input
- Magnitude of epidemic – both concentrated and generalised
- Existence of firm interaction between government and civil society
- Capability to share with other areas of the world
- Include any additional country that may specifically request our involvement
- Countries where we can show there has been some action
- Countries where there has been little action to date
- Countries that have a need and want to use this process – therefore beneficial in both ways
- Countries where there are already existing or emerging organisations and networks of sex workers
- Regional balance is required
- Countries with experience we can document (e.g. NZ/India – decriminalisation)
- Countries that have / are developing strategies (UNDAF)
- Regarding implementation - link to Global Fund / Outcome Framework, clarify for countries how all these documents and initiatives fit together

Joint Action for Results: UNAIDS Outcome Framework 2009-11 – draft Business Case for MSM, SW and Transgender People Outcome

The Business Case on men who have sex with men, sex workers, and transgender people was drafted in June 2010 and is being reviewed for input and revisions from June – August. The Business Case contains bold results. The Operational Plan to implement this during 2011 will be developed in August, framed around the goal and the four bold results. UNAIDS will be accountable for reporting against the four bold results in at least 20 of the world's 144 low and middle income countries by the end of 2011 and report progress to advisory and governance bodies, including the AG.

This Business Case will be reviewed during the IAC in Vienna, UNAIDS publicity materials clearly identify the bold results as being out for consultation. Members of AG were asked to comment on this paper by Friday 6th of August.

Action and Agreements:

- Concern was expressed regarding the lack of consultation and inclusion of the specific needs of transgender people. Transgender consultation has not yet taken place; UNDP is willing to put resources into this at the IAC in Vienna.
- There was a strong concern that the proposed limit to municipalities with populations of over 3 million ought to be amended, as this would exclude large parts of the world and it would limit coverage to large cities which are to some extents already covered.
- It was felt that capacity building for representatives of the various key populations needed to be specifically incorporated into the Business Case.
- Some global south countries already have a strategy in place at municipal level including the umbrella structure. Such examples should be highlighted and used as potential models.
- NSWP will organise a small consultation on the business case.

Additional Item of AOB

It was noted that sex workers are being forgotten in some policy documents and promotional materials relating to key populations, the AG calls upon GF, the UNAIDS Secretariat and Cosponsors to ensure the inclusion of all the key populations – drug users, men who have sex with men, sex workers (male, female and transgender) and transgender people in all publications and statements.

Introduction to the Annexes to the Guidance Note (Appendix 3)

The AG asked for the following points to be incorporated in the introduction

- Place the purpose of the annexes more prominently and state that this AG strongly recommends the actions.
- Include that the elaboration is in order to identify key barriers to taking forward universal access in relation to HIV and Sex Work.
- Include the UNAIDS Cosponsors and Secretariat within the UNAIDS umbrella as a symbolic statement of cohesion.
- Remove the term ‘ill-conceived’, as there are no well conceived policies to reduce demand. Replace with ‘policies that were developed without consultation with sex workers’.
- Include law enforcement under harsh ‘criminal and other laws’.

With the above amendments the Introduction to the Annexes was **approved**, and it will be distributed among AG members for final review and comment.

Letter to Michel Sidibé re Travel Restrictions on Sex Workers (Appendix 4)

The AG considered the draft letter to Michel Sidibé regarding the recent refusal of entry into the USA of a sex worker rights advocate. Some minor textual changes were noted.

Action and Agreements:

- The letter should include a call to Michel Sidibé to work with Helen Clark (UNDP Administrator) on this issue.
- It was suggested that people who use drugs should be included in paragraph 3, in solidarity. It was noted that there had been high level interventions by UNAIDS in relation to the travel ban on MSM and people with HIV.
- The text of the regulations used in the travel ban would be emailed to the group so that people could consider submitting individual responses and those of their organisations in tandem.
- It was agreed, after some discussion with UNAIDS colleagues, that the letter would be signed by the Co-chairs on behalf of the AG.

Associated Clarification in relation to AG making public statements on issues of concern:

There was extended discussion regarding clarifying the ToR and the process for the AG to make public statements regarding issues of concern. The following points were **agreed**:

- Clarification regarding how the AG can issue public statements was urgently required to clarify the group’s Terms of Reference.
- Some UN colleagues felt there was a conflict with their writing to their own Executive Director calling upon them to take action. However, the AG had been tasked to report on urgent issues of concern, directly to Michel Sidibe, about violations of sex worker rights.
- UNAIDS Secretariat staff, along with incoming Chief of the HIV/AIDS Branch (UNFPA), would request a briefing with Michel Sidibé to clarify the precise Terms of Reference and the issue of public statements.

UNGASS Indicators – presentation

The UNAIDS Secretariat gave a brief presentation on the UN General Assembly Special Session on HIV/AIDS (UNGASS) Review objectives and process. The main objectives are to identify strengths and weaknesses of the international HIV system, obtain broad agreement on key elements to maintain over the next reporting period, review indicator performance and identify gaps, and to obtain agreement on revisions of the set of core indicators.

- The AG raised a number of points of clarification in relation to sex workers. Members were told it would be really useful if they could feed in these vital points of information through the UNFPA.
- A recent meeting with the International AIDS Alliance had highlighted the disconnection between what we require as information for indicators and qualitative information from sex workers, e.g. if a sex worker has seen a condom then that indicates HIV prevention. The e-survey for this process provides space for comment as well as simple quantitative tick box answers.

WHO Proposed Guidelines on the Prevention & Treatment of HIV and other STI's for Sex Workers – presentation

The World Health Organisation (WHO) gave a brief presentation on the proposed guidelines. Interventions to reduce HIV transmissions among sex workers and their clients are recognised as an essential part of programming, however evidence on what constitutes effective HIV programming in relation to sex workers is scarce. The process for agreeing the indicators and measures was outlined and the meaning of PICOT questions explained (Population, Intervention, Comparison and Outcomes & Time). The following points were made during the ensuing discussion:

- WHO country reports often describe 100% condom use initiatives as very positive, however this does not reflect the concerns over human rights. It is hoped these clinical guidelines will help overcome this issue.
- Concerns were raised around the safety issues involved when mapping information is shared, e.g. with law enforcement agencies. WHO feel it is important to understand the harm that can be done with mapping or the potential side effect of any recommendation and include this within the empirical tables. There could be alternative means of working with civil society collectively to reach populations.
- Regarding the breadth of evidence that can be considered, strong recommendations can be made based on evidence from civil society, expert opinion etc. It was not exclusively only (e.g.) random control trial evidence that could be considered as valid.
- Key points were made regarding treatment issues e.g. Hep A, Hep B and HPV vaccination, as well as other kinds of transmission we are seeing more and more of (transgender and MSM amoeba and anilingus), including new treatment regimes for resistant parasitic infections (e.g. trichomoniasis).
- Issues regarding hormones and silicone would be discussed in more detail outside of the meeting in order to do them justice.
- WHO requested that the AG be the mechanism to consult with civil society to input into the process, this was agreed.

Any Other Business

The AG was informed of the Vienna Declaration which sought signatories to a statement about improving illicit drug policy. Solidarity on the issue is sought from sex worker organisations. The Declaration can be found on various websites, including: www.viennadeclaration.com

It was noted that UNAIDS staff will not sign the declaration, but will raise the issue through the appropriate internal channels.

The co-chairs thanked all the representatives and the interpreters for working so hard over the past three days.