

Action Sheet 15: Protection and HIV Prevention, Treatment, Care and Support

Key message

1. HIV and AIDS can have life-threatening and devastating long-term personal, social and economic consequences for individuals, families and communities. It is essential that appropriate HIV prevention, treatment care and support form part of the humanitarian response from the beginning of an emergency, including in situations of internal displacement. **This action sheet** gives an overview of and provides guidance relating to the inter-linkages between protection and HIV/AIDS.

HIV and AIDS in the context of internal displacement

2. The AIDS epidemic, which has claimed the lives of over 25 million people worldwide, is a global epidemic that affects persons of all ages, gender, and socio-economic status. At current over 40 million people are living with HIV, many of them in countries beset by conflict or poverty. It is important to note that there is no direct causal link between displacement and HIV, meaning that internally displaced persons are neither more likely nor less likely to suffer from HIV than the general population. HIV infection rates depend on a number of complex factors, among which displacement is only one. Other important factors include existing prevalence rates within the country, overall population mobility, the level of risk-taking behaviour, access to accurate information, and access to prevention, treatment, care and support services. In situations of internal displacement, however, additional situational factors can arise.

Some facts about HIV and AIDS

The human immunodeficiency virus (HIV) is a retrovirus that infects cells of the human immune system, destroying or impairing their function. In the early stages of infection, the person has no symptoms. However, as the infection progresses, the immune system becomes weaker, and the person becomes more susceptible to related infections.

The most advanced stage of HIV infection is acquired immunodeficiency syndrome (AIDS). It can take 10-15 years for an HIV-infected person to develop AIDS; antiretroviral drugs can slow down the process even further.

HIV is transmitted through unprotected sexual intercourse (anal or vaginal), transfusion of contaminated blood, sharing of contaminated needles, and between a mother and her infant during pregnancy, childbirth and breastfeeding.

(WHO, www.who.int/topics/hiv_infections/en/)

3. The circumstances that often characterize displacement, including conflict, human rights violations, general instability, and the breakdown of families and communities, are also factors that may lead to a higher risk of HIV infection. Although the HIV prevalence rates may not be higher, the internally displaced may find themselves at increased risk of being exposed to or otherwise affected by HIV. In particular, poverty, marginalisation and exposure to sexual violence – such as rape or forced prostitution – tend to increase such risk.
4. Moreover, the internally displaced, who often face discrimination and lack access to adequate shelter, food, water and basic services, including health care, are more vulnerable to the effects of HIV infections. Without access to information and HIV/AIDS prevention, treatment, care and support the ability of individuals and communities to cope with the physical, social and economic impact of the pandemic is seriously undermined. In some cases, multiple displacement and high population mobility among the internally displaced poses additional challenges, making it difficult to gauge the extent of the problem and provide a sustainable response.

The protection implications of HIV

5. HIV is a devastating disease, but is not merely a matter of health. The causes as well as the consequences of the pandemic have significant protection implications. Human rights violations, as well as poverty and marginalisation, often lie at the heart of an increase in HIV infections. Moreover, in addition to lacking access to adequate medical treatment, individuals living with HIV frequently face discrimination, stigma and social exclusion, with far-reaching consequences for them as well as their families. In many cases, those living with HIV lack or have limited access education, livelihood opportunities, the necessary family or social support. In some situations, they may even face arbitrary arrest and detention or other limitations on their freedom of movement. Their rights to protection of privacy and confidentiality, including as regards their HIV positive status, are also frequently violated.

Individuals and groups at particular risk

6. HIV/AIDS affects people without regard to their age, gender, ethnic or religious origin, sexual orientation or other status. Women and girls, however, bear the brunt of the epidemic in many ways owing to gender-related discrimination and inequality. Exposed to sexual violence, abuse and exploitation as well as often constrained in negotiating safe sex and in accessing HIV prevention, treatment, care and support programmes, they tend to be at heightened risk. In addition, women living with HIV are often the primary targets of stigmatization related to HIV and AIDS and may face violence, isolation or abandonment at the hands of their partners or family members. Moreover, women and girls are also more likely than men and boys to shoulder the burden of caring for orphaned children, family members or neighbours affected by AIDS, further limiting their access to education and livelihood opportunities.

The role and responsibility of the State

7. Ensuring equal and effective access to HIV prevention, treatment, care and support is the responsibility of the national authorities. This responsibility flows from the duty of the State to protect, respect and fulfill its human rights obligations, in particular the right to health (see legal section below). States should take all appropriate measures to ensure that such mechanisms are available, accessible, affordable and culturally acceptable to the population, including to internally displaced persons. In addition, States must ensure that their laws, policies and practices on HIV respect human rights and that those living with HIV are not discriminated against, excluded or exposed to violence and abuse. These and other obligations are outlined in greater detail in the *International Guidelines on HIV/AIDS and Human Rights*¹, which provide valuable guidance to States, civil society and other stakeholders on effective national HIV policies and strategies.

The role of human rights and humanitarian actors

8. Human rights and humanitarian actors have an important role to play in preventing, responding to and mitigating the impact of HIV and AIDS. An effective response will require a multi-sectoral approach that addresses both the short-term and long-term physical, social and economic aspects of the pandemic. Efforts must be made to simultaneously address issues of prevention, treatment, care and support. [IASC Guidelines for HIV/AIDS Interventions in Emergency Settings](#) provide detailed guidance in this respect. Table 1 highlights key elements of a comprehensive multi-sectoral strategy and response to HIV.

Table 1. Overview of multi-sectoral HIV prevention, treatment, care and support, and mitigation strategies

Strategy	Activities
Prevention	<ul style="list-style-type: none"> – Develop HIV awareness-raising and sensitization programmes that address and encourage reduction in risk-taking behavior – Ensure adequate prevention and response to sexual and gender-based violence – Ensure provision of post-exposure prophylaxis (PEP) to rape survivors – Implement universal precautions in health-care settings to prevent HIV transmission – Support promotion and distribution of male/female condoms – Offer voluntary (and confidential) HIV counseling and testing (VCT) – Ensure early and effective treatment of sexually transmitted infections (STI), including ensuring links between such treatment, VCT services and tuberculosis programmes – Prevent mother-to-child transmission (PMTCT) – Provide evidence-based sexuality and reproductive health education in schools as well as through other means in order to reach out-of-school adolescents – Ensure targeted prevention and care programmes for individuals or groups most at risk
Treatment	<ul style="list-style-type: none"> – Ensure provision of antiretroviral treatment (ART) – Ensure provision of prophylactic and other treatment for opportunistic infections
Care and support	<ul style="list-style-type: none"> – Provide nutritional support for those in need – Organise and support community-based home-care programmes – Provide targeted support to care-givers of those living with HIV, in particular single-

¹ International Guidelines on HIV/AIDS and Human Rights: Consolidated Version (OHCHR / UNAIDS, 2006).

	female or child-headed households) – Ensure family tracing and reunification for unaccompanied or separated children and adequate foster care arrangements for children orphaned by AIDS
Mitigation	– Ensure that those living with, at risk of, or otherwise affected by HIV are not discriminated against and are able to exercise their rights – Support information and education activities that aim to dispel misconceptions and counter prejudice, discrimination and social exclusion – Provide training on HIV, human rights and gender to all relevant stakeholders, including staff in the health, social services, law enforcement and humanitarian sectors, among national as well as international actors, our own staff and partners.

The role of protection in HIV prevention and response

9. Given the significant protection implications of HIV and AIDS, protection staff and partners have a crucial role to play in the broader multi-sectoral response. Attention to HIV and AIDS should be integrated in the various aspects of protection work, with specific activities highlighted in the table below.

IN OUR WORK we can:	
Assessment and Analysis*	– Ensure that protection assessments, analysis and response strategies include HIV related concerns. This likely will require identifying: causes, contributing factors and potential consequences in terms of protection risks; individuals and groups most at risk; existing coping mechanisms and capacity; gaps in response; and priority areas for intervention. – Encourage and support attention to HIV in the assessments, analysis and response strategies of other relevant sectors/clusters, in particular relating to health, livelihoods, food, nutrition, education, and water, sanitation and hygiene.
Coordination*	– Ensure that the issue of HIV/AIDS is mainstreamed and adequately addressed by the Protection Working Group and that it coordinates closely on this issue with other relevant working groups/clusters, including those on health, livelihoods, food, nutrition, education and water/sanitation, to ensure a comprehensive response.
Advocacy*	– Adopt and implement, in cooperation with partners, a comprehensive HIV advocacy strategy that promotes respect for the rights of persons living with HIV. Advocacy may also be required towards ensuring that national HIV policies and programmes integrate attention to the situation of IDPs living with HIV and that they have full and equal access to public services and support.
Information and communication activities*	– Support evidence-based information activities that provide information about HIV prevention, response, care and support. Such activities should aim to provide culturally sensitive information about sexuality and reproductive health and should aim to combat discrimination and stigmatization.
Community mobilization*	– Train and support leaders (political, networks of people living with HIV, faith-based, women's groups) to speak out against stigma and discrimination and in favour of human rights, including gender equality and universal access to prevention, care and treatment services.
Technical expertise and advice*	– Offer technical expertise and advice relating to the protection implications of HIV to all relevant stakeholders, including national authorities, local NGOs, civil society and IDP community leaders. This may include advice to national authorities on ways to ensure that the rights of those living with HIV are adequately protected in national legislation, policies and programs.
Training*	– Provide or support training on HIV and human rights for all relevant stakeholders, including government officials, armed forces, law enforcement officials, peace-keeping forces, IDP community leaders, and humanitarian workers. As regards the latter, such training should also include codes of conduct, in particular as regards

	sexual violence, exploitation and abuse.
Health care	<ul style="list-style-type: none"> – Advocate and take other action to ensure that the following health-related services are available, accessible, affordable and provided in a culturally acceptable manner: (i) primary health care services which address physical, mental, psycho-social and reproductive health; (ii) targeted health-care services for rape survivors, including provision of Post-Exposure Prophylaxis (PEP); (iii) voluntary counseling and testing programmes; (iv) prevention, treatment and care services, including prevention of mother to child transmission for people living with HIV; and (v) community-run home-based care and support programmes.
Education	<ul style="list-style-type: none"> – Ensure that children living with, at risk of, or otherwise affected by HIV have full and equal access to education, vocational training and recreational activities. Keep in mind that girls are disproportionately affected by HIV and AIDS and ensure that the particular obstacles that they face in accessing education are addressed. – Ensure that education and peer-education activities address and provide information on HIV, sexuality and reproductive health to adults and adolescents.
Livelihoods	<ul style="list-style-type: none"> – Ensure that those living with HIV and their families have access to vocational training and income-generating activities that promote self-reliance and prevent risks stemming from economic dependency. – Promote programmes aimed at promoting livelihood alternatives to transactional sex
Targeted humanitarian assistance*	<ul style="list-style-type: none"> – Provide targeted material or financial assistance to individuals and families living with or affected by HIV, including in particular single-headed households and households headed by children. – Advocate with local and national authorities to ensure that individuals and families affected by HIV have full and equal access to public services and support, including in terms shelter, food, water and health care. – Support community based male/female condom promotion and distribution.
Family reunification*	<ul style="list-style-type: none"> – Ensure that separated and unaccompanied children are identified and registered, that determinations of the best interest of the child take place, and that they are reunited with their families, if appropriate. In some cases, adequate foster care arrangements may be required. Reference should be made to existing guidelines on the protection of separated and unaccompanied children.
Durable solutions*	<ul style="list-style-type: none"> – Ensure that HIV prevention, treatment, care and support is included in all return or resettlement and (re)integration programs of the government, the UN and other partners. Ensure also that IDPs living with HIV are not discriminated against on the basis of their health status, regardless of whether they choose to return, relocate or integrate in the place of displacement. This may require efforts to sensitize the host community or communities in areas of return to the rights and needs of persons living with HIV.

Key actors and coordination arrangements

10. Effective HIV prevention and response requires coordinated efforts by a range of actors – local, national, regional and international - having different mandates, expertise and operational capacity. At the field level, HIV response in displacement settings is coordinated jointly by UNHCR and UNAIDS, working closely with all relevant stakeholders. Moreover, HIV is a cross-cutting theme in the “cluster approach”, meaning it should be integrated and mainstreamed in the work of all clusters and sectors of the humanitarian response.² Key stakeholders include:

- **National:** Ministries of Health, Education and Social Services; national AIDS commissions and/or programmes; health care providers; national human rights commission; local NGOs and civil society; networks of persons living with HIV; the media.

² See Chapter 2-3 on the International Institutional Framework.

- **Regional:** An array of initiatives are being undertaken at the regional level such as the Great Lakes Initiative against AIDS and the Asia Pacific Network of People Living with HIV.
- **International:** UNHCR, UNAIDS, WHO, UNFPA, OHCHR, UNICEF, WFP, FAO, World Bank, ILO, Special Envoy of the Secretary-General for HIV/AIDS in Africa; international NGOs and networks of persons living with HIV/AIDS and peacekeepers.³

Key legal principles and standards

11. Ensuring that human rights are respect and protected is critical both to reducing exposure to HIV as well as to mitigating its adverse effects on individuals and communities. International human rights law contains a number of rights which are of direct relevance to those living with or otherwise affected by HIV, as outlined in detail in Tables 3 and 4 below. Box 1 provides a summary of key operational principles based on these standards.

Table 3. Overview of human rights that are of direct relevance in the context of HIV and AIDS⁴

<ul style="list-style-type: none"> ▪ right to non-discrimination, equal protection and equality before the law ▪ right to life ▪ right to the highest attainable standard of health ▪ right to liberty and security of person ▪ right to freedom of movement ▪ right to seek and enjoy asylum 	<ul style="list-style-type: none"> ▪ right to privacy ▪ right to freedom of opinion and expression and the right to freely receive and impart information ▪ right to freedom of peaceful assembly and association; ▪ right to work; ▪ right to marry and to found a family; ▪ right to equal access to education; 	<ul style="list-style-type: none"> ▪ right to an adequate standard of living ▪ right to social security, assistance and welfare ▪ right to share in scientific advancement and its benefits; ▪ right to participate in public and cultural life; ▪ right to be free from torture and cruel, inhuman or degrading treatment or punishment.
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12. States have recognized the importance of gender equality, empowerment and participation of **women and girls** in all aspects of HIV prevention and response.⁵ In particular, gender-specific protection risks must be adequately addressed and special attention paid to the health needs of women and girls, which includes ensuring access to reproductive health care and services, and appropriate counseling and treatment in all cases of sexual and gender-based violence.
13. **Children** are entitled to special protection under the law. In particular, the general principles of the Convention on the Rights of the Child – including non-discrimination (art. 2), best interests of the child (art. 3), the right to life, survival and development (art. 6), and participation of the child (art. 12) – should be a paramount consideration in all cases involving children, including in HIV prevention and response. The UN Committee on the Rights of Child’s *General Comment on Children and HIV/AIDS*⁶, highlights the importance of the following rights:

Table 4. Child specific human rights in the context of HIV and AIDS

<ul style="list-style-type: none"> ▪ right to health ▪ right to access information and material aimed at the promotion of their social, spiritual and moral well-being and physical and mental health ▪ right to preventive health care, sex education and family planning education and services ▪ right to an appropriate standard of living ▪ right not to be separated from parents right to privacy ▪ right to be protected from violence ▪ right to special protection and assistance by the State 	<ul style="list-style-type: none"> ▪ rights of children with disabilities ▪ right to social security, including social insurance ▪ right to education and leisure right to be protected from economic and sexual exploitation and abuse, and from illicit use of narcotic drugs ▪ right to be protected from abduction, sale and trafficking as well as torture or other cruel, inhuman or degrading treatment or punishment ▪ right to physical and psychological recovery and social reintegration
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14. **Note! Public health concerns rarely are a legitimate reason to restrict the rights of persons living with HIV.** The rights of persons living with or affected by HIV are sometimes limited or restricted based on purported public health concerns. Such measures have included deprivation of liberty, denial of access to public services and mandatory HIV testing. However, such measures rarely are legitimate

³ See UN Security Council Resolution S/1308/2000 (2000) on HIV/AIDS and Peacekeepers.

⁴ This compilation of rights is based on the *International Guidelines on HIV/AIDS and Human Rights* (OHCHR/UNAIDS, 2006, p.80-103), as well as General Comment No. 3(2003) of the UN *Committee on the Rights of the Child, para. 6. See also Guiding Principle 19(3) of the Guiding Principles on Internal Displacement.*

⁵ [Declaration of Commitment on HIV/AIDS](#), UNGA Resolution A/RES/S-26/2 of 2 Aug 2001, paras. 14, 37, 58–62. See also Guiding Principle 19(2).

⁶ General Comment No. 3(2003) of the Committee on the Rights of the Child, in particular paras. 5 and 6.

(which requires being in line with established legal criteria for the restriction and limitations of rights, i.e. for reasons of public safety or emergency). Nor are they effective in dealing with an epidemic that is not casually transmitted; in fact, they only *discourage* individuals to undergo voluntary testing and sign up for prevention, care and support programmes. In short, discrimination and lack of respect for human rights is likely to increase, rather than decrease, HIV prevalence rates.

Further reading

Many of the following reference documents are available at <http://www.refworld.org>

Tools and guidelines:

Guidelines for HIV/AIDS Interventions in Emergency Settings (IASC, 2003)

International **Guidelines on HIV/AIDS and Human Rights**: Consolidated Version (OHCHR/UNAIDS, 2006)

Strategies to Support the **HIV-Related Needs of Refugees and Host Populations** (UNAIDS/UNHCR, 2005)

Practical Guidelines for **Intensifying HIV Prevention** (UNAIDS, 2007)

Other resources

Educational responses to HIV and AIDS for Refugees and Internally Displaced Persons: Discussion paper for decision-makers (UNESCO, UNHCR: 2007)

Note on **HIV/AIDS and the Protection of Refugees, IDPs, and Other Persons of Concern** (UNHCR 2006)

HIV/AIDS and Internally Displaced Persons in 8 Priority Countries (UNHCR/OCHA-IDD, 2005)

Fact Sheet: **HIV/AIDS and Children Affected by Armed Conflict** (UNICEF, 2002)

HIV and Conflict: A Double Emergency (International Save the Children Alliance, 2002)

Gender and HIV/AIDS: Resource Pack (WHO, 2005)

HIV-Related Stigma, Discrimination and Human Rights Violations: Case Studies of successful programmes (UNAIDS, 2007)

Websites:

Joint United Nations Programme on HIV/AIDS – UNAIDS: www.unaids.org

UNHCR: www.unhcr.org/hiv-aids

UNIFEM: www.genderandaids.org

UNICEF: www.unicef.org

WHO: www.who.int/topics/hiv_infections/en/

OHCHR: www.ohchr.org/english/issues/hiv/index.htm

UNFPA: www.unfpa.org/hiv/index.htm

FAO: www.fao.org/hivaids

Global Coalition on Women and AIDS: www.womenandaids.unaids.org

Annex 1

Key Principles: Relating to HIV prevention, response, care and support

✓ **Non-discrimination, equal protection and equality before the law**

Persons living with or otherwise affected by HIV/AIDS are entitled to live their life in dignity, free from any kind of discrimination. Human rights law prohibits discrimination on a number of grounds, including on the basis of 'other status', such as health status, including HIV/AIDS.⁷ Misconceptions that IDPs are associated with an increased prevalence of HIV may lead to discriminatory practices and should be dispelled.

✓ **Access to HIV and AIDS health care**

The right to the highest attainable standard of health includes non-discriminatory access to HIV and AIDS prevention, treatment, care and support, including psycho-social support. This includes: access to voluntary, confidential HIV counseling and testing (VCT); antiretroviral therapy (ART); protection from mother-to-child transmission; and access to reproductive health care, including appropriate pre-natal, delivery and post-natal care.⁸

✓ **Protection from arbitrary detention and unlawful restrictions on movement**

There is no public health justification for deprivation of liberty or restrictions on movement – including forced return or relocation – solely on the basis of actual or suspected HIV status. Any such measures are not only ineffective (HIV/AIDS is not a disease that can be transmitted through everyday life activities; transmission can be prevented by less restrictive means) but also discriminatory and violate the rights to liberty and security, and freedom of movement.

✓ **Respect for confidentiality and privacy**

Personal data, including data on health status, is confidential and should not be shared without the prior, informed consent of the individual concerned. Ensuring confidentiality is the responsibility of all those who have access to information on an individual's health status. Informed consent requires that individuals understand what information would be shared, with whom, and for what purposes.

✓ **Freedom from mandatory testing**

There is no public health justification for mandatory HIV screening as it does not prevent the occurrence or spread of HIV, and it may violate the rights to privacy, personal integrity and security.⁹ Public health interests are best served by voluntary counseling and testing in an environment where confidentiality and privacy is respected.

✓ **HIV/AIDS -related needs of women, girls and boys**

Women and children are disproportionately affected by HIV and AIDS. Appropriate measures need to be taken to address the particular protection problems they face, including the risk of rape, sexual violence and exploitation, social exclusion and discrimination, and violations of a number of rights, including access to health care, property and education.

✓ **Access to HIV/AIDS information and education**

The right to health includes access not only to HIV treatment, but also to HIV-related information and education as well as to information about sexual and reproductive health.¹⁰ Moreover, the rights to education and to seek, receive and impart information guarantee individual's access to life-saving information. In case of children, such information must be relevant, appropriate, timely and presented in a manner appropriate for their age.¹¹

⁷ As confirmed by the UN Committee on Economic, Social and Cultural Rights (CESCR) in General Comment No. 14(2000), paras. 18-19; the UN Committee on the Rights of the Child (CRC) in General Comment No. 3(2003), para. 9; and the UN Commission on Human Rights in Resolution 2005/84, preamble, para.16.

⁸ See e.g. Committee on the Rights of the Child in General Comment No. 3(2003), paras. 7, 26 and 28.

⁹ See e.g. CRC General Comment No. 3, para. 23; *International Guidelines on HIV/AIDS and Human Rights*, para. 97, 98 and 113; and the UNAIDS/WHO *Policy Statement on HIV Testing*, June 2004.

¹⁰ CESCR General Comment No. 14(2000), paras. 12 and 16.

¹¹ CRC General Comment No. 3(2003), paras. 16-17.