

## **7. HUMAN RIGHTS AND LEGAL ISSUES**

### **7.1 Rationale**

Despite compelling evidence that reducing stigma, protecting human rights and promoting greater involvement of PLHIV advance HIV/AIDS control, Nigeria's achievements in this regard remain slow and hesitant. More than two decades after the identification of the first case of HIV in Nigeria, violations of human rights of persons infected and affected is still rampant and stigma remains pernicious and pervasive. This situation is compounded by attitudes and practices discriminate against widows and Children orphaned by AIDS and other MARPs. Furthermore, current approach of the national response appears to accentuate the differential access to information, services and participation by marginalised sections of the population. The epidemic trends and trajectory compels policy shifts to address the disproportional incidence and impact of HIV/AIDS on Nigerian women, girls, young people, physically challenged persons, drug users, prisoners and persons engaged in transactional sex or same sex relationships.

### **7.2 Thematic Goal**

The goal of this thematic focus is to protect the rights of PLHIV and PABA and empower them as well as other HIV vulnerable or marginalised groups so as to reduce their social, cultural, legal and socio-economic vulnerability and ensure their full participation in the national HIV/AIDS response and development initiatives.

### **7.3 Thematic Objectives**

The objectives are to:

Protect the rights, empower and facilitate greater participation of persons living with HIV and AIDS; and

Protect women, children and other socially vulnerable and marginalised groups from HIV infection.

### **7.4 Policy Statements**

#### **A. Promotion and Protection of the Rights and Empowerment of PLHIV**

In fulfillment of its constitutional obligations and in response to its commitments under numerous international declarations and conventions, government shall protect the rights and dignity of persons living with HIV/AIDS by creating a conducive legal, political, economic, social and cultural environment for full expression of such rights.

Therefore, under this Policy government shall:

Enact and enforce laws against discrimination and promote measures to reduce stigma against PLHIV;

Ensure that HIV status, suspected or actual is not grounds for denial of employment and access to social services including housing, health, and education;

Ensure that mandatory HIV testing is not a prerequisite for employment or school enrolment;

Health workers and other persons working with PLHIV must conform to highest ethical standards of patient/client-service provider relationship and ensure confidentiality regarding the HIV status of their clients or patients;

Support gender-sensitive participation of PLHIV in all decision-making on the design, implementation of HIV programmes at all levels;

Ensure that sector policy-makers, in both public and private sectors establish gender-responsive workplace policies and programmes to address stigma and discrimination;

Support PLHIV whose rights are infringed to access independent and speedy administrative or legal redress; and

Support intensive community based advocacy, gender-sensitive support systems and services at family, community and national levels to promote disclosure of HIV sero-status.

## **B. Protection, Participation and Empowerment of Vulnerable Populations**

### **Women, Girls and HIV/AIDS**

Nigerian women and girls are disempowered by social, cultural, economic and legal factors which deny them the right to autonomous decision-making in sexual and reproductive matters. As a result, they are vulnerable to physical and sexual abuse. Also a high proportion being illiterate and poor, many women are often unaware of or powerless to exercise their rights. These factors and the gender-insensitive manner in which many HIV/AIDS programmes are currently implemented combine to create differentials in three critical areas: access to information, access to services and denial of participation in decision making and programme activities.

In response governments at all levels through this Policy shall:

Ensure that women and girls, regardless of marital or HIV status, have equal access to culturally appropriate, gender-sensitive youth-friendly HIV/AIDS and reproductive health information and services;

Reinforce and enforce legal measures to deter rape, violence against women and sexual harassment of girls;

Enact and enforce laws, domesticate international conventions that advance the social, cultural and economic rights of women and girls;

Support traditional and religious institutions to eliminate harmful traditional practices against women;

Support gender-sensitive integrated prevention, care, and support programmes linked with girl education, employment and poverty alleviation programmes; and

Promote gender sensitive family life education for in-school and out-of-school young persons to empower girls as well as boys to protect themselves from HIV infection or live positively with HIV/AIDS if infected.

### **Protecting Children and Young People against HIV/AIDS**

Young persons aged 19-25 years; particularly females have the highest incidence of new HIV/AIDS infections. Besides, children, particularly orphans, vulnerable children and girls are at grave risk of HIV infection from sexual abuse. Children below the age of 15 years present opportunities for the national response because health seeking behaviour imbibed early in life makes them effective promoters of HIV/AIDS prevention. Overall, it is evident that current epidemiological trends compel intensive scale up of prevention interventions targeting young people.

In response to these challenges, the various Governments of Nigeria will ensure the availability of youth friendly information and health services that are accessible and socially acceptable, providing services that will reduce the vulnerability of youths to HIV/AIDS.

In furtherance of this Policy, governments at federal, state and local councils shall:

Review and modify national policies and programmes with the view to

reducing the vulnerability of young people to HIV/AIDS;

Expand access to gender-sensitive, age and culturally appropriate youth-friendly HIV/AIDS, STI and reproductive health information and services;

Expand prevention programmes targeting children aged 14 years (Window of Hope Period) to reduce future risky sexual behaviour;

Integrate HIV and AIDS education into the curricula of formal schools beginning at the primary level and support school-based and support out-of-school family life education programmes;

Improve access of out-of-school youths in both urban and rural areas to prevention and other relevant HIV/AIDS-related services through organisations, youth clubs, tertiary educational institutions, faith based groups, work place programmes and customised programmes for most-at-risk- young people;

Expand access of young people to youth-friendly facilities that provide prevention, HCT and care, treatment and support services;

Establish and sustain functional linkages between HIV/AIDS programmes and employment and poverty reduction initiatives;

Intensify prevention programmes targeting tertiary institutions and out-of-school youths; and

Support traditional and faith based institutions to invigorate family and moral values and inculcate fidelity, abstinence and delay sexual debut among young people.

### **Physically Challenged Persons and HIV/AIDS Vulnerability**

Physically challenged people are vulnerable to HIV infection because they rarely have access to formal education and are often denied participation. Yet lacking education, employment and economic opportunities, many engage in risky sexual behavior and are subjected to sexual abuse.

Government, through this Policy, undertakes to do the following:

Ensure that physically challenged persons have access to appropriate and customised gender-sensitive HIV/AIDS and reproductive health information and services; and

Protect and enforce human rights of physically challenged people and ensure their participation in all decision-making processes and structures.

### **Vulnerability of Poor People to HIV/AIDS**

Poverty is a critical determinant of vulnerability to HIV/AIDS. The vast majority of poor Nigerians who lack employment and support are at risk from risky sexual behavior. Furthermore, they lack financial and physical access to HIV/AIDS prevention information, care and treatment services.

Government, through this Policy undertakes to:

Ensure equitable access to HIV/AIDS prevention information and services by poor people in urban, rural and hard-to-reach areas;

Provide sustainable prevention, care, treatment and support that are financially and physically accessible to poor people who are infected by HIV, including PMCTC services;

Promote public-private partnerships including collaboration with CSOs to expand prevention, care, ART and OI treatment services to the poor and expand service coverage to rural and hard-to-reach migrant, refugee and nomadic populations; and

Mainstream HIV/AIDS prevention strategies into poverty reduction interventions in all sectors.

### **People Engaged in Transactional Sex**

Although Nigeria's epidemic is generalised, persons engaged in transactional sex, in particular females, still constitute a critical most-at-risk group which requires intensified HIV/AIDS prevention interventions.

Government, through this Policy commits to:

Support access to confidential and considerate reproductive health, HIV/AIDS/STIs prevention information and services by persons engaged in transactional sex;

Support widespread availability and accessibility of female and male condoms;

Ensure that sex workers living with HIV/AIDS have access to care, support and treatment including anti-retroviral and opportunistic infections medications; and

Support skills acquisition and economic empowerment of people engaged in transactional sex to enable them assume responsibility for protecting themselves and their clients.

### **Men who have Sex with Men**

There are strong cultural taboos against same-sex sexual relations which drive the practice underground. Thus due to prevailing attitudes, the national response remains silent about this most-at-risk group, particularly, men who have sex with men. Yet failure to address their sexual behaviour through appropriate reproductive health and HIV/AIDS interventions endanger the public since in the Nigeria environment many MSM also engage in opposite sex relationships.

Government shall:

Ensure that MSM have access to full range of integrated HIV and STI prevention, HCT, treatment, care and support.

### **Injecting Drug Users**

The use of contaminated needles among injecting drug users is one of the most efficient ways of transmitting HIV; thus, HIV spread through injecting drug users is among the most explosive. Many drug users often have multiple risks, including higher-risk sexual behaviours including sex work and multiple sexual partners. Unmet challenges/issues related to illegality of drug use and of harm reduction programmes can drive drug users away from services and/or into prisons and fuel the spread of HIV.

Government, through this Policy commits to:

Increase access of drug users to full range of harm reduction measures and to service providers offering treatment for drug dependence, sexually transmitted infections, AIDS and tuberculosis;

Train relevant health and other service providers to increase familiarity with and effective work with injecting drug users;

Expand the access of sexual partners of injecting drug users to HIV prevention, antiretroviral treatment and care services, including post-exposure prophylaxis;

Provide targeted reproductive health and prevention of mother-to-child transmission services to respond to the needs of women injecting drug users and women partners of injecting drug users and;

Create safe virtual or physical spaces (for example telephone hotlines, or drop-in centres, respectively) for injecting drug users to seek information and referrals for care and support.

### **Prisoners**

Prisoners need to be empowered to make informed sexual health decisions because they are at high risk of HIV infection arising from abusive sex within their prison environment.

Government, through this Policy, commits to:

Ensure that prisoners and prison staff have access to HIV/AIDS prevention information, education, HCT, treatment, care and support;

Provide capacity and resources to all correction institutions to protect inmates from rape, sexual violence and coercive sex and provide timely access to post-exposure prophylaxis to victims of rape and sexual violence;

Ensure separation of juvenile offenders from adult prisoners to protect them from abuse