

Chapter 1- Problem, rationale and research concerns

1.1 Background and rationale for the study

The opening chapter landscapes the study by outlining the criticality of the research subject and the reason for its selection. In order to establish its relevance and importance, the study articulates the particular problem of HIV (Human Immunodeficiency Virus) and AIDS (Acquired Immune Deficiency Syndrome) in South Africa and the vital role of international development organisations in the response to the epidemic.

HIV and AIDS is arguably the “greatest public health threat facing South Africa” (Mangu 2008: 49-50). The severity of this threat to the nation makes the South African location of this study pertinent. Compounding the problem of the HIV epidemic in the country has been the relative apathy and “intransigence” of governments in South Africa. Early indication of the government’s response to the HIV and AIDS epidemic in the country can be traced back to the apartheid years of the 1980s when the government “dismissed HIV/AIDS as a disease affecting homosexuals” viewing the epidemic as due retribution for “people regarded as wayward”. Despite an egalitarian constitution that prescribes rights to people without discrimination of gender, race or sexual orientation, the apathetic approach persisted even beyond the apartheid years. According to Mangu (2008: 50) even under Nelson Mandela’s government HIV and AIDS responses were driven by a hetero-normative and homophobic paradigm, resulting in AIDS not receiving “as much attention as it warranted”. By the time Mandela handed over the reigns of government to his successor Thabo Mbeki in 1999 the epidemic had already spread to “7 percent of the population” in South Africa. Between “denialism” and a recommended promotion of “beetroot, lemon and garlic” the Mbeki government drove Stephen Lewis, the United Nations Special Envoy in Africa to describe the incumbent South Africa government’s HIV and AIDS responses as “obtuse, dilatory and negligent about rolling out treatment”

http://www.kaisernetwork.org/health_cast/uploaded_files/Lewis%20Closing%20Speech.pdf). By 2005 HIV prevalence (in percentage terms) reported in the 2006 report released by UNAIDS (The Joint United Nations Programme on HIV/AIDS) rose to 18.8% in the age group 15-59 years.

The preceding paragraph establishes the significance of AIDS as a key issue in South Africa. It is therefore vital for international development organisations, such as the United Nations, who advise and support the national response to be consistent and proactive not just in their policy advice to the government in South Africa but in their own HIV and AIDS policy implementation. A relevant question that the study addresses is, ‘Do international development organisations located in South Africa themselves implement the policies outlined by the International Labour Organisation and their own institutions?’

In order to lay a foundation for the study it is necessary to further establish the importance and immediacy of the subject of this thesis. The study seeks to demonstrate the proposition that although HIV and AIDS policies are an intrinsic part of the commitment of international development organisations such as the United Nations, the implementation of these HIV and AIDS policies in the form of Workplace Wellness Programmes (WWP) supported by budgetary resources is not comprehensive. Data that draws attention to the presence and management of HIV and AIDS in the workplace is also presented. As an area of sociological study, the thesis attempts to understand the bureaucracy and its management approach. It explores Weber’s understanding of bureaucracy, his perspectives on interpretive understanding and social action. The thesis does however take the argument beyond Weber’s assumption that, the highly formalised construct of a bureaucracy is underpinned by its inflexible rules and roles and that this is an absolute and definitive truth. It is against this discourse that the thesis presents the analysis that, it is the decision-maker’s views, beliefs and self-interest that are key drivers of the selective and interpretive implementation of policy and the concomitant constraints.

The thesis breaks new ground in its presentation of the contradictions between a Human Rights based workplace policy and the lived-experiences of people who are supposed to be benefitting from the rights intentions of the policy. The study explores some staff members' feelings of stigmatisation and discrimination stemming from living with the virus and the response of some workplace colleagues to this fact.

This study is particularly relevant owing to the worldwide pandemic of HIV and AIDS. The enormity of the issue is evidenced in the UNAIDS publication, *Living in a world with HIV and AIDS* (UNAIDS/04.27E 2004: 46), which estimates that “as many as 5% of UN employees worldwide may be living with HIV”. Interest in this study was sparked by the publication’s projection that if the various agencies within the UN-system were to be pooled together and viewed as a ‘country’, it would feature among the top 30 countries most affected by the epidemic of HIV and AIDS. Further, in several of the agencies within the UN system, AIDS is the primary cause of mortality among employees. The same publication goes on to table some very revealing findings from a 2002 survey of UN employees about their outlook on the epidemic in the context of their own lives and workplace. The underlying finding of the survey was one of fear and lack of confidence in their organisation’s HIV and AIDS policy. Twelve percent of employees feared that they were HIV positive and expressed reluctance to discover their sero-status, while 41% felt that any knowledge of a positive sero-status would lead to stigmatisation and discrimination. As many as 32% of staff members interviewed believed that their employers in the United Nations would not keep their sero-status confidential. Two percent of those responding to the same UN 2002 survey claimed to be living with the virus and “afraid to reveal their serostatus at work” (UNAIDS/04.27E 2004: 46).

According to another UNAIDS study with assumptions accepted by the UN Human Resources department, the total number of staff employed by the United Nations worldwide in 2004 was “56,619 fixed term staff members”. The average HIV prevalence rate among the global UN workforce was estimated at “1.73%” (UNAIDS/IAAG (22)/06.4: 29). The numbers of UN staff and their dependants living with the virus are summarized in the table (Table 1.1) below. Results show that worldwide, as many as

3,500 UN staff members and their dependants (of a total of 257,616) could be living with HIV.

Table 1.1: Number of UN staff and dependants globally living with HIV

	Staff only			Dependants only		Staff and dependants	
	HIV prevalence	Total	Living with HIV	Total	Living with HIV	Total	Living with HIV
Fixed term	1.7%	56619	978	141548	1711	198167	2689
Contingency	1.7%	16986	293	42464	513	59450	807
Total UN staff	1.7%	73605	1271	184012	2224	257616	3495

The above figures are global statistics from 2004 (UNAIDS 2004: 46). They suggest that the total estimate of people living with the virus at the United Nations globally was estimated to be about 1.7%.

It should be noted that the above UNAIDS report offers the following rider:

It should be cautioned that the above estimates are associated with a lot of uncertainty. The effect of HIV is different for people of different social class, age and sex and estimates should ideally be adjusted for these factors. However, in the absence of information on these factors, the estimates were based on assumptions that were agreed upon in consultation with Human Resources (UNAIDS/IAAG (22)/06.4: 29).

This cautionary rider explains the difference in the two different prevalence figures estimated in the above two studies of the United Nations system. While one suggests the figure may be 5% the other estimates it to be 1.73%. The difference between the two figures is not germane to this study. What is important is the understanding that both figures could be considered high and unacceptable from the moral and efficiency point of view. It is therefore vital for the United Nations to act urgently to fully implement its own HIV and AIDS policy.

The situation however looks quite different in a May 2006 VCCT (Voluntary Confidential Counselling and Testing) Report. The monitoring of HIV prevalence (in the May 2006 Report) was carried out among staff on a smaller, but more relevant, section of the UN in South Africa. The specific relevance lies in the fact that the May 2006 Report is located in the same workplace environment in which the fieldwork for this study is situated. The May 2006 VCCT Report found that 5.7% of all staff in the office were living with the virus. This variance in the global UN estimate and the South African UN estimate reflects the fact that countries like South Africa in Sub-Saharan Africa constitute the epicentre of the epidemic. According to a UNAIDS publication (UNAIDS 2007: 6) titled *AIDS Epidemic Update: December 2007*, the estimated number of deaths due to AIDS in 2007 was 2.1 million [1.9-2.4 million] worldwide, of which 76% occurred in sub-Saharan Africa.

The May 2006 VCCT Report, located in the milieu of the study, states that a total of “138 employees” attended the presentations designed to motivate staff to test for their status and “105 chose to undergo testing. In total, 105 employees underwent VCCT (52.5% of the total targeted employee base). Including two spouses, 107 individuals underwent VCCT. Six employees tested positive (5.7% HIV Prevalence)”. It is important to bear in mind that only about half the targeted population actually agreed to undergo testing. It is possible, therefore, that among the population not available for the tests there was a large section of staff members who knew their HIV status and felt it unnecessary to undergo further tests. There may also have been staff members who believed that they might be HIV positive, but were emotionally ill-equipped to reveal their status to others, in particular their employer. By this assumption, it may be feasible to estimate that the actual number of people living with the virus could be at least double the UN quoted global average of 1.7%, or even higher if one accepts the hypothesis that it is possible that some staff members who know themselves to be HIV positive may find it unnecessary to test themselves again at a VCCT centre. Further, the proportion of staff members opting to test themselves endorses the earlier argument, based on the UNAIDS publication *Living with HIV and AIDS* (UNAIDS/042.7E 2004:46), that there is fear and

a mistrust of the manner in which organs of the UN system may be handling the presence of the virus in its own workplace.

It would not be presumptuous to assume, that in a Human Rights based and mandated structure like the United Nations system, the May 2006 Report (freely circulated within the system) would result in an active, comprehensive and committed response to an epidemic that is now in its third decade. However, a Progress Report (Johannesburg, 22 June 2004 – see Table 1.2) on HIV and AIDS in the UN workplace, circulated by ILO/AIDS (The AIDS unit of the International Labour Organization - ILO), draws attention to the disconnection between commitment and action (see Figure 1.1) on the HIV and AIDS workplace policy. This June 2004 Progress Report was conducted among a number of different international development agencies under the UN chapeau. The list of UN agencies participating in the 2004 Progress Report were from African countries located in Southern and Eastern Africa and included South Africa, making it important material for analysis.

Table 1.2: List of UN agencies participating in the ILO/AIDS study 2004.

Countries	UN Agencies
Ethiopia	ECA, IOM (International Organisation for Migration), ILO, UNDP (United Nations Development Programme), UNICEF (United Nations Children's Fund), UNESCO (United Nations Educational, Scientific and Cultural Organisation), UNFPA (The United Nations Population Fund), UNHCR (United Nations High Commission for Refugees), WHO (World Health Organisation)
Lesotho	UNDP
Mozambique	UNICEF, WHO
Tanzania	FAO, ILO, UNDP, UNICEF, UNESCO, WFP (World Food Programme)
South Africa	ILO
Zimbabwe	ILO, UNFPA, UNICEF, WHO, WFP

Source: ILO/AIDS Progress Report. Johannesburg 22 June 2004.

The following bar chart (Figure 1.1) is taken from the same ILO/AIDS Progress Report of June 2004. It demonstrates that, while almost 80% of the offices assessed by ILO had interagency work plans for dealing with HIV and AIDS, a little over half had budgets

available for the implementation of the workplan.

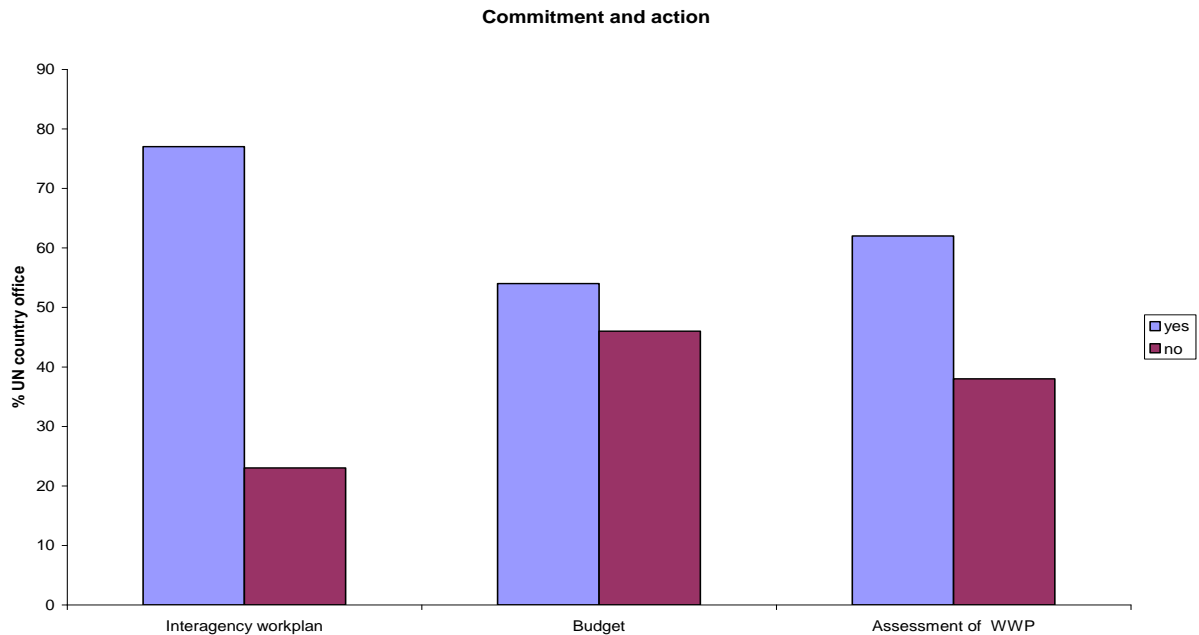


Figure 1.1: Rapid assessment of the implementation of HIV and AIDS workplace policies and programs in the UN Workplace in Eastern and Southern Africa.

The study (ILO/AIDS 2004: 3- 4) goes on to state that, 92% of United Nations Country Offices reported that they had adopted the 1991 UN Personnel Policy on HIV/AIDS². A few of the agencies namely ILO, UNDP and UNICEF had even proceeded to internalise the policy, integrating it in their human resources policy framework, which they had adapted to the particularities of their organisations. Eighty-five percent of United Nations Country Offices were set up to provide healthcare services at the workplace for HIV and AIDS treatment, care and support, not just for staff members but also for their dependants living with the virus. Fifty-seven percent of the Country Offices reported that staff members, especially those on transitory contracts, were likely to fear disclosing their sero-status even at the risk of missing out on the possibilities of claiming health benefits. This 57% figure indicates that, though the policies are in the process of being implemented, some members of the workplace are confident enough about the HIV

² The key objective of the 1991 policy may be inferred to be the mitigation of the impact of HIV/AIDS on UN staff and their families. The four key policy areas are: a) preventive health measures b) voluntary counselling, testing, and confidentiality c) terms of appointment and service d) health insurance benefits programmes. The guidance notes address implementation in each of these areas.

workplace programme, to disclose their sero-status and request the benefits to which this entitles them. These statistics indicate the situation as it is manifested, but do not explain the dichotomy between policy and practice.

The recently designed Wellness Programmes in International Organisations are sometimes proactive (as indicated by the presence of prevention programmes), but are primarily reactive in nature to enable the organisation to manage the complex socio-medical consequences (stigma, discrimination and criteria based access to treatment) of contracting the virus.

As, Dr. Manto Tshabalala-Msimang, the former South African Minister of Health states:

I can't say we have a roll-out because the plan has not been adequately costed. We are really not happy with the costing yet. (Mail and Guardian, 15-21 Aug. 2003 cited in Natrass 2004: 56).

The above quotation sums up the key concern of leaders, managers and decision-makers, attempting to address the challenges of implementing policies related to HIV and AIDS - the rational and logical inclination to balance the cheque book. Studies undertaken in the region by the Bureau for Economic Research (2001), ING-Barings (2000) and the Arndt-Lewis study (2000) all underline this key aspect of the impact of the epidemic. Although these studies are based on private sector organisations and not development organisations, it is pertinent to quote them (in the absence of similar studies from the development sector) to make a point on the increasing impact of HIV and AIDS on organisational structures, staff costs and budgets. These are areas of concern that are relevant and common, to both private and public sectors. The assumption is that the development sector, like the private sector, has to contend with finite resources and rising programmatic needs and administrative costs. As the former Secretary General of the United Nations, Kofi Annan, stated in a press release (SG/SM/7779/Rev.1 on 26 April 2001),

... we need money. The war on AIDS will not be won without a *war chest*, of a size far beyond what is available so far. Money is needed for education and

awareness campaigns, for HIV tests, for condoms, for drugs, for scientific research, to provide care for orphans, and of course to *improve our health care systems*. At a minimum, we need to be able to spend an *additional seven-to-ten billion dollars a year* on the struggle against HIV/AIDS in the world as a whole, over an extended period of time. It sounds a lot, and it is a lot. Somehow we have to bring about a quantum leap in the scale of resources available. But it is not at all impossible, given the amount of wealth in the world. In fact it is little more than one per cent of the world's annual military spending. We just have to convince those with the power to spend -- public and private donors alike -- that this would be money well spent.

Apart from the plea for additional resources the UN Secretary General's statement (SG/SM/7779/Rev.1 on 26 April 2001) implies that resources exist in the "world" and that decision-makers need to enhance attention to the priority of HIV and AIDS responses and policy implementation.

Budgetary needs can only be properly appreciated in the context of the prevalence of this pandemic. As this study concerns the South African situation, the following statistics from the Bureau for Economic Research are pan-South African and demographic in nature. They relate to the South African population as a whole and are relevant to workplace scenarios across private, governmental and developmental sectors. The following bar chart (Figure 1.2) shows the high presence of HIV and AIDS among people in the relatively more productive age group, and its potential effect on the health of organisations:

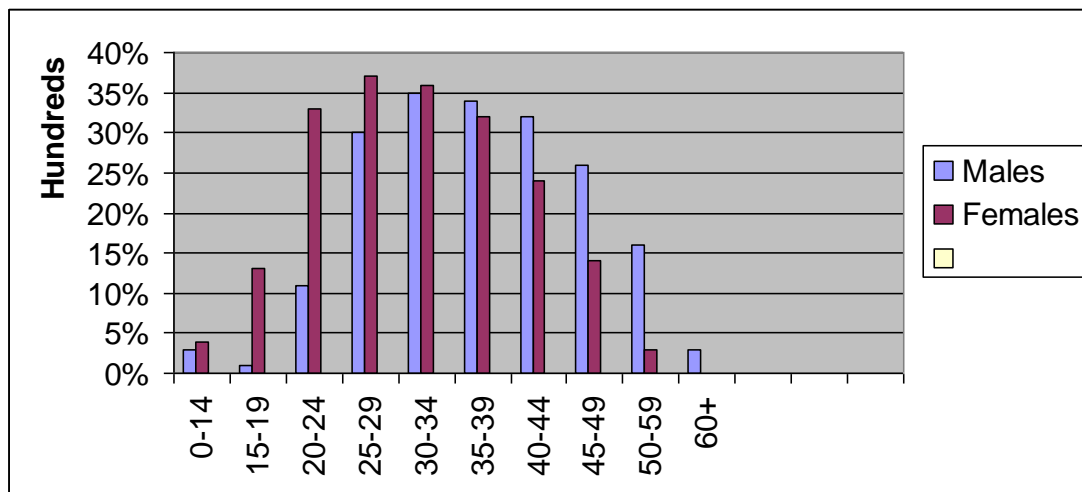


Figure 1.2: HIV prevalence by age group in 2003 (Source: Bureau for Economic Research).

The majority of people who are afflicted with diseases arising from the AIDS condition are in the economically productive age group of 25-49 years (Figure 1.2). According to the 2007 AIDS Epidemic Update, 18.8% of the adult³ (aged 15-49) population in South Africa is living with HIV (UNAIDS/07.27E/JC1322E 2007: 11). AIDS-related deaths could quadruple over the next decade (BER 2003: 8-9), resulting in organisations needing “to increase contributions to pension, life, disability and medical benefits on account of the AIDS epidemic” (BER 2003: 11) in addition to the increase of direct costs due to absenteeism, training, recruitment, labour turnover and so on. These budget heads are relevant in the management of HIV and AIDS in all forms of workplaces, including development sector ones.

As the incidence of the epidemic accelerated in South Africa a little later than in other countries in the region, and as the median incubation period of the virus is about 8.5 years, the consequences of the epidemic are still to be fully felt in this country (BER 2003: 4). In the absence of suitable intervention, the morbidity (illness) and mortality (death) are likely to increase and the additional morbidity and mortality could raise organisational overheads even further.

On the one hand, managers heading organisations have to deal with the statistical progression of the epidemic; on the other, they have to deal with the implementation of organisational policy and the laws of the land. Some of these policies are relatively recent in the evolution of the organisations. For example, according to Kauffman and Lindauer (2004: 20-21) it is illegal to discriminate in South Africa on the basis of a person’s health including a person’s sero-status. While this would be considered a humane policy, it is important to consider that there is likely to be an associated “economic cost to such a law”. Kauffman and Lindauer also observed that the “cost of hiring an HIV-infected worker was higher than the cost of hiring a worker with a sero-negative status”. As a result of the costing issue, managers are left with the dilemma of choice between finding

³ The UNAIDS 2007 AIDS Epidemic Update (UNAIDS/07.27E/JC1322E) categorises adults as aged 15 and above, while Chapter 2: Bill of Rights, Section 28.3 of the Constitution of South Africa, 1996 defines a child as “a person under the age of 18 years”.

additional resources (for what could be perceived as a never-ending spiral of expenses) and shifting the burden to the staff or even the general population by replacing staff with technology. However, for managers of large international development organisations such as the United Nations, the options are rarely governed by economic considerations, though budgetary imperatives are, of course, a reality. The United Nations operating budgets globally are largely bank-rolled by United Nations Member states. The wealthier nations allocate a portion of their GDP to development and to support the UN operations globally. This takes some of the pressure, of managing the bottom-line, off the managers, who can then focus their efforts on managing their development agenda in support of countries and of regional institutions.

On the flip-side of the budgetary debate lies the argument that the advent of generic anti-retrovirals (ARVs) has sharply lowered the cost of medical intervention. According to Irwin (Irwin *et al.* 2003:75), in February 2001, an Indian generic drug firm, Cipla, offered to make generic versions of three leading ARV medications available in Africa. The total cost would be less than \$1 a day per patient (\$350 a year) through MSF, or \$600 a year if the drugs were purchased by governments in Africa. Subsequent cuts reduced the price of generic ARVs still further, with the Indian firm Aurobindo offering one three-drug combination for \$209 a year in mid-2002. These figures reflect a sharp drop in prices from a period as recent as the late 1990s, when according to Irwin (Irwin *et al.* 2003: 74) the annual costs of combination therapy in wealthy countries exceeded \$20,000 per patient after the costs of laboratory tests and provider fees were factored in. This pricing (in today's world of generic drugs) makes the cost of treatment seem to be a reasonable investment when studied in the context of the implications of taking no action at all.

The above pricing figures remove cost as an excuse for non-action. United Nations organisations should be able to budget for the treatment both because the cost of intervention is lower in today's pricing context and because it is in the interest of the organisation to preserve the health of trained staff members in the organisation. Yet evidence shows that managers in the United Nations Organisations seem either unwilling or incapable of implementing the HIV and AIDS policies comprehensively, in their own

organisation. The sociological relevance of this study therefore lies in understanding this conundrum between stated commitment to the policy and the inadequate implementation thereof.

This conundrum, between commitment and implementation, poses the cardinal problem and begs the fundamental questions underlying this study:

1. How do personnel in a local office of a large Human Rights based bureaucracy perceive and experience the implementation of HIV and AIDS policy in the workplace?

2. How does the Human Rights based bureaucracy, as exemplified by this South Africa case study, implement the HIV and AIDS policy in its workplace?

These questions are discussed in greater detail, under the section *Key research questions*, in the chapter on *Research methodology* and addressed in the chapter on the *Rubric of the argument*.

The ILO HIV/AIDS study (2004) highlights the observation that, two decades into the epidemic, the development sector is still unable to fully implement its own policies in terms of staff and dealing with HIV and AIDS in a Human Rights context. It is thus necessary to take a fresh look at the policies and their implementation. The scenario outlined in the preceding section (1.1), underscores the importance of obtaining a conceptual understanding, of the dichotomy between stated HIV and AIDS policies of development organisations and the practical implementation within the system.

1.2 HIV and AIDS and its socio-medical impact on everyday life

The section⁴ deals with HIV and AIDS as a socio-medical syndrome and provides a broad understanding of the characteristics of the virus and the epidemic that it has triggered. It has been included to help set the context of the study.

⁴ This section borrows significantly from a previous study carried out by this researcher (Bhattacharya 2003: 10-25). The contents have been modified, updated and enhanced for the purpose of this study.

The information booklet (UNAIDS/04.27E July 2004: 4) for United Nations staff members and their families defines HIV (Human Immunodeficiency Virus) as a virus that “attacks the body’s immune system”. It weakens the body’s immune system, reducing its ability to ward-off opportunistic diseases such as TB (tuberculosis) and cancer. It is infectious and can be transferred from person to person (UNAIDS/04.27E July 2004: 4). If left unmanaged, the virus will gradually render the immune system ineffectual in its combat against secondary infections. This condition is called AIDS. AIDS is the acronym for Acquired Immune Deficiency Syndrome.

Each word in the acronym AIDS, *Acquired Immune Deficiency Syndrome*, defines a characteristic of the virus that explains the manifestation of the AIDS condition and its *modus operandi* within the human body, as known to present-day medical practitioners and researchers. The word ‘Acquired’ indicates that the virus is *not* carried from one person to another through “casual contact” (Bhattacharya 2003: 10), like other viruses such as influenza, the SARS (Severe Acute Respiratory Syndrome) virus or the recently proliferating Avian influenza. The HIV virus can only be acquired as a consequence of the specific actions (outlined later in this section) of human beings. The fact that transmission of the virus requires precise human action distils the process of acquiring the infection down to choices and decisions made by human beings. The key implication is that halting and reversing the tide of the pandemic are within the control of individuals, communities and institutions. The phrase ‘Immune Deficiency’ highlights the fact that the virus affects the immune system of the host body making it increasingly less capable of warding off infections. The word ‘Syndrome’ makes the important point that AIDS is not a disease in itself, but a syndrome that affects the immune system. The syndrome of the failing immune system makes the body vulnerable to secondary infections, such as pneumonia, Karposi’s sarcoma and tuberculosis (Whiteside & Sunter 2000:1).

If one analyses the syndrome by the above definition, it is clear that the phenomenon of HIV and AIDS is not merely a bio-medical condition but also a social issue where interpretations, choices, decisions and human action play a critical role in both the proliferation and prevention of the epidemic.

According to Whiteside and Sunter (2000: 1) the virus was discovered for the first time, as recently as 1979-80. It appeared as an unusual and inexplicable phenomenon since it was linked with the outbreak of a “cluster of diseases” not commonly seen up until that time, like pneumocystis carinii, which is normally spread by birds; and a rare form of skin cancer called Karposi’s sarcoma. The virus was subsequently isolated and identified by scientists on both sides of the Atlantic in 1983.

Although the origin of the virus is unknown, it is commonly believed to have crossed the species barrier into humankind from monkeys. It is related to a number of Simian Immunodeficiency Viruses (SIV) found in Africa (Barnett & Whiteside 2002: 34-35). According to Ilifee (2006: 4), the Simian Immunodeficiency Viruses have crossed over the species barrier “from animal to human at least eleven times and probably more” and have taken on the characteristics of SIV common in the sooty mangabey species of monkeys found in Africa. The inadequacy of today’s genetic tracking technology prevents tracing the virus on a “molecular clock” (Ilifee 2006: 6-7) in time and transmission due to the phenomenon of “recombination” (*ibid.*), which is the multiple infection of a person across virus strains. In the event of recombination, “viruses of different subgroups may enter the same cell and, in the process of integrating their genetic material with the host’s, may produce a new strain of virus combining” genetic “elements from two or more subgroups. (SIV is subject to the same process, and the original Simian virus transmitted to humans as the ancestor of HIV-1 group M is itself believed to have been a recombinant form” (Ilifee 2006: 6).

Since Luc Montagnier’s laboratory first identified the Human Immune Deficiency Virus in the early 1980s, there has been an effort to identify the origins of the epidemic. While the inadequate advancement of technology and the lack of adequate quantities of saved samples over the years prevent a conclusive determination of the dates, the

“earliest convincing evidence of the Human Immune deficiency Virus (HIV) that caused the Acquired Immune Deficiency Syndrome (AIDS) was gathered in 1959 amidst the collapse of European colonial rule in Africa” (Ilifee 2006: 3).

It came from previously frozen blood samples and can be traced back to an unidentified man of African origin living in Kinshasa, at a time when the city was referred to as Leopoldville (*ibid.*). This however does not mean that the virus was not in circulation across continents and ethnic groups before 1959. According to Ilifee (*ibid.*), Luc Montagnier's laboratory in fact believed that the earliest known case was that of an American man who died in 1952 after being afflicted with fever, malaise, and pneumocystis carinii pneumonia which, at the time, was a rare form of pneumonia but one that subsequently afflicted other American AIDS patients. However, it was hard to conclude the man's condition accurately in the light of the fact that no blood samples had been stored for concomitant testing. The recorded symptoms merely confirmed suppression of the immune system, for which there could have been a host of medical explanations other than the immunodeficiency virus. This American man's case history was similar to that of a Canadian citizen of ethnic Japanese origin whose demise dates back to 1958 and that of an American of Haitian origin whose demise dates back to 1959, the following year.

As outlined in a previous study (Bhattacharya 2003: 4), there are, in human beings, two major strains of the virus which are categorised as HIV-1 and HIV-2. These strains each have multiple sub-strains. The dominant strain in South Africa and also globally is HIV-1, sub-strain-C. HIV-2 is found mainly in West Africa. According to Ilifee (2006: 4) this later strain occurs "between Senegal and Cote d'Ivoire" and is less virulent. This essentially means that the HIV-2 strain is less easily transmitted and "slightly less harmful than HIV-1" (Barnett & Whiteside 2002:28; Whiteside & Sunter 2000:2 cited in Bhattacharya 2003: 11). However, given the migration and mobility of populations, the HIV strains are no longer geographically isolated.

The earlier paragraphs underline two important characteristics. First, there is no racial or regional selectivity in the spread of the virus with early cases dating back to both Africa and the Americas and covering people of various racial origins. Second, the issue of migration is of significance to the largely mobile staff of international organisations, such as the United Nations, who often work in rotational and transferable posts and move from

one geographical location to another, potentially exposing them to different strains of the virus and potentially contributing to the creation of different sub-strains.

HIV is thus neither people nor country specific. As explained by Whiteside and Sunter (2000: 7-8), the virus itself survives and multiplies in the human body by attaching itself to two types of “host cells” in the human immune system. One type of cell is the CD4 cell, which organises the body’s overall immune response to foreign bodies and infections. The other type of immune cell is called “macrophages”. The task of these cells in the body is to “engulf” opportunistic diseases and ensure that the body’s immune system is alerted to future opportunistic diseases entering the body. Once attached to these cells, the virus penetrates the wall of the host cell rendering itself safe from the body’s own immune system. Once the virus is safely ensconced in the cell it both destroys the host cell and multiples, infecting other CD4 and macrophages cells in the human body. Through this process it slowly but steadily colonises the body and weakens the body’s defence system until the human body falls prey to a host of diseases which the cells would normally fight off. In the case of the HIV-1 strain of virus, the “incubation period varies considerably but may last in adults for an average of nine or ten years – the period measured by a careful study in Uganda – before the immune system is so weakened that Aids supervenes” (Ilifee 2006: 8).

Current technology enables us to determine that a person is living with the virus, HIV positive or sero-positive, through the detection of HIV antibodies in the bloodstream. It is important to establish the clear distinction between being HIV positive and having AIDS. It is possible that a person who is HIV positive does not have the condition of AIDS. When a person living with HIV begins to display signs of a compromised immune system by falling prey to AIDS-defining indicants such as severe mouth sores, brain conditions and pneumonia, the person is categorised as having AIDS. In places where more sophisticated testing facilities are available, AIDS is defined by the CD4 count in the body. According to Barnett and Whiteside (2002: 32-34) a person normally has about 1200 CD4 cells per micro-litre of blood, while for a person diagnosed as living with AIDS, the CD4 count falls to 200 cells per micro litre of blood. At this level, the immune

system is seriously compromised and the body is unable to ward-off opportunistic diseases.

The reduced CD4 count renders the person living with the virus vulnerable to opportunistic infections and cancers that the body would normally be able to ward off. There are, according to Barrett-Grant *et al.* (2001: 22-24), five *stages* of the HIV infection. Each stage is characterised by specific symptoms and the risk of opportunistic infections that manifest themselves in the body during these stages. The stages and their symptoms are as follows:

At the *Primary stage*, a person usually sero-converts in the first weeks following infection and the HIV is detectable in the blood.

At the *Asymptomatic stage*, following the primary stage of infection, a person usually manifests no further symptoms for a protracted period of time, often years.

At the *Early symptomatic stage*, a person may develop mild symptoms of ailments such as shingles, swollen lymph glands and rashes.

At the *Medium symptomatic stage*, a person could become very ill without developing AIDS-defining illnesses.

At the *Late symptomatic stage or AIDS*, a person's ability to fend off opportunistic diseases is severely compromised. Any deficiency in early and effective treatment can cause severe long-term damage to the body, affecting such vital organs as the brain.

Understanding the stages of the epidemic and the broad symptoms outlined above enables one to understand the possible signs that may stand out as signals of living with the virus and thereby provides a handle for an understanding of stigmatisation and discrimination in the workplace.

Table 1.3 shows the modes of transmission and the probability of HIV-1 infection per 1000 exposure:

Table 1.3: Probability of HIV-1 infection per exposure

Mode of Transmission	Infection per 1000 exposure
Male to Female, unprotected vaginal sex	1-2
Female to Male, unprotected vaginal sex	0.33 - 1
Male to Male, unprotected anal sex	5-30
Intravenous use of Infected Needles	3
Mother-to-child transmission	130 – 480
Exposure to contaminated blood products	900 - 1000

(Source: World Bank: 1997a:59 cited in Barnett & Whiteside 2002: 38 and Bhattacharya 2003: 12).

An important bio-medical analysis reported in the above table is that men are more likely to infect women than vice versa. So, women (far from being vectors of the virus) are biologically more vulnerable to infection than men. As Ann Biddlecom *et al.*⁵ point out, in their article *Women, Gender and HIV/AIDS*, male sexual secretions, such as semen, are more viscous and carry a greater volume of the viral load than vaginal fluids, placing women at greater risk than men. Besides, a much larger surface area of a woman's vaginal mucous membrane is exposed during penetrative sex deepening the element of risk.

Exploring the bio-medical phenomenon, outlined in the previous paragraph, from a sociological perspective, because disease “epidemics are social processes” (Schoepf in Kalipeni *et al.* 2004:15), one can deduce that the biological vulnerability of women is compounded by social vulnerability on the part of women living in societies with weak social cohesion. According to Colvin (cited in Barnett & Whiteside 2002: 185), as many as 60-80 per cent of African women living with the virus have had only one partner, but have contracted the virus, nevertheless, because they have been unable to negotiate the terms of the sexual encounter with their male partners. Nor were they able to prevent their partners from engaging in other sexual encounters. This trend is not merely

⁵ www.populationaction.org/2015/_pdfs/mag/58-69-HIV-AIDS.pdf: 66

prevalent in Africa. According to Marina Mahathir, the head of the Malaysian Council for NGOs (Non-Governmental Organisation) on AIDS,

“it is a fact not repeated enough that 90% of women who have been infected with HIV have only ever slept with one man in their lives, their husbands” (Barnett & Whiteside 2002: 185).

The reason for the vulnerability of married women, according to Kauffman (Kauffman & Lindauer 2004: 22-23), are the “informal institutions governing male-female relations”. Kaufmann argues that women, who do not want to face stigma and want to stay connected with their partners tend to abide by community norms dictating female subservience. The cost of non-compliance with these informal norms could be more than ostracism. It could include “abuse” and “loss of financial support”.

It is pertinent to briefly explore the concept of *institutions* (both formal and informal). According to Kauffman (Kauffman & Lindauer 2004: 19), institutions are themselves the “rules of the game”. These institutions comprise “groups of individuals” who are both affected by the institutions and in turn attempt to affect them. Kauffman goes on to explain that though formal institutions have an important effect on society, informal institutions (such as traditions, norms and the personal ethics of individuals) sometimes have a larger impact on the behaviour and actions of individuals. As such, while women may be cognisant of the risk of contracting the virus from men who demand unprotected sex, when actually faced with the choice of safety and ostracism over risk and conformity, they “will”, according to Kauffman, “choose not to break the local norms of subservience to men. The perceived social, physical and economic costs are simply too high” (Kauffman & Lindauer 2004: 23). Gugu Dlamini’s case (outlined later in this chapter) highlights the vulnerability of women.

The South African Courts have had numerous opportunities to interpret the constitution on issues of HIV and AIDS and human dignity in the workplace. As Ngwena (2001: 56) articulates it,

Irrespective of the unequal bargaining positions, the workplace becomes an environment in which employers are compelled to yield to the dictates of respecting human dignity, not treating job applicants and employees as mere expendable commodities. The Employment Equity Act of 1998 and the Code of Good Practices on Key Aspects of HIV/AIDS and Employment reinforces this constitutional imperative.

Charl Hoffmann, a South African Airlines cabin attendant, was denied employment based on his sero-status. This led to the landmark court trial, *Hoffmann vs. SAA* (South African Airlines) 2000, where the employers were adamant about the validity of their stand (Barrett-Grant *et al.* 2001: 39). Fortunately, the Constitutional Court of South Africa, in a unanimous judgement, supported the case of Charl Hoffmann and asked SAA to employ Hoffman as a flight attendant with effect from the date of the court order. In doing so the Constitutional Court overturned an earlier decision by the High Court in which the High Court had judged in favour of the airline.

According to Barrett-Grant *et al.* (2001: 39) people living with the virus in the workplace have been systematically exposed to stigma, discrimination and marginalisation. Society's response has induced many of them to conceal their sero-status for fear of prejudice, depriving them of possible assistance in treating and managing the virus.

In addition, according to Barrett-Grant *et al.* (*ibid.*) South Africa's apex court has sent a clear and unmistakable signal regarding the stigmatisation and vulnerability of people living with the virus in the workplace. The *SAA vs. Charl Hoffman* ruling from the Constitutional Court (discussed above) has helped set the vision for policies and their implementation in organisations. The incidences of stigma and discrimination have made headlines resulting in the larger population being exposed to the issues and the views of both the court and the organisation. A rights based policy requires to be based on the needs of all its citizens, regardless of their sero-status.

Landmark judgements by the South Africa Court (such as *Hoffmann vs. SAA*, already mentioned) provide society with a Human Rights based perspective to people living with the virus in the workplace. It must also be understood that staff members and managers

are exposed to the discrimination of people living with the virus and form their own views in accordance with which they interpret policies. Community views on issues of people living with the virus in South African society and in the workplaces can be determined from the case of Gugu Dlamini, alluded to earlier. On 12 September 1998, a young community worker, Ms Gugu Dlamini, was lynched by a mob in South Africa after she had revealed her sero-positive status. The incident occurred in the township of KwaMashu, near Durban in the province of KwaZulu-Natal (Barrett-Grant *et al.* 2001:1, 37, Bhattacharya 2003: 24-25 and Kauffman & Lindauer 2004: 22-23). While little is known about her life, she “dared to think that she could, through herself, show the reality of this dreadful virus. Dlamini perished at the hands of those she thought she could help” (Kauffman & Lindauer 2004: 133). After her death, many were forced into the silence of shame and guilt (Kauffman & Lindauer 2004: 132-133) or driven into secrecy and denial by the fear of stigmatisation and unequal social interactions. Stigma intensifies the emotional strain and suffering of people living with the virus, and of their families and caregivers (Nyblade *et al.* 2003: 34). This compromises the opportunity of early intervention to manage the infection optimally and to prolong life.

Barnett and Whiteside (2002: 349) underline the importance of distinguishing between health and well-being. On the one hand the word ‘health’ focuses on the state of the body and its condition vis-à-vis disease and illness. ‘Well-being’, on the other hand, is a broader concept and “places emphasis on the social and economic origins of ill-being (*sic*)”. In this definition, Barnett and Whiteside (2002:351) stress the importance of focussing on social interactions as a critical ingredient of well-being. That being the case, the management of stigma plays a vital role in the management of health and well-being in the response to HIV and AIDS, since stigma is a product of unequal social interactions that could lead to discrimination even in rights based international development organisations such as the United Nations. The findings of this study will later attempt to explore this phenomenon.

1.3 Conclusion

This chapter has sought to establish the importance and immediacy of the subject matter explored in the thesis. It broadly suggests that although HIV and AIDS policies are an intrinsic part of the commitment of international development organisations, the implementation of the policies in the form of resource allocations and the establishment of a viable WWP is both weak and incomplete. In addition, drawing on published reports the chapter argues that, decades into the epidemic, the development sector still appears to be unable to fully implement its own policies, making it necessary to take a fresh look at the policies and their implementation. It underscores the importance of obtaining a conceptual understanding, of the dichotomy between the stated HIV and AIDS policies of development organisations and their practical implementation within the system, articulated in the two key questions presented earlier in the chapter. This task is accomplished progressively in subsequent chapters, initially using literature available in the public domain and subsequently through the research findings of this study. As stated, the sociological relevance of the study lies in understanding the conundrum between commitment to policy and its implementation and also the way in which organisational responses to AIDS-affected personnel might offer a lens into emerging prejudices, discriminations and the occasional violation of human dignity.

This chapter explains the rationale and importance for this study. The following chapter analyses existing literature on the sociology of organisations and bureaucracies, within the context of the rights based discourse on AIDS policies in the workplace.



Chapter 2 – Literature and the rights based discourse on AIDS policies in the workplace

2.1 Introduction

This chapter attempts to capture some of the salient discourses in the public domain, related to the implementation of HIV and AIDS policies in international development organisations such as the United Nations system. It has been structured to lead, in a later chapter, to the contextualisation of the findings of the study and to a discussion of the literature reviewed. The chapter explores, discusses and illustrates some of the views and perspectives related to HIV and AIDS policies in international development organisations.

While much attention, in the chapter, has been paid to Weber's contribution to understanding large bureaucracies, a range of insights and arguments on bureaucracies in general and the functioning of international development organisations in particular is also offered. Some of these insights and arguments also engage with Weber's constructs of bureaucracy, in some instances challenging a few of his core ideas. The chapter also explores issues related to interpretation of policies that guide the management of AIDS in the UN system. The concepts used in this study have been presented in separate sections structured around homogeneous clusters of thought enabling seamless links with the findings introduced later in the thesis.

2.2 The sociology of organisations and bureaucracy

This study is located within the formal organisational structure of an international development organisation. This sub-section of the review of literature focuses on exploring organisational theories that offer analysis of the functioning of bureaucracies.

As Etzioni (1964) suggests, modern society is an organisationally structured construct. With growing social, economic and political demands, societies have become more and more complex:

“Organizations are social units which pursue specific goals; their *raison d’etre* is the service of these goals. But once formed, organizations acquire their own needs, these sometimes becoming the master of the organization” (Etzioni 1964: 5).

Burgeoning urban metropolises, with their diversifying populations, needs and aspirations, are necessitating ever more effective coordination and management. As a result, the need for efficient and therefore organised action has gained momentum, giving rise to “a network of individual and social relationships through which [individuals] participate in society” (Thompson & McHugh 1990: 13), the modern organisation. These networks are the

“fundamental building blocks of modern societies and the basic vehicles [of] collective action ... [As such], organisations mediate the influence of individuals on the larger society” (Aldrich 2001: 5-6).

This phenomenon is also true in its converse, as organisations also monitor and calibrate the influence of the environment on individuals within the system.

The essential debate vis-à-vis organisations is not so much a debate as it is an evolutionary dialogue on organisations, as they metamorphose from Weber’s bureaucracies (discussed in detail in the following subsection, titled, ‘Weber’s contribution to organisational theory’) into new and varied forms designed to meet the changing needs and technologies of the time. Subsequent paragraphs track a set of evolutionary forms of organisations and attempt to demonstrate their effect on the United Nations bureaucracies.

Fulcher and Scott (2003) introduce a useful typology which is drawn upon in this section. However, the focus of this literature survey is not so much on the content of their analysis as it is on the study’s assessment of how the UN as an organisation either matches or deviates from the basic characteristic of each form of organisation.

Fulcher and Scott (2003: 752-758) propose that Weber focused significantly on bureaucracies which he thought would, as a factor of their “technical superiority”, remain the dominant management form. However, Weber (and later sociologists and contingency theorists who espoused his views) anticipated and tracked the evolution of “alternative forms” of management and organisation. Subsequent paragraphs will be dedicated to outlining these new forms of organisation.

As an insider to the United Nations system, I shall view the organisation in the context of some of the organisational forms Fulcher and Scott outline. In an attempt to bring out the characteristics more sharply, I have compared the UN as an organisation individually with each typology. The study also tracks possible changes in the United Nations bureaucracy that have enabled it to adopt some of the characteristics of alternate forms of organisation in its day to day function and management.

Organic Organisation: As a response to the assumed rigidity of bureaucracies, Burns and Stalker (1961 cited in Fulcher & Scott 2003: 752) heralded the advent of a more “flexible” form of organisation, than the bureaucracy, which they referred to as the “organic organization”. In this form of organisation, jobs and roles evolved with the changing environment within the organisation and authority was exercised by specialists regardless of their location and regardless of the hierarchical stratification of seniority.

In the UN there are specialist advisors who have the authority to take programmatic decisions though much of the authority is still controlled by the bureaucratic management within the organisation. Thus, it has not been possible to experience any typically organic characteristics within the UN.

Mechanistic Organisation: This form of organisation is similar to bureaucracies in their hierarchical construct and “division of labour”. These forms of organisation according to Fulcher and Scott (2003: 752) reflect the conflict between line management and experts within the system.

While the UN reflects the characteristics of a mechanistic organisation, there does not appear to be any significant and recurring conflict between managers and experts. It is more a mutually dependent and symbiotic relationship. The managers need the experts to run the system and to provide substantive advice to governments and civil society organisations, while the experts need the managers to establish their relevance and *raison d'être* within the organisation. However, there does appear to be a virtual firewall between the two functions. Not many experts seamlessly move to managerial roles within the organisation. Also, experts are usually paid from transient project budgets while the managers are paid from permanent and core organisational budgets. This inevitably results in a management-driven hierarchy within the system.

Network Organisation: This is a “radical and recent departure” from the conventional form of bureaucratic organisation. The significant departure from established forms of bureaucracies lies in an open structure, almost completely based on “information technology” (Fulcher & Scott 2003: 753) and computer networks. The structure links not only all internal staff and work flow, but also liaises seamlessly with external networks of suppliers and business associates. This method makes the institution of external sub-contracts much easier, enabling organisations to utilise external experts and consultants without dislocation and additional expenditure.

While the United Nations is far from being a fully fledged network organisation, it has both organically and systematically incorporated some aspects of the network organisation. For example in its efforts to move towards a learning network, it has e-learning courses to build the capacity of staff without moving them from their locations. The UNDP, for example, also has global e-networks on specialist subjects such as Capacity, Gender, Evaluation, HIV and AIDS. These e-networks encourage knowledge exchange among global staff that either have knowledge of the specialisation (which they can then share with other colleagues across the UN network) or use its services (providing colleagues with insight into matters such as procurement protocols, terms of reference and range of uses). These networks enable low cost and comprehensive

learning across continents, linking staff and managers to effective practices (adopted by other offices and branches of the organisation) and affording the opportunity to learn, understand and adopt best-fit practices. All a staff member has to do is post a query on the network and those on the global e-network who have relevant knowledge, experience or materials post a response on the network or offer a service. The UN system, like the system of network organisations is based more on bringing together needs and services rather than depending on bureaucratic mandate and bureaucratic coordination.

Virtual Organisation: This form of organisation takes network organisations a step further. It exists entirely on the virtual platform, even going beyond the physical structures of organisations that have computerised and networked extensively. Virtual organisation structures are particularly relevant for organisations the activities of which are primarily information, communication and financial data based.

The nature of UN work in areas, such as post-conflict development, poverty alleviation, reconstruction and peacekeeping, requires hands-on presence in countries, some of which do not even have strong and uniform computer facilities. This prevents the UN from adopting the characteristics of a virtual organisation.

Organisational Culture as a variant: Early organisational theorists assumed a certain global homogeneity of organisations. However, subsequent studies (Gouldner 1954; Crozier 1964; Clegg 1990 as referenced in Fulcher & Scott 2003: 754) demonstrate a global variation of organisations driven by national cultural practices. Clegg points out that Japanese organisations tend to involve less specialised and more flexible structures than organisations in the West. Chinese organisations in Taiwan tend to be radically different from either Japanese or western organisations in their propensity for family constructs. Classically, Chinese organisations are patriarchal systems led by the family head with key financial and managerial functions closely held and controlled by family members.

While UN agencies are more uniformly structured and centrally controlled, they do respect local and cultural sensitivities. The UN, for example, when located in an Islamic country, takes its weekly off-days on Fridays and Saturdays as is customary in these countries and tries to follow the national calendar for holidays. Female staff members of the United Nations agencies dress in hijab in Islamic countries such as Iran out of respect for the local customs of the country. However, these practices are cultural and often cosmetic in nature and do not pertain to changes in management structures.

Gender-equal Organisation: One of the primary criticisms of the bureaucratic form of organisation has been the patriarchal nature of its management. In the nineteenth century bureaucratic organisations were established in a primarily male-dominated society and reflected its nature. However, twentieth and twenty-first century organisations have steadily been attempting to balance the genders in management structures. But this has not always been easy since bureaucratic organisations have often had a preponderance of women in secretarial positions, effectively playing the role of “office wives” (Fulcher & Scott 2003: 755).

The UN agencies have been making serious efforts to bring in a strong gender perspective and balance the genders in their organisation. One of the United Nations largest UN development agencies UNDP has outlined a Gender Equality Strategy 2008-11⁶, titled ‘Empowered and Equal’. The document is grounded on the assumption that the objective of gender equality is an absolute and indivisible aspect of the UNDP human development goal.

UNDP, like many bureaucracies, has a patriarchal management and staff structure which it is by policy (outlined in the Gender equality Strategy 2008-11) attempting to redress “at all levels by 2010”⁷.

⁶ <http://content.undp.org/go/topics/gender/?src=204576> (Accessed 1 July 2008).

⁷ <http://content.undp.org/go/topics/gender/?src=204576>: 2008: 33. Accessed on 16 October 2008)

The following table (Table 2.1) demonstrates all the characteristics of gender inequality. Senior (66%) and middle management (65%) are male dominated. While support staff (a category which generally includes secretarial functions) tends to be female dominated at 58% reinforcing the stereotype of “office wives” (Fulcher & Scott 2003: 755).

Table 2.1: Male and female staff by category of job responsibility

Category	Total	Male	%Male	Female	%Female
Support Staff	3798	1592	42%	2206	58%
Junior Management	1912	1029	54%	883	46%
Middle Management	1740	1127	65%	613	35%
Senior Management	318	210	66%	108	34%
UNDP Global Workforce	7768	3958	51%	3810	49%

Source: IMIS/ATLAS November 2007⁸

Aldrich (1979, cited in Aldrich 2001: 2-4) comprehensively defines organisations as “goal-directed, boundary-maintaining, and socially constructed systems of human activity”. This definition distils the *raison d’être* of organisations to three key characteristics and contextualises their “genesis and persistence”, thereby differentiating them from other networks of people, such as “families and friendship circles”. Other definitions of modern-day organisations such as those of Etzioni (1964), Meadows (1967) and Scott (1998) add characteristics,

“such as deliberate design, the existence of status structures, patterned understandings between participants, orientation to an environment, and the substitutability of personnel” (Meadows 1967 & Scott 1998, cited in Aldrich 2001)

to Aldrich’s definition by emphasising on the relationships and the environment. In the following paragraph, the characteristics of a large international development

⁸ UNDP Gender Parity Report 2007, p. 16.

organisation, such as the United Nations, are outlined using Aldrich's three point definition⁹.

It would be pertinent at this juncture to revisit Aldrich's three point definition of the modern day organisation in the context of the subject of this thesis, large international development organisations, such as the United Nations.

The *goal* orientation is fundamentally drawn from the United Nations Charter (discussed later in this chapter). All United Nations organisations endeavour to either deliver directly on the Charter, or within its mandate, the Charter serving as a more universal version of the corporate mission and vision statement.

The *boundaries*, Aldrich refers to as a defining factor, are in fact defined more sharply and significantly in international organisations like the United Nations than in commercial organisations. Upon appointment, staff members subscribe to the following oath of office or declaration by signing Form P.34 of the United Nations Staff Regulation 1.9:

I solemnly swear (undertake, affirm, promise) to exercise in all loyalty, discretion and conscience the functions entrusted to me as an international civil servant of the United Nations, to discharge these functions and regulate my conduct with the interests of the United Nations only in view, and not to seek or accept instructions in regard to the performance of my duties from any Government or other authority external to the Organization.

As an oath of office, the UN declaration upon taking up office is not unlike the citizenship oath of countries such as the United States of America. Having been set up and managed by government bureaucrats, the United Nations system is, in many ways, structured like a national government, without the mandates and legitimacies of statehood.

Apart from contracts and identity cards issued to define the distinctions between different types of employment, United Nations employees are issued separate passports called

⁹ As stated earlier, Aldrich (1979, cited in Aldrich 2001: 2-4) defines organisations as “goal-directed, boundary-maintaining, and socially constructed patterns of human activity”.

Laissez Passer, which enable legal access (for staff members travelling on missions) to various countries across the globe, including South Africa. These privileges are legally accepted by the political dispensation of sovereign nation states. For example, select international staff members enjoy diplomatic privileges and tax exemptions of various sorts. They also have access to an independent banking system called the United Nations Federal Credit Unions (UNFCU). These characteristics of membership set the United Nations apart from other networks and organisations in the “environments” (Weber 1947 cited in Aldrich 2001: 3) creating a distinction of association. From a critical perspective, it can arguably be said that, apart from some specific situations such as conflict zones, these privileges are trappings of elitism and neo-colonialism unbecoming of a development organisation set up to serve “THE PEOPLES OF THE UNITED NATIONS” (Preamble to the United Nations Charter cited in *Basic Facts about the United Nations* 2000: 4).

Aldrich’s third differentiating characteristic of the modern-day organisation is the presence of defined *activity systems* that enable the accomplishment of goals and organisational objectives. In the milieu of the United Nations and the context of this study, the *activity system* would be the policies that govern the organisation (specifically, the sub-set of policies governing the management of HIV and AIDS) and the organisational structure within which the policies are implemented.

The quintessence of the management system of the organisation is the ‘administrative structure’ which directly or indirectly influences the lives of people

“exerting greater power over...lives. [The administrative structure] remain[s] a crucial meeting place of contending social forces ... which generates and reflects contradictions and change” (Thompson & McHugh 1990: 14-15).

The centring and momentum of policies, management decisions, staff aspirations and environmental propulsion are not necessarily unidirectional, thereby generating the contradiction and change, Thompson and McHugh articulate. Later in the study (through the findings), these contradictions are explored in the context of the international

development organisation. The sociological perspective of organisations does not cast them as

“simple mechanical tools doing the work of their creators. They are live collectivities interacting with their environments, and they contain members who seek to use the organisation for their own ends, often struggling with others over the content and allocation of the product” (Ness & Brechin 1988: 246-7)

giving the organisation a distinctive personality and character arising from the dialectics of these interactions (see Stacey, 1996; Scott, 2003) and the “power play” within organisations Etzioni (1964).

2.3 Weber’s contribution to organisational theory

Dating back to 1918, and the formation of the League of Nations as part of the Treaty of Versailles, and through the next few decades, the evolution of bureaucratic development organisations has run parallel to the development of organisational theory. The evolution has been mapped in various literatures, from Weber’s organising principles (1968; 1978) to Etzioni *Comparative Analysis of Complex Organizations* 1961 to Silverman the *Theory of Organizations* 1970 (Donaldson 1988: 1-2 / 114). “The origins of organization theory can [however] be traced largely to the appropriation of Weber’s writings on bureaucracy” (Hancock & Tyler 2001: 65). In Morrison’s (1995: 294) words: “his [Weber’s] discussion stands alone as an independent investigation into the historical determinants of bureaucratic administration...” Weber’s theorisation of bureaucracies is all the more relevant for this study since “the impetus for Weber’s analysis came primarily from the organization of the state and the regulation of administrative employees” (Thompson & McHugh 1990: 69). Similar to international development organisations (which are the focus of this research project), these institutions were not-for-profit organisations and worked “within a framework in which command and task are based on authority derived from impersonal rules” (Thompson & Mc Hugh 1990: 69).

The bureaucracy, as a system of management, has however drawn criticism from “a number of empirical studies that used qualitative methods” to analyse its structure and dynamics (Selznick 1949, Gouldner 1954, Crozier 1964 cited in Donaldson 2001). Bureaucracies have also had criticism directed towards them from later day management experts such as Warren Bennis (1993: xii) who wrote, in an updated introduction to the 1973 classic edition of his book *Beyond Bureaucracies*, that

[t]he organizations that thrive today are those that embrace change instead of trying to resist it. The old Weberian bureaucracies are simply too slow, too weighed down with intraorganisational agendas and priorities, to compete in a world where success goes to those who identify and solve problems almost before they have names (Bennis 1993: xii).

He goes on to say that bureaucracies are “doomed” because they either “do not work” or “do not work fast enough” (Bennis 1993: xii). Thompson and McHugh (1990: 177) have quoted Bennis (1966: 263) presenting a more comprehensively dismissive prognostication writing off bureaucracy “as a ‘lifeless crutch that was no longer useful’”.

Today, several decades since Bennis wrote his book, and since he made the prophetic statement (quoted in the previous paragraph), international organisations such as the Red Cross and Red Crescent, the United Nations, the Bretton Woods Institutions such as World Bank and the International Monetary Fund (IMF), imperfect though they be, exist as organisations with international acceptance operating under an international mandate in crisis situations in Sudan, Palestine, Afghanistan and Iraq, for example. Despite very difficult situations and the violent deaths of key staff members notably Margaret Hasan (Red Cross and Red Crescent) and Sérgio Vieira de Mello (United Nations), these organisations have the commitment and structural resilience to remain and work in crisis situations. Whilst they operate as modern bureaucracies, they cannot be dismissed as “doomed”.

According to Hancock and Tyler (2001: 65), based on “realist ontology” the primary view of organisation theory has been that organisations can be “observed, measured and modified” as and when required. Bureaucracies constitute structured systems governed

by rules, roles, tasks and accountability. Gareth Jones (1995:113) sums up Weber's (1946, in 1968) "prescription" for the effectiveness of bureaucratic systems in terms of six principles. An attempt is made to interrogate these principles in a systematic fashion, though placing more emphasis on some principles over others:

Principle One: Bureaucracies are founded on the principle of "rational-legal authority" (Weber, 1968; Gareth Jones 1995: 113-119). This rational-legal authority that constitutes both the *raison d'être* and the power base of International Development Organisations, "gives them power independent of the states that created them and channels that power in particular directions" (Barnett & Finnemore 1999: 699). The rational-legal authority gives them a normative role in society and in the case of the UN in international relations, a role that has powers to prescribe, determine and direct the evolution of society. Barnett and Finnemore (*ibid.*) illustrate this normative role vividly when they state that,

Bureaucracies, by definition, make rules, but in so doing they also create social knowledge. They define shared international tasks (like 'development'), create and define new categories of actors (like 'refugee' [and GIPA, the Greater Involvement of People Living With HIV and AIDS]), create new interests for actors (like 'promoting human rights'), and transfer models of political organization around the world (like markets and democracy).

In addition, Etzioni (1964), Barnett and Finnemore (1999) elaborate on the polarized manifestations of this normative role when they opine that

"the same normative valuation on impersonal, generalized rules that define bureaucracies and make them powerful in modern life can also make them unresponsive to their environments, obsessed with their rules at the expense of primary missions, and ultimately lead to inefficient, self-defeating behavior" (Barnett & Finnemore 1999:699-700).

Principle Two: Roles within organisations are established on the basis of "technical competence", rather than "social status, kinship, or heredity..." (Weber, 1968; Gareth Jones 1995: 113-119). This leads to what Weber (1978: 225) refers to as the "tendency to 'levelling' in the interest of the broadest possible basis of recruitment in terms of technical competence".

Principle Three: Weber's (1968) third principle underlines the task-related responsibilities of employees in bureaucracies. This includes decision-making authority at different levels of management and the relationship of each employee and her/his role to other employees and their roles within the bureaucracy. All these characteristics are clearly specified in the organisational rule book.

Principle Four: Jones's (1995: 113-119) interpretation of Weber's (1968) fourth principle is that the organisation of tasks and roles within a bureaucracy are structured to ensure that lower offices are supervised and managed by a higher office. In Weber's words, "The organization of offices follows the principle of hierarchy; that is, each lower office is under the control and supervision of a higher one" (1964:331). , This risks leading to what Bennis (1993: 6) refers to as "conformity and 'group-think' ".

Principle Five: "Rules, standard operating procedures, and norms should be used to control the behavior and the relationship between roles in an organization..." (Jones 1995: 113-119; Weber, 1968). Weber argues that the influence of rules and administrative regulations is so unyielding that the authority to issue the orders necessary for the discharge of these duties is distributed in a stable way and is "strictly delimited by rules concerning the coercive means, physical, sacerdotal, or otherwise, which may be placed at the disposal of officials" (Eisenstadt 1968: 66). Weber (1978: 957-958) contends that despite the "monocratically organized" structure of bureaucracies,

"The management of the office follows general rules, which are more or less stable, more or less exhaustive, and which can be learned... It involves jurisprudence, administrative or business management".

According to Weber, the objective discharge of business in a bureaucracy refers essentially to a discharge of business in accordance with calculable rules and without specific regard to the people concerned (Weber 1978: 975). Weber (*ibid.*) also states that,

Bureaucracy develops the more perfectly, the more it is 'dehumanized', the more completely it succeeds in eliminating from official business love, hatred and all purely personal, irrational, and emotional elements which escape calculation.

Principle Six: Jones (1995: 113-119) defines Weber's (1968) sixth principle in terms of "administrative acts, decisions, and rules" which are usually articulated in writing. This then, according to Weber, proceeds to govern the actions of managers. The research will look for the influence of written regulations and policies related to HIV and AIDS and the degree to which the written rules are held by the bureaucracy as sacrosanct.

According to Thompson and McHugh (1990: 178) the Aston Group (a group of theorists from the University of Aston in Birmingham) developed a 'structural taxonomy' of bureaucracies based on the nature and control of workflow. Their typology of bureaucracies carried Weber's six principles (outlined above) forward through the development of three main categories:

Full bureaucracies incorporate Weber's six principles articulated above and presume a high level of standardisation of activities. Authority is centralised and control is impersonal. A pure form of full bureaucracy does not, however, exist outside central government.

Workflow bureaucracies have highly structured activities, but tend to be more decentralised in terms of authority within the hierarchical command framework. Such bureaucracies are characteristic of large manufacturing enterprises.

Bureaucratised structures: Smaller branch plants or parts of local government manifest bureaucratized employment relationships with a low structuring of activities. Here, control is exercised on a more personal level (Thompson & McHugh 1990: 178).

On revisiting the characteristics of the United Nations, within the definition of Aldrich's three point definition¹⁰ of the modern day organisation, it is clear that the United Nations is a *full bureaucracy* in its orientation, structure and management of workflow. This makes the Weberian perspective an important theory contextualising this study. However, as stated in earlier paragraphs and the next, the findings of this study may not comprehensively and completely concur with those of Weber.

¹⁰ As stated earlier, Aldrich (1979, as quoted in 2001: 2-4) defined organisations as "goal-directed, boundary-maintaining, and socially constructed systems of human activity".

The limitation of Weber's argument lies in his assumption that the rulebook is an absolute truth (what Weber [1978: 975] calls, "calculable rules") generating only one interpretation that guides decisions and actions in only one conceivable direction. It can be argued that some rules could, however, in themselves be open to multiple interpretations. Moreover, some rules may clash with the manager or decision-maker's beliefs, views or self-interest, resulting in managers rationalising their actions or decisions through a selective interpretation of the rulebook and in some cases the invocation of other rules that may serve as suitable in the pursuit of a decided course of action. Some of these actions may be driven by what Weber (*ibid.*) refers to as "purely personal elements". A hypothetical example serves to illustrate the point:

A senior manager (let us, in order to facilitate the use of pronouns, assume that the manager is a woman) is faced with the following situation: She is, by the rules of the organisation, required to finance complete medical care for all staff members. As a career-oriented manager her performance criteria for success also calls upon her to generate a wide variety of programmes and to mobilise adequate resources to fund all her programs and overhead expenses, including medical care for staff members. In this hypothetical example financial exigencies may result in the manager's career interest clashing with the organisational rules that she is obligated to uphold. If one were to apply Weber's understanding to the example, the manager in a bureaucracy would give primacy to the rules of the organisation and provide medical care for her staff. In so doing, she would either generate a shortfall in her budget or reduce the number of programmes she can generate in order to optimise the budget. However, through human ingenuity and innovation, she could arguably open up other options for herself. She could, for instance, reduce her staff overheads and re-direct some of the staff functions to programme consultants hired within project budgets, thereby reducing her office staff head count and, in turn, reducing her budget overheads. This action would reduce the number of people the organisation has to place on pension and medical care increasing the apparent financial viability of the office. This action could also, potentially, result in the manager being able to concentrate on generating a wide variety of programs and to mobilise adequate resources to fund them. This hypothetical action would demonstrate that

managers have, even within the confines of the rulebook, the flexibility to manipulate the system to fit their commitments. The essential point here is that rules in a bureaucracy are not necessarily infrangible, and human agency could play a very important role in rupturing the rigidity Weber has ascribed to the system, in partial contradiction, one might add, to his own theory of “instrumentally rational” “social action” (Weber 1978: 24). According to Weber, “instrumentally rational” social action is “determined by expectations as to the behaviour of objects in the environment and of other human beings. Weber sees these expectations as “conditions” or “means” of attaining the actor’s desired objectives.

Commenting on Weber, Morrison (1995: 299) states that the focus of bureaucracies on procedural matters serves to keep behaviour in check, ensuring predictability and reducing the possibility of conflict. This aspect of Weber’s theory of bureaucratic control is partially at odds with his acknowledgement of human agency and social action in the *Methodology of the Social Sciences*, 1949. If one were to apply this principle of Weber to the context of the present study, a manager’s decision in a bureaucracy would be driven by the letter of the rulebook rather than by human agency or the manager’s own interpretation of the situation. While this research project captures evidence of formal rules and policies governing and directing processes, it also finds evidence of Weber’s theory of interpretative understanding and social action (discussed in the following paragraph) in the manager’s decisions and action, within international development organisations.

Weber’s analysis of social action is compact in its articulation and constitutes a point of reference for this study. Weber argues that:

Social Action, like all action, may be oriented in four ways. It may be:

(1) instrumentally rational (*zweckrational*), that is, determined by expectations as to the behavior of objects in the environment and of other human beings; these expectations are used as “conditions” or “means” for the attainment of the actor’s own rationally pursued and calculated ends;

(2) value-rational (*wertrational*), that is, determined by a conscious belief in the value for its own sake of some ethical, aesthetic, religious, or other form of behavior, independently of its prospects of success;

(3) affectual (especially emotional), that is determined by the actor's specific affects and feeling states;

(4) traditional, that is, determined by ingrained habituation (Weber 1978: 24-25).

The strength of Weber's analysis lies in the fact that he refrains from placing these action orientations in independent silos, and appreciates that the actions are often propelled by a combination of orientations. This flexibility, implicit in Weber's theory, is important for the current argument as complex HIV and AIDS issues such as sexuality, stigma, care and treatment constitute a complex combination of orientations. Weber's orientations are, however, not sufficiently exhaustive; they leave out the critical orientation of what Jon Elster refers to as, "belief formation and information-acquisition" (Turner 2000: 40). Beliefs play an important role in the framework of opinions and decisions. Mental models regarding issues of illness, death, treatment and care, as well as sexuality are firmly entrenched in and influenced by cultural practices and the worldview of a society. One of Jon Elster's key criticisms of Weber lies in Weber's overlooking of beliefs in his theory of social action. Elster (*ibid.*) says,

"... because of his [Weber's] neglect of strategic behavior he ignores the importance of *beliefs about beliefs* when several actors have to reach mutually interdependent decisions".

This is a crucial point for the present study – because whilst Weber's characteristics of bureaucracy are drawn upon as a starting point for analysis, the intersecting values and beliefs of decision-makers, which are disregarded in Weber's (1946) classic works, are afforded space and acknowledgement.

In other words, this study places the judgments, motives, "interpretive understanding" and actions of managers and staff under the spot light. It is pertinent to state that informed lassitude or non-action is seen as a product of considered decisions made by actors. This is based on the belief that a human being can have as precise a reason for action as for non-action or lassitude.

Having made a point about the importance of “interpretive understanding” and actions of managers and staff in this study, it is deemed necessary to make a comment on Rational Choice Theory (RCT). RCT is explored as an option over the next two paragraphs before the chapter reconnects with the discussion on Weber and other organisational theorists. Rational Choice Theory, as the name suggests bases itself on the rational choice of human beings with a motive of benefit or advantage. Sociologists such as Weber and Parsons have drawn on value-driven exchanges in the mainstream of their argument on social action while a select few such as George Homans (1961) have set out a basic framework of exchange theory grounded in assumptions that can be traced to “behaviourist psychology”. He propagated the view that human behaviour, like animal behaviour, is determined by “rewards and punishments” (Scott 2000: 1). The fundamental source and point of all action, according to Rational Theorists, is the individual human being. They explain social institutions and social change as “the result and interaction of individuals” (Elster 1989: 13 cited in Scott 2000: 2).

While the role and importance of the individual is undeniable in the current study, this study assiduously steers clear of using the Rational Choice Theory because of its exclusive focus on the individual and the relationship between and among individuals from the perspective of behavioural psychology, which is too limited in scope for this study. The RCT tradition would view “institutions as temporarily ‘congealed tastes’ (Riker 1980), frameworks ‘of rules, procedures, and arrangements’ (Shepsle 1986), or ‘prescriptions about which actions are required, prohibited, or permitted’ (Ostrum 1986) (Powell & DiMaggio 1991: 8). This study, in contrast to the views of Riker, Shepsle and Ostrum approaches rules, procedures and arrangements as fundamental pillars of the organisation and the interpretations of managers and staff members as critical levers that propel or retard implementation.

Evolving from the *genre* of Rational Choice Theory, and better grounded in sociology, is more recent thought on organisation theory. While accepting the importance of RCT, end-of-the-millennium organisational theorists generate an approach that goes beyond it from the sociological perspective. Two current organisational theorists, Powell and

DiMaggio (1991:8), in the introduction to their book, *The New Institutionalism in Organisational Analysis* opine that, in

the former [rational choice / game theoretic traditions] approaches institutions are the products of human design, the outcomes of purposive actions by instrumentally oriented individuals. But in the latter [regime theory and current organisation theory], while institutions are certainly the result of human activity, they are not necessarily the products of conscious design.... The new institutionalism in organisation theory and sociology comprises a rejection of rational-actor models, an interest in institutions as independent variables, a turn toward cognitive and cultural explanations, and an interest in properties of supra-individual units of analysis that cannot be reduced to aggregations or direct consequences of individuals' attributes or motives (Powell & DiMaggio 1991: 8).

While Weber's theory of bureaucracy relevantly defines the broad framework of international development organisation/s in which this study is located, the theory needs to be re-interpreted, modified and evolved to make it relevant to today's bureaucracy. For example, in their modern form, bureaucracies have to negotiate contingencies and uncertainties both within the organisation and outside it. These are aspects that some latter day Contingency Theorists such as Burns and Stalker (1961), Hage (1965), Lawrence and Lorsch (1967) referenced in Donaldson (2001: 36) have brought into the dialogue on organisational theory.

Change and uncertainty are organic elements that are integral to today's bureaucracy of international development organisations, and often influence the interpretation and implementation of HIV and AIDS policy in the workplace. An attempt is made in this study to understand how, and if at all, the "mechanistic organizational structure" (Burns and Stalker as quoted by Donaldson 2001: 37) of present day international development organisations has evolved to deal with these uncertainties. Situations of high uncertainty are more efficiently (according to Burns and Stalker) and more innovatively (according to Hage) dealt with by decentralised organisations that have complex and participatory decision-making processes (synthesised from Donaldson 2001: 36-39).

"Rather than getting embroiled in arguments for and against bureaucracy or any structural arrangements, Burns and Stalker were able to argue that both systems were suitable and rational for specific ... situations" (Thompson & Mc Hugh 1990: 96).

It is safe to assert that today's international organisations cannot be typecast as either completely hierarchical or participatory. They evolve to respond to the needs of the times to survive, or they perish, like the League of Nations.

In the following section of the literature review, the structure and coping-mechanisms of international development organisations are explored, and their influence on decisions of policy implementation are highlighted. Since conventional wisdom would state that uncertainties are not simply internal, but also external, the argument also touches upon the role (if any) of external influences and dialogue (such as TAC -Treatment Action Campaign and the GIPA Movement on decisions made by managers for and in the organisations.

The Aston Group has labelled four key elements of bureaucracy theory. These elements (*Centralization, Specialization, Standardization and Formalization*) are examined in the context of HIV and AIDS policy implementation within the United Nations System.

These elements are more fully explored later in the study in the context of the findings:

Centralization: The hierarchy of the decision-making process, as it affects the implementation of an HIV and AIDS policy in the workplace is clear and centralized. In the United Nations Organisations, this centralization of policy implementation is designed to be set up within the larger mandates of the human resources department.

Specialization: The division of labour within the United Nations system sets up specialist organisations, such as the ILO, to design the standard policy within the organisation. The human resources department carries out its implementation under the oversight of the country managers, deputy managers and department heads.

Standardization: the level to which rules, roles and policies govern the organisation and its influence on HIV/AIDS-management in the workplace (modified and contextualized from Donaldson 2001: 63).

Formalization: The level to which the rules and roles of standardization mentioned above have been codified and documented for easy reference of managers.

On the subject of *centralization*, the study explores the interplay of power between the managers of development organisations and the staff infected and/or affected by the epidemic, in the light of the theory that the

mechanistic organization [of bureaucracies] is not only a structure but also a culture, in which subordinates are psychologically dependent upon their superordinates (Burns and Stalker 1961 as cited in Donaldson, 2001: 37).

Another important subtext of the analysis is the fact that senior managers and decision-makers within international development organisations are usually international staff members who are routinely transferred to other assignments in other countries. This turnaround of senior staff members implies a lack of local knowledge, needs and sensitivities among managers essential to informal decision-making. This study attempts to gather data on these aspects in staff and management orientation and on structural efficiencies as these relate to the implementation of policy.

On the subject of *standardization*, *formalization* and *specialization*, the Human Rights based policies and guidelines which govern the management of HIV and AIDS in the workplace and their interpretation by managers are explored. The development of policy and its implementation are different exercises requiring different processes. The focus in this study is not on the making of policy, but rather on its interpretation and implementation within the organisation.

In a sociological sense, the seminal research on institutions was, arguably, that conducted by Goffman and Foucault. Much of Goffman (1961) and Foucault's (referenced in Giddens 1986) work on institutions was grounded in bureaucratically managed systems. These bore broad hallmarks of the Aston Group's categorisation of bureaucracies. The institutional structures concerned were *centralized*, *specialized*, *formalized* and *standardized* institutions. Goffman and Foucault's studies were, however, largely conducted in institutions of incarceration, such as lunatic asylums, psychiatric wards and prisons. Being hugely specialised bureaucracies, these particular institutions follow procedures considered out of the ordinary in other systems. In reference to such institutions of incarceration, Giddens (1986: 155-6) points out that,

“Interrogative procedures frequently transgress what for most of the population are regarded as legitimate ‘information preserves’ about the self and about the body”.

They compile and record personal and private data about the inmates, normally considered a violation of personal privacy. These systems also dissolve the “boundaries between enclosure and disclosure”. For instance, for professed security reasons, inmates may be expected to perform personal and private ablutions in public. As a result, there are no “back regions” or private spaces where inmates may spend private moments. Members of institutions studied by Goffman and Foucault have been reduced to levels of “childlike dependence” (Giddens 1986: 155-6) not seen in international organisations or development agencies like the United Nations.

On exploring other bureaucratic systems of management one would observe that there are tenuous similarities between bureaucracies such as the United Nations and bureaucracies such as the schools and academic systems studied by Hagerstrands (Giddens 1986: 134-5). These similarities include a clear and stated hierarchy between teachers and students, in the case of schools, and between management and staff, in the case of the United Nations. The teachers “usually have a back region to which they retreat, the staff room”, where they are able to privately discuss and decide upon “tactics of coping” with teaching loads and student management issues. The managers in bureaucracies have their exclusively controlled and selectively accessed management retreats and boardroom sessions in which they are able to privately discuss and decide upon, among other things, staff-management issues. Further, both systems have their boards of governors who determine the institutional *raison d’être* and provide a system of checks and balances for institutional management. They both have associations (staff associations in the United Nations and student associations in schools) to give voice to issues that concern the staff or students (as the case may be).

These two systems do, however, diverge fundamentally in some ways. The school is a “‘container’ generating disciplinary power” with direct and punitive control exercised by teachers, while international bureaucracies do not define such rigid boundaries of control

absolutely. The most significant difference is the school's absolute control over time and space, a feature absent in international development bureaucracies such as the United Nations. As Giddens (1986: 135) describes it,

“The school timetable is fundamental to the mobilization of space as co-ordinated time-space paths ... like all disciplinary organisations, schools operate with a precise economy of time ... [and] time enters into the calculative application of administrative authority”.

Although hierarchical, the United Nations is constituted of policy advisors and programme managers who, within the overall mandate of the organisation have the freedom to adjust their own time and space. Working from home, for example, is an option available to United Nations staff members in select circumstances.

This exploration of literature pertaining to various types of bureaucracies, with highly polarised mandates, reveals that, while most bureaucracies share some broad similarities in characteristics, comparisons are not always fruitful tools of analysis. The findings in this study, therefore, steer clear of such comparisons.

2.4 International development organisations

Scholars have traced the genesis of international organisations to

“numerous ancient leagues and assemblies that were aimed at warding off threats posed by formidable powers [such as the] cooperation among the lesser states confronting the imperial power of China and Rome” (Ziring, Riggs & Plano 2000: 4).

According to Ziring, Riggs & Plano (2000: 7), the

“first examples of modern international organization were the river commissions [which go back to the 19th Century¹¹] in Europe [and which] provided for extensive regulation of river traffic, the maintenance of navigation facilities, and the hearing and adjudication of complaints for alleged violations”

¹¹ Revised Convention on Navigation on the Rhine. Done in Mannheim, 17 October 1868; in force 1 July 1869. <http://www.internationalwaterlaw.org/europe.html>

of commissions' regulations. However the formalized construct of the international organisation, as we know it today, is very specifically a phenomenon of the twentieth century.

Two world wars in the first half of the twentieth century and countless deaths later, sovereign states realised the limitations of unilateralism and the need for equitable multilateralism as an arbiter of conflict and a stimulus for growth. As Paul Kennedy writes in his book the *Parliament of Man*,

States, which had defined themselves from Thucydides to Bismarck by their claims to sovereign independence, gradually came together to create international organisations to promote peace, curb aggression, regulate diplomatic affairs, devise an international code of law, encourage social development, and foster prosperity (Kennedy 2006: xiii).

Fraught with the complex task of attempting to reconcile multilateralism and sovereignty, the development of international organisations is very much work-in-progress. And the location of this study is what Kennedy refers to as the “best-known and most ambitious of these bodies...the United Nations Organization” (*ibid.*).

For the purpose of this study, a definition and understanding of international organisations requires a prefaced contextualisation of its place within the umbrella concept of international regimes. An international development organisation is a unit or subset of what modern day organisational theorists call, “the concept of international regimes” (Krasner 1982:185). It is also vital to appreciate that the international development organisations referred to in this study are large institutions that nation states are willingly bound to for the facilitative function that they bring to the equation and despite the restrictions that limit the free action of nation states. As such,

“institutions do not merely reflect the preferences and power of the units constituting them; the institutions themselves shape those preferences and that power” (Keohane 1988: 382 cited in Powell & DiMaggio 1991: 7).

As Powell and DiMaggio (1991:7) point out, scholars are questioning the rational actor approach to international institutions.

Clearly many international institutions are not optimally efficient and, were they to be recognized *de novo*, would undoubtedly look quite different. Imperfect regimes survive nonetheless because sunken costs, vested interests, and the difficulty of conceiving of alternatives make it sensible to maintain them (Powell & DiMaggio 1991:7).

It is the dynamics of implementing an HIV and AIDS policy within the construct of these imperfect, yet resilient, institutions, which the fieldwork in this study explores. None the less, Powell and DiMaggio's (*ibid.*) belief that "sociological approaches to international institutions are better developed theoretically than empirically" is pertinent. The complexity of dealing with an epidemic such as AIDS, with its multifaceted associations of death, sexuality, stigma and discrimination, is also better served through sociological analysis than political and economic analysis, as sociological analysis is more encompassing and capable of spanning issues of policy and management structure on the one hand, and issues of rights and stigma on the other.

2.5 International regimes: Legitimacies, values and inconsistencies

Stephen Krasner's definition of international regimes is among the most acceptable definitions of the concept, with other organisational theorists such as Young (1986), Zacher (1987), Ness and Brechin (1988), Keohane (1988) and Powell and DiMaggio (1991) using it as a basic definition for their arguments. "Regimes" according to Stephen Krasner (1982:186)

"can be defined as sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations" (Krasner 1982: 186).

In order to make the definition more specific and user friendly, Krasner goes on to detail the meaning of some of the keywords (principles, norms, rules and decision-making) that he uses. "Principles" he states,

“are beliefs of fact, causation, and rectitude. Norms are standards of behavior defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice” (Krasner 1982:186).

Despite the fact that international organisations are mandated with normative functions and the common goal of bringing stability to an international order, they have subtle differences in structure.

Some of these international institutions (e.g., The United Nations or the World Bank) are formal organizations; others, such as the international regime for money and trade (the GATT or General Agreement on Trade and Tariffs) are complex sets of rules, standards, and agencies. Regimes are institutions in that they build upon, homogenize, and reproduce standard expectations and, in so doing, **stabilize the international order** (Powell & DiMaggio 1991: 6-7, original emphasis).

However, it is important to keep in mind that the “international order” itself is not constituted of a fixed environment, but a changing one requiring the organisation to change with it. Ness and Brechin (1988: 254) suggest that it

is easy to see that the environment of the UN system has increased in size, heterogeneity, and instability since the UN was created. These changes suggest that the typically hierarchical structure of the organization may impede effective performance.

Lawrence and Lorsch (Ness & Brechin 1988: 266-7) showed that flat organisational structures performed better in a fluid and unstable environment than the hierarchical construct of a Weberian bureaucracy, like the United Nations system.

Most of the international development organisations that are significant players in today’s context have come into existence in the last forty to sixty years following the ratification of the United Nations Charter in 1945. The Charter essentially sought to correct some of the imbalances triggered by the Second World War and to ensure that

armed forces shall not be used, save in the common interest, and to employ international machinery for the promotion of the economic and social advancement of all people ... (Preamble to the United Nations Charter cited in ‘Basic Facts about the United Nations’ [2000: 4]).

Among the key institutions created by the establishment of this new international regime was the United Nations and its many agencies such as Unicef, UNDP and UNFPA; the Bretton Woods institutions set up, in July 1944, with the objective of rebuilding the “shattered post war economy and to promote international economic cooperation”¹² through institutions and initiatives such as the International Monetary Fund (IMF), the International Finance Corporation (IFC) and the World Bank; the General Agreement on Tariffs and Trade (GATT), the later and more relevant reincarnation of which was the World Trade Organisation (WTO).

“Founding a new venture”, as Aldrich (2001: 228) states

“is risky business under any conditions, but especially so when entrepreneurs have few precedents for the kinds of activities they want to found”.

It is important to interrogate Aldrich’s statement in the light of the fact that given its size, multi-lateral mandate and global footprint, the United Nations can be considered a relatively nascent organisation. The United Nations officially came into being only on 24 October 1945 (United Nations 2000: 3) and is still evolving and reforming itself to maintain its legitimacy and relevance in a rapidly changing global environment. It had only one precedent (a failed one at that) in the form of the League of Nations. Established in 1919 after the First World War, with the objective of preventing further World Wars, the League of Nations closed offices after failing to prevent the Second World War, leaving its successor, the United Nations, with little to model itself on. It was confronted with the two problems Aldrich (2001: 228) believes emerging organisations face, those of learning and legitimacy.

The problem of ‘learning’ lay in the United Nations’ need to define its role and discover approaches, methodologies and routines without the “benefit of role models” (Aldrich 2001: 229). While it would have learned from the mistakes of the defunct League of Nations, it had no successful prototype to emulate. Learning has been organic in nature, discovering itself in a changing environment through what Aldrich refers to as “organizational experimentation” (*ibid.*). HIV, for example, was discovered in the early

¹² <http://www.brettonwoodsproject.org/background/index.shtml#01>

80s (as already noted), but the ‘ILO Code of practice on HIV/AIDS and the world of work’ was only published and copyrighted in 2001 and the UN Secretary General’s policy statement on Policy on HIV/AIDS in the workplace was only made in 2003 (United Nations ST/SGB/2003/18). The UN dealt with the epidemic both within its own organisation and globally as a pandemic and in doing so came upon its own policies.

The problem of ‘legitimacy’ lay in the United Nations’ need to “establish ties with an environment that might not understand or acknowledge its existence” (Hannan & Carroll, 1992; Stinchcombe, 1965 cited in Aldrich 2001: 228). Suchman (1995a: 574 cited in Aldrich 2001: 229) defines the concept of organisational legitimacy as

“a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions”.

The criterion of legitimacy has been further sub-divided into two categories. Cognitive legitimacy refers to the acceptance of the organisation and its output as a presumed characteristic of the environment. Socio-political legitimacy refers to the organisation and its output’s appropriateness in the environment as a moral body conforming to values and beliefs of the society it survives in and as a statutory body conforming to governmental rules and regulations.

Table 2.2 attempts to map the United Nations’ HIV Policy in the workplace within the construct of Aldrich’s categories of organisational legitimacy. This conceptualisation should assist in the analysis of the role and performance of the United Nations as a moral and regulatory authority:

Table 2.2: Mapping United Nations HIV policy in the workplace within the construct of Aldrich’s categories of organisational legitimacy

Level of analysis	Cognitive Strategies		Socio-political Strategies	
	Learning	Cognitive legitimacy	Moral legitimacy	Regulatory legitimacy
Organisational level	The creation of a policy through exposure and experimentation	Link the policies to the UN Charter signed by countries in 1945 and subsequent Human Rights frameworks over following decades	Built on the United Nations’ recognized role as gatekeeper of the Human Rights framework and the Economic and Social Council (ECOSOC)	Work within the framework of the UN Charter at one level and the constitutional framework of member countries within which the UN operates

Before examining the *raison d’être* of international organisations it would be pertinent to briefly note some of the common characteristics that Ziring, Riggs and Plano (2000: 8) outline to define recent international organisations such as the United Nations:

1. **Membership** is essentially reserved for “sovereign states”.
2. **Treaty based** constitutions designed by multilateral consensus usually define the structure, scope and mode of operation.
3. A conference or *congress* usually constitutes the broad **policy making organ** of the organisation.
4. A *council* is usually set up to provide **executive authority** to the organisation.

5. A *secretariat*, run by a bureaucracy of civil servants, is usually established to **implement** the policies.
6. Decision-making is based on the principle of **egalitarianism**.
7. The **judicial authority** was sometimes incorporated in the treaty and sometimes, as in the case of the United Nations, linked to a special international court of justice.
8. Most have a **legal identity** that permits them to hold property and in some cases are covered by diplomatic immunities and privileges.
9. The **financial base** of the organisation necessary for its operation usually comes from the member states through a predetermined formula.
10. The **competence** of the organisation is determined by a focal area of intervention and is consequently staffed to deliver on its predetermined task.
11. The **decision-making** is usually carried out through the consensual drafting of treaties and resolutions and usually recommends action for some or all member states.

There are two broad, and somewhat polarised perspectives to the reason for the existence of these international organisations:

From a “reductionist” or “realist” perspective, international organisations have no independent role or function in international affairs. They are merely extensions or instruments of state power. Unlike the more naturally developed nation states and governments, international organisations are artificially created by governments for the convenience of international cooperation and management. Designed for specific tasks, international organisations have no autonomous political will and consequently no political independence or existence (Heiskanen in Coicaud & Heiskanen 2001: 5).

The “idealist” or “institutional” perspective, by contrast, sees international organisations as playing a role in international affairs that is independent of states and governments that brought them into being. Like states, international

organisations are formal subjects of international law. They have an independent legal identity and can sue and in turn be sued within the scope of their functional immunity. Besides, they carry out functions that states are themselves incapable of carrying out. Consequently, international organisations must be understood as entities that not only have to be taken into account, but must also be accountable. (adapted from Heiskanen's chapter in Coicaud & Heiskanen 2001: 5).

The role of administering and facilitating international peacekeeping, stimulating growth and championing Human Rights without any formal authority to govern has resulted in

many international organizations, and particularly international civil servants working within such organizations, view[ing] themselves as servants of the member states rather than their masters, and see as their main function the implementation of the decisions taken and the policies adopted by the representatives of these states ... Nonetheless, it is hard to deny that from the perspectives of states that have, for instance, become targets of United Nations sanctions or other coercive measures approved by the Security Council, or that are on the receiving end of accusations by human rights organizations of alleged domestic human rights violations, or that are faced with the take-it-or-leave-it conditionality attached to IMF and World Bank credit and loan approvals, these international organizations are effectively exercising functions that verge on the governmental (Heiskanen in Coicaud & Heiskanen 2001: 7-8).

It is however inaccurate to state categorically that, international organisations perform functions that can be characterised as governmental. Whether they do or not largely depends on the differing perspectives of states sponsoring an action from those on the receiving end of it. Each instance is different and each international organisation seeks its own specific outcome. Moreover, differences of opinion can be polarised in the context of sanctions and peace-keeping interventions and sometimes less so in the context of aid and development interventions (Heiskanen in Coicaud & Heiskanen 2001: 7-8).

According to Krasner (1982: 189), regimes constitute a set of catalytic variables among such basic causal factors as power and self-interest and the related outcomes of multilateral cooperation and harmony. The following figure by Krasner (Spring, 1982: 189) represents such inter-relationships graphically:

Basic Causal Variables \Rightarrow **Regimes** \Rightarrow **Related Behaviour & outcomes**

Figure 2.1: Causal relationships

According to Krasner, regimes neither arise of their own accord nor are they considered ends in themselves. They are not solely by-products of state needs and interventions, but play very distinct and particular roles in multilateral issues. If as Krasner’s argument suggests, regimes are not purely epiphenomenal or secondary structures serving as by-products of primary organisational structures, but are distinct and even normative players in themselves, it is important then to focus on the internal mechanics of the units within the regime (the international organisations) for consistencies of policy and implementation. It is my understanding that a graphic conceptualisation, with a focus on internal mechanics of international organisations, would look like Figure 2.2, based on a modification of Figure 2.1 by Krasner (Spring, 1982: 189):

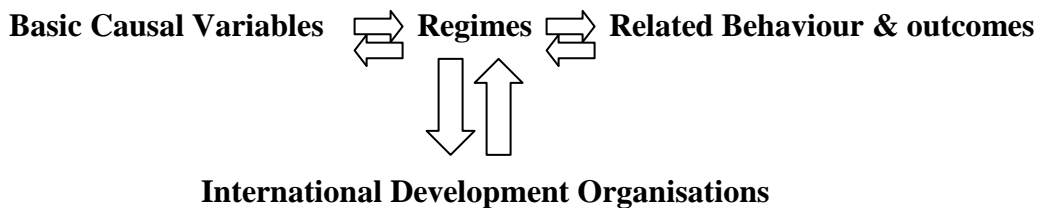


Figure 2.2: Causal relationships: Modified to include international development organisations

The thrust of this study is, as already argued, sociological rather than political in nature. Thus it aims to determine a wider model of engagement and action that facilitates an understanding of how HIV and AIDS policies are instituted and implemented within the internal structures of international organisations. The research moves the focus from a political and corporate *modus operandi*, towards the power equations, social actions, interpretations and, more especially in this study, to relationships that facilitate and inhibit the implementation of HIV and AIDS policy, in the “organized social space” (Fligstein 2001: 15) within which international organisations operate.

Unlike commercial, private sector organisations, which are inward-looking and which operate largely for themselves and their shareholders, international organisations are mandated to operate for an external community of nation states. Jean-Marc Coicaud (in Coicaud & Heiskanen 2001: 519) points out that, their (International Development Organisation’s) institutional mandates include three things, providing countries with a

meeting point for negotiations, establishing laws for multilateral engagement, extending technical and political assistance in areas such as security and development. As a manifestation of this multilateral mandate, Coicaud observes that the legitimacy of international organisations was sought on the basis of a set of externally codified values. In the context of the United Nations, these values are fundamentally inspired by the UN Charter and are codified more specifically in various conventions, such as the Convention on the Rights of the Child (CRC) or the Convention on the Elimination of Discrimination against Women (CEDAW), developed by specialist UN agencies. However, being a normative body and an unbiased arbiter demands a certain consistency of values and positions in areas of policy development and implementation, not just externally (with its clients, the nation states) but internally (within its own system) too. This project seeks to understand the consensuses and conflicts, the disagreements and negotiations, the breakdowns and breakthroughs that fuel the dynamic social exchanges that in turn drive the implementation of HIV and AIDS policy in the internal workplace.

The following section will sharpen the focus of the chapter from a generic analysis of international development organisations to an understanding of the United Nations as an international development organisation.

2.6 The United Nations as an international development organisation

Before turning to the main focus of the thesis (HIV and AIDS), in the context of fundamental Human Rights (as enshrined in the UN Charter, discussed above), it is pertinent to explore the sociology of international development organisations, with specific reference to the United Nations, in some detail.

The term ‘United Nations’ has been attributed to Franklin D Roosevelt and was first used officially in the *Declaration by United Nations* of 1 January 1942, during the Second World War, when 26 countries united in their pledge to fight the Axis Powers (World War II, fought between 1939 and 1945, was primarily a conflict between the Axis Powers [Germany, Italy, Japan, Hungary, Romania, Bulgaria] and the Allies [the main countries

being U.S., Britain, France, USSR, Australia, Belgium, Brazil, Canada, China, Denmark, Greece, Netherlands, New Zealand, Norway, Poland, South Africa, Yugoslavia))¹³.

The UN Charter was signed on 26 June 1945 in San Francisco by 50 attending nations. Poland, which was not represented at the San Francisco conference, later signed to make up the original 51 signatories of the UN Charter that brought the United Nations into existence. However, the United Nations only officially came into existence on 24 October 1945, when the UN Charter was ratified by China, France, USSR, UK and the USA (subsequently constituting the Permanent Five on the Security Council) and a majority of the other signatories (Adapted from United Nations 2000: 3).

The Charter (United Nations 2000: 4-5) is the “constituting instrument” of the United Nations organisation. It outlines the rights and obligations of member states and establishes the major “procedures” and “organs” of management. The Preamble to the Charter “expresses the ideals and common aims of all the peoples whose governments joined together to form the United Nations” (*ibid.*). It articulates the faith of member states in fundamental Human Rights and the “dignity and worth of the human person, in the equal rights of men and women” (*ibid.*). It also reaffirms its commitment to “employ international machinery for the promotion of the economic and social advancement of all peoples” (*ibid.*). The commitment to Human Rights and the “advancement of all people” is a significant point to take note of, as it will serve as a yard stick for performance assessment on the issue of implementing HIV and AIDS policies in the workplace.

The purpose of the organisation set out in the Charter helps to define its core mandate: “to maintain international peace and security; To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of people; To cooperate in solving international economic, social, cultural and humanitarian problems and in promoting respect for human rights and fundamental freedoms; To be a centre for harmonizing the actions of nations in attaining common ends”¹⁴

¹³ <http://www.infoplease.com/ipa/A0001288.html> Accessed on 25 October 2008.

¹⁴ <http://www.un.org/aboutun/basicfacts/unorg.htm> (Accessed on 25 October 2008).

According to the United Nations Web page on basic facts about the UN¹⁵, the United Nations is a significantly large organisation with a budget of “\$2,535 million” in the years 2000-2001. The primary funding source for the organisation is generated from the Member States, at a level sanctioned by the United Nations General Assembly. The organisation’s Finance section on Global Policy¹⁶, states that the United Nations and its agencies and funds expend approximately \$20 billion per year, which translates to approximately “\$3 for each of the world's inhabitants”. This is considered a meagre sum compared to the budgets of most national governments and is just a tiny fraction of the world's military spending. These figures enable one to envisage the complexity of the United Nation’s situation vis-à-vis funding, prioritisation and operations.

Set up by the governments of member states, the United Nations system loosely replicates governmental bureaucracies with the Secretary General being accorded the protocol of a Head of State and United Nations Resident Coordinator in a country accorded the status of an Ambassador. However, its powers are not commensurate with national governmental bureaucracies (see Table 2.3). Kofi Annan (2000: xvi) defines the type of organisation the United Nations is and its power, authority and role as an international bureaucracy:

“The United Nations has no independent military capability, and very modest funds. Its influence derives from the force of the values it represents, its role in helping to set and sustain global norms and international law, its ability to stimulate global concern and action, and the trust inspired by its practical work on the ground to improve people’s lives. The effectiveness of the United Nations in all these endeavours depends on partnerships: among governments, civil society groups and the private sector, and most of all among people reaching across lines that might otherwise divide”.

The structure of the United Nations is also outlined in the Charter, which established six principal organs of management: the General Assembly (GA), the Security Council (SC), the Economic and Social Council, the Trusteeship Council, the International Court of Justice and the Secretariat. The wider UN System is even larger and encompasses 15

¹⁵ <http://www.un.org/aboutun/basicfacts/unorg.htm> (Accessed 29 June 2008).

¹⁶ <http://www.globalpolicy.org/finance/index.htm> (Accessed 29 June 2008).

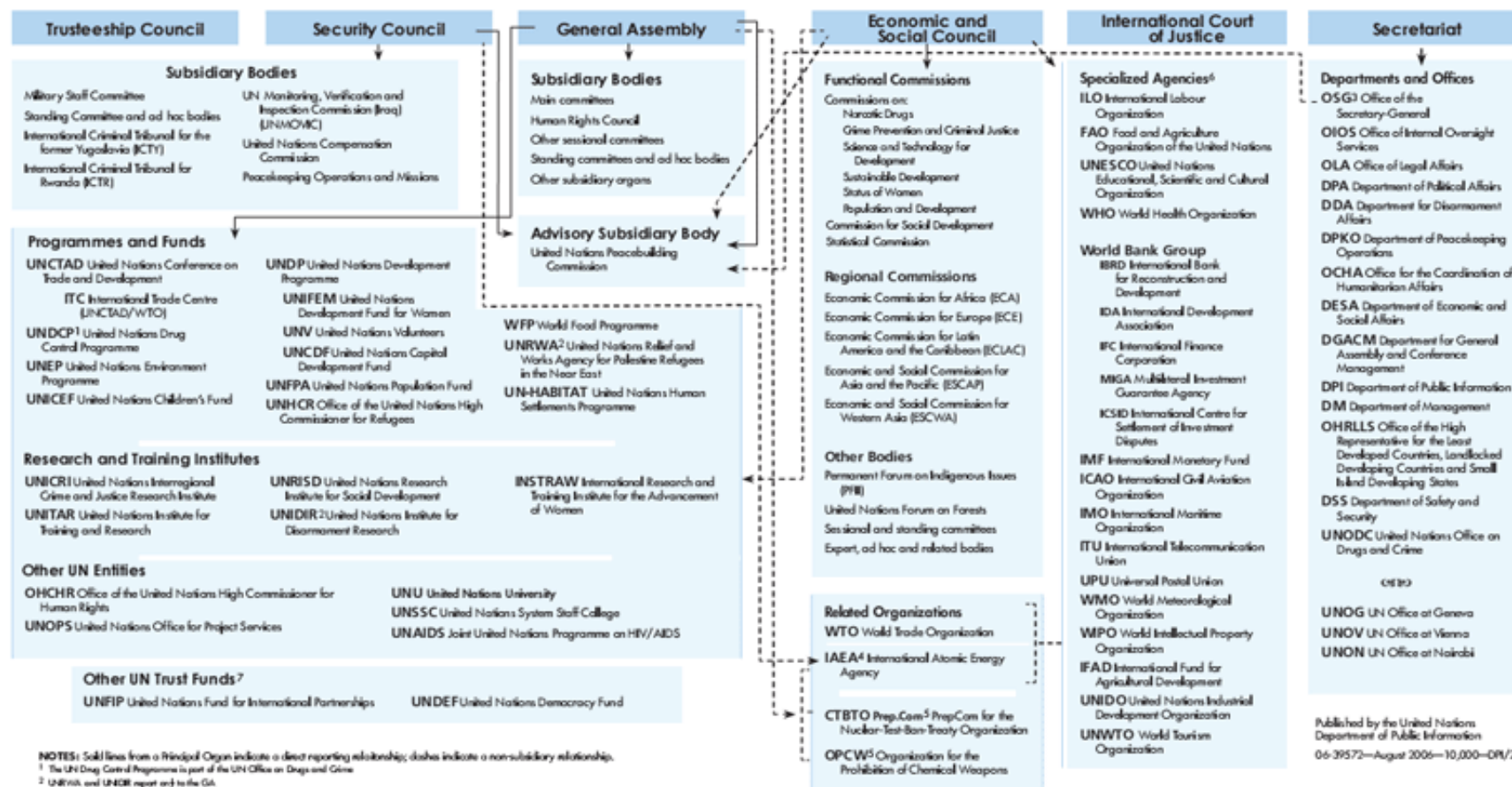
agencies and several programmes and bodies. The United Nations programmes (such as UNDP, UNEP [United Nations Environmental Programme], UNICEF and UNFPA) and the specialised agencies (such as ILO, FAO, WHO, and UNESCO) report to the ECOSOC Council which “plays a key role in fostering international cooperation for development and in setting priorities for action” (United Nations 2000: 6).



Table 2.3: United Nations system organogram: United Nations 2000

The United Nations System

Principal Organs



Published by the United Nations
Department of Public Information
06-39573—August 2006—10,000—DPI/2431

2.7 AIDS in the United Nations system and the Humans Rights discourse

Equity and Human Rights underpin the laws and policies that govern development organisations in twenty first century South Africa. Documents, such as the *South African Constitution* (1996) and *The ILO Code of Practice on HIV/AIDS and the world of work: its implementation in the UN workplace* (2004)¹⁷, demonstrate that this is so. These policies are expected to be put into practice by the managers of the organisations. The level of implementation, however, does not always reflect the stated objectives of the policy, as is amply visible in the ILO/AIDS assessment of HIV and AIDS workplace policy implementation within the United Nations Development agencies in the Southern and Eastern Africa sub-region (Fig 1.1: Rapid assessment of the implementation of HIV and AIDS workplace policies and programmes in the UN workplace in Eastern and Southern Africa). It demonstrates that nearly 80% of the agencies assessed in the report have work plans to implement HIV and AIDS policies. A little over 50% have, however, provided the budget to execute the work plan that will implement the policy, and even fewer offices have set up a WWP. Both work plans and budgets form part of policy implementation. Whether this is driven by constraints of resources or the opinions of managers is one of the primary questions of the study (see section 3.9).

It is pertinent also to review certain aspects of the HIV and AIDS policies (such as universal access to treatment, stigma free workplace and discrimination free actions on the part of the management) in the context of them being Human Rights as opposed to moral perspectives. According to Gewirth (1982: 64), for these moral perspectives to be considered Human Rights, they would need to pass the tests of “universality and practicability”. To be considered universal, the right needs to be

a right of all persons against¹⁸ all persons: all persons must have the strict duty of acting in accord with the right, and all persons must have the strict right to be treated in the appropriate way. Thus all persons must be both the agents and the recipients of the modes of action required by the right (*ibid.*).

¹⁷ <http://www.ilo.org/public/english/protection/trav/aids/publ/compliance.pdf> Accessed on 25 October 2008.

¹⁸ I would emphasise the relational aspect of the word “against” (Gewirth 1982: 64) rather than the confrontational aspect of its meaning since the fulfilment of the rights for one group may not necessarily imply the impingement of the rights of others.

This definition tends to suggest a hierarchy of Human Rights. As Gewirth points out, one set of rights, such as the rights to life and freedom of movement fulfil the requirement easily on grounds of universality. Another set of rights such as the right to be relieved from economic starvation or severe economic deprivation remains conditionally relevant only for those in starvation or deprivation. If this definition were to be applied strictly to the policy of providing access to ARV treatment in organisations, it would not be considered a Human Right, since only some people (those living with the virus) would have the right and some people (those in positions of institutional authority and in control of budget allocations) would have the obligation to fulfil the right.

On Gewirth's criteria of "practicability" as a criteria for the fulfilment of rights, the right of access to treatment would appear to fall short as a comprehensive right, since all organisation's, at all times, do not necessarily have the resources to fulfil the right. It may not be considered practical, by duty bearers, to deliver to all those in need. However, Gewirth provides a decidedly categorical rider to the criterion of practicability in his statement that, "this objection need not concede that the right... is universal only in a 'weaker' sense" (*ibid.*).

In applying Gewirth's (1982: 30) Principle of Generic Consistency (PGC)¹⁹ to the issue of access to treatment, it must be stated that the lack of universal need for ARV treatment does not mitigate the importance, need and right of people to receive treatment when they are infected. The application of Gewirth's argument would recommend organisations to take positive action towards reallocating budgets "to the extent of their available resources" (*ibid.*).

In his chapter, *The Basis and Content of Human Rights*, Gewirth (1982: 65) argues that there is a "considerable distance" between the issues of non-uniform financial resources and equitable distribution of available resources. It is therefore important not to use the

¹⁹ Gewirth advocates the need to "Apply to your recipient the same generic features of action that you apply to yourself" (Gewirth 1982: 30).

former as an excuse for not attempting to deliver the later. The obligations of duty bearers under the Principle of Generic Consistency (PGC), according to Gewirth (1981: 135),

“cannot be escaped by any agent [duty bearers in the context of my study] by shifting his [or her] inclinations, interests or ideals, or by appealing to institutional rules whose contents are determined by convention”.

This is a crucial position in the context of this study, since it advocates the view that the agent must hold that he has rights to these features simply insofar as he is a prospective purposive agent; he rationally must accept that his recipients also have these rights insofar as they too are prospective purposive agents (Gewirth 1981: 135).

In summary, the manager or duty bearer in the organisation should understand that a right that is due to himself or herself should be equally due to all others serving in the organisation. The issue of practicability is negated by the argument that, the right or facility, in being available to select staff members, should be available to all others in the same workspace.

A significant detail in Gewirth’s argument of universality and practicability is that it is not a matter of all rights’ holders having the same right at the same time and to the same degree of immediacy. Nor is it a matter of duty bearers fulfilling all rights at all times to the fullest extent of the need. It is, as Gewirth (1982: 65) states it,

rather a matter of everyone’s having, as a matter of principle, the right to be treated in the appropriate way when he [or she] has the need, and the duty to act in accord with the right when the circumstances arise.... And he [or she] has the ability to do ... [within the] consideration of cost to himself [or herself].

An important element of rights’ fulfilment is the obligation of duty bearers, who are tasked to deliver on their obligations. This is an important element of the rights discourse as it directly pertains to the role of the managers of international development organisations. The word ‘obligatory’ might lead us to assume its meaning in its very literal and absolute sense, as being something that is both morally and legally binding. However, Gewirth in his essays on the justification and application of Human Rights (1982) has drawn a few very fine distinctions that merit articulation in this thesis.

Gewirth has (in a theoretical sense) removed the sense of an absolute compulsion from the concept of the obligations of duty bearers. On the one hand, he writes about “descriptive obligations” as being

“required by some institution; but the person making the statement may not himself [or herself] accept the institution or its purposes as right or justified” (Gewirth 1982: 260-261).

He illustrates this definition with the vivid example of a black South African in apartheid South Africa as accepting the existence of certain obligations according to the law, but robustly opposing any obligation to fulfil it. On the other hand Gewirth refers to “prescriptive” obligations as being obligations that go beyond the mere acknowledgement of the obligations existence but a vigorous “advocacy or endorsement” (*ibid.*) of it.

Gewirth (1982: 262-263) explains the concept of obligations a step further when he draws a fine distinction between “tentative” and “determinative” obligations.

A tentative obligation is one, [Gewirth articulates] that obtains only within a context which has not itself yet received successful justification; it hence does not determine what one’s ‘real’ obligations are, that is, what is justifiably required of one, or what one ought to do. A determinative obligation, on the other hand, determines what is justifiably required of one, what one ought to do. Unlike a tentative obligation, it is already justified, and hence does not need to await justification (or disjustification) from some further set of considerations (*ibid.*).

When viewing HIV and AIDS policies and their implementation in international development organisations, it is important to do so in the context of the rights the HIV Policy contains and attempts to deliver to its work force. In a sub-chapter on the importance of positive rights, Gewirth (1996: 31-33) articulates the view that a

“human society based on positive human rights requires not only that persons refrain from coercing or harming one another but also that they help one another”

in an attempt at both self-realisation and the realisation of the larger community in which one is based.

Gewirth’s view that “persons refrain from coercing or harming one another but also that they help one another” brings the spotlight clearly on the role of the organisation and its

managers in this study. Another view that does so is Rawls's difference principle (Kelly 2001: 61-66). Rawls interprets the difference principle as a "principle of distributive justice" (*ibid*). But as this principle opens up a variety of possibilities, including some that do not conform to Rawls's principle of justice, he articulates key criteria and preconditions. Rawls claims that the principle is

subordinate to both the first principle of justice (guaranteeing the equal basic liberties) and the principle of fair equality of opportunity. It works in tandem with these two prior principles and it is always to be applied within background institutions in which those principles are satisfied (Rawls cited in Kelly 2001: 61).

Both Gewirth and Rawls's views are relevant to this sociological study on two counts. First, because they underline the mandate of the managers in international development organisations such as the United Nations to assume responsibility for providing staff with the basic rights of equality of liberty and opportunity. It follows that a person living with the virus and working in the organisation should receive equal treatment with those living either sero-negative or living undetected (either to themselves or to the work community at large). Secondly, if there is to be a differential treatment, (since Rawls's principle works in tandem with the principle of equality), it needs to be a positive one, instituted to redress any particular imbalance. As Rawls states in illustration,

"if men, say, have greater basic rights and greater opportunities than women, these inequalities can be justified only if they are to the advantage of women and acceptable from their point of view" (Rawls cited in Kelly 2001: 65).

These principles are therefore used as yardsticks to analyse the performance of the organisation and the actions of managers who are authorised to represent the organisation's best interest.

It would be an oversight not to mention the counterpoints to Rawls's view that constitutes Sandel's (1998) arguments on *Liberalism and the limits of justice*. Sandel provides a robustly argued counterpoint to Rawls's principle of difference in his chapter titled, *Meritocracy versus the Difference principle* (Sandel 1998: 72-77). According to Rawls, the concept of "moral worth" does not enter the equation until the principles of justice are already delivered upon. However, Sandel argues that,

“[s]ince no virtue has antecedent, or pre-institutional moral status, the design of institutions is open with respect to the qualities it may prize. As a result, the intrinsic worth of the attributes a society elicits and rewards cannot provide a measure for assessing its justice, for their worth only appears in the light of institutional arrangements to begin with”.

Writing in the early-AIDS era of the nineties, Sandel overlooks the complexities that constitute worth and ability, in a world living with HIV.

A person living with the virus may have all the necessary qualifications for the job and still be unjustly discriminated against under the presumption of a projected later-day inability. Sandel’s theory allows for managers to make moral judgments and use them as yardsticks to determine worth. This is where Rawls’s theory of justice (despite being developed in a pre-AIDS society) stands the test of time by insisting on the basic right of equality. Unlike Sandel, Rawls refrains from bringing in riders such as meritocracy. Although Sandel’s argument can be legitimately applied in many situations and cases (such as the skills criteria of “fleet-footedness” over “loquaciousness” in a “hunting society” (Sandel 1998:76)), to my mind, it lacks the universality of the Rawlsian approach.

Apart from the view of the policy in the context of equality and justice being basic Human Rights, it is also important to unpack the policy in the context of its socialisation within a community. Risse and Sikkink (Risse, Ropp & Sikkink: 1999: 5), in an essay on ‘The socialization of human rights norms’, break the process of socialising Human Rights into a three-step process. At the first level there is the “instrumental adaptation” of the policy. At this level, it is instituted as a policy that defines rights and obligations. At the second level a process of “moral conscience raising, argumentation, dialogue, and persuasion” defines the course, before the third (and final) level, which is defined by a process of “institutionalization and habitualization”. When this third level is achieved the HIV and AIDS policy may be considered to have been socialised.

2.8 The morality of managing the virus in the workplace

It seems pertinent at this stage to briefly dwell on the issue of “moral conscience”, proposed by Risse and Sikkink. Extrapolating Risse and Sikkink’s statement, one can argue that, apart from the responsibility of implementing the HIV policy, managers also face the moral prospect of supporting a person socially, medically and financially, who has been disadvantaged by society’s response to an epidemic. Referring to the responses of the average German citizen to the treatment of Jewish people by the Nazi regime, Norman Geras (1998: 28) says,

“[i]f you do not come to the aid of others who are under grave assault, in acute danger or crying need, you cannot reasonably expect others to come to your aid in [a] similar emergency; you cannot consider them so obligated to you”.

Geras refers to this as “the contract of mutual indifference” (Geras 1998: 28). It horrified Geras that people could actually see injustice unfold in front of their eyes and go back to their homes and lead normal lives. It is preferable, however, to take Geras’s insight and present it from an action-oriented perspective. As human beings in a society, as colleagues in a workplace, we have a *contract of mutual empathy*, in which we have the responsibility to empathise and support those around us in need, to the best of our ability. The suggestion is that this would create a momentum for positive social change, as advocated in the United Nations Charter.

Opining from a practitioner’s perspective, Jonathan Mann (Mann, Gruskin, Grodin & Annas 1999: 224) argues that

“issues of human rights inherently and inevitably put the person concerned with rights at odds with... [the] sources of power” within the system, making the “challenges of response... ever more difficult”.

The reasons are simple. On finding rights issues in contradiction to their considered decisions and actions, Managers of the system, the duty bearers, would either conceal (from public and transparent scrutiny) or openly acknowledge and repress the action, depending on the level of unilateral authority, immediacy and public opinion the authority felt inclined or able to deal with. Thus posing the “challenges of response”,

Mann refers to. Michael Ignatieff propounds an opinion that reinforces Mann's thoughts. "No authority whose power is directly challenged by human rights advocacy is likely to concede its legitimacy" (Ignatieff 2001: 56). His opinion implies opposition and confrontation between the holding power base and Human Rights advocacy when there is disagreement on principles and values. However, Ignatieff makes a somewhat basic and simple point on the confrontation between obvious and visibly polarised value systems. All disagreements are not necessarily acknowledged and articulated as so. The power equation is more complex when the disagreement and challenge (between duty bearers and holders) are subtle and unacknowledged. This is so because it does not permit the obvious convenience of arbitration between clearly opposing viewpoints. Readily acceptable surrogate issues are used as proxy, completely obfuscating the real point of opinion and therefore the real reason for the disagreement. A smoke screen is generated through the reinterpretation of facts and issues. In the rule-book governed bureaucracy that is the international development organisation there seem to be numerous avenues available in the numerous policies that govern the system. Theoretically, those in power, while accepting Human Rights policies as determined, might sometimes, driven by other considerations, seek to dilute the execution of the policy. If carried out with a degree of efficiency such practices could remain unnoticed for long periods of time.

Half a century after its proclamation, the Universal Declaration of Human Rights has entered the language of policy. In its design and in the forum of its presentation it wields a certain power over governments and organisations the world over. In a facetiously titled chapter (Allen 2003: 129), *Proximity and Reach: Were there Powers at a Distance before Latour?* John Allen²⁰ articulates a view that might explain the far-reaching influence and power of the Declaration of Human Rights on current policies and legislation. He (*ibid.*) says, "The idea that power assumes extensive reach into the lives of those not present or draws distant others closer into its ambit is not one we should be complacent about."

Referring to Latour's argument, Allen goes on to say,

it was possible to dominate others at a distance through the mobilization and translation of what he [Latour] referred to as 'circulating traces'; that is, virtually

²⁰ John Allen refers to Bruno Latour's contention that "microbes didn't exist before Louis Pasteur rendered them 'visible'" (Allen 2003: 129).

any element, entity or piece of documentation that can be inscribed or re-presented in some way so as to hold the mobile world ‘out there’ constant (Allen 2003: 129).

In the larger analysis, the study will attempt to re-enforce the importance and influence of the rights base of the policy and the significant influence that it wields (half a century into the future). The study will also attempt to understand whether, left to the interpretations of managers on the ground, the HIV and AIDS policies are able to “hold the mobile world ‘out there’ constant” (Allen 2003: 129).

2.9 Interpretations guiding decisions of managers: Rational and reasonable options

On the subject of interpretations that guide the decision-making of managers, Natrass, Rawls and Sidley (Sidley 1953: 560 as cited in Rawls 1993: 49 and Natrass 2004: 191) have analysed specific distinctions between the ‘rational’ and ‘reasonable’:

knowing that people are rational we do not know the ends they will pursue, only that they will pursue them intelligently. Knowing that people are reasonable where others are concerned, we know that they are willing to govern their conduct by a principle from which they and others can reason in common; and reasonable people take into account the consequences of their actions on others’ well being.

Managers are rarely, only rational or only reasonable. Both characteristics exist in varying degrees, as part of a continuum. As such, actions often mask intentions. It is also important to “recognize the burdens of judgment” (Rawls 1993: 54) that the managers have to carry in their decision-making. Paltiel’s observation about economics in the context of the implementation of HIV and AIDS policy in the workplace is pertinent here: He says, “economics is an efficiency driven science with no moral compass with regard to equity and compassion” (as cited in Natrass 2004: 36). Further underlining Paltiel’s contention is a recent study on ‘the impact, meaning and challenges of work’. The authors, Timmons and Fesko (2004), observe that people living with the virus are “living longer” and “productive lives”, making it important to “shift [the] approach from managing an immediate medical crisis to managing a chronic, long term health issue”.

While the direct extrapolation of this understanding could induce a ‘rational’ manager in the private sector to infer that long term medical overheads result in budget inefficiencies, and would therefore need to be addressed as such, it is not a matter of concern for the manager in a non-profit development organisation, where economic criteria do not constitute performance evaluation criteria.

It is also important at this juncture to highlight that a positioning statement, dated August 2002, by the Global Business Coalition (GBC) on HIV/AIDS on the subject of pre-testing for HIV²¹, adopts the view that while it is important to take into account the “concern for productivity, profitability, shareholder interests and employee well-being” managers should “refrain from adopting and implementing pre-employment HIV testing”. The GBC position on pre-employment testing categorically states that:

Pre-employment testing usually fails to achieve its desired results of significantly reducing HIV prevalence in a workforce. This would be especially true when implemented within the 16-20 year old age group in Africa (a cohort commonly targeted for recruitment by many extraction companies) as HIV peak prevalence occurs in an older age group.

Pre-employment testing has not demonstrated any reduction in risk-taking behaviors to reduce HIV infection rates once employed. In fact, compulsory pre-employment testing would likely discourage existing employees from coming forward for voluntary counseling and testing (VCT) for fear of discrimination and stigmatization.

Scrutiny of multinational corporations - particularly the treatment of their workers - has dramatically increased. Executives and shareholders have recognized the impact of sound corporate social responsibility on not only a company’s public image but its bottom line. The impact of pre-employment testing on the international reputation of companies could be drastic and costly²².

²¹ <http://info.worldbank.org/etools/docs/library/49153/Pre-employment%20Test%20final.doc> Accessed 2 July 2008.

²² HIV Pre-Employment Testing: The Global Business Coalition on HIV/AIDS
<http://info.worldbank.org/etools/docs/library/49153/Pre-employment%20Test%20final.doc> Accessed 25 October 2008.

The above position, adopted by the Global Business Coalition, rationally negates any perceived advantages that managers may feel accrue from pre-testing for HIV as a productivity and profitability measure. The positioning statement²³ is that,

“[n]o data or evidence exists to show that HIV pre-employment testing is economically feasible or will reduce prevalence in the workplace”.

The statement also goes on to advocate policies “based largely upon peer advocacy on current practices, consideration of Human Rights tenets, and knowledge of legal requirements”. A Human Rights based approach, in order to be successful, will require an understanding and belief among managers that HIV is a reality in our society and can be better managed if it is mainstreamed into the fabric of the organisational response.

2.10 Exploring possible reasons for slow policy implementation

In a study featured in SAfAIDS News (March 2004 Vol. 1), Mapolisa and Stevens show how the setting up of policies are often the simplest and most immediate responses of private sector organisations to HIV and AIDS within a workplace. In their study of 302 workplaces, 52.5% reported work-place policies on HIV and AIDS in their organisations, but a mere 28.4% reported the union’s involvement in the “policy development process” and an even scarcer 8% reported staff dissemination of the policy. While this study implies a disjunction between policy and practice, it deals with implementation only at the Union level without extending the scope of the study to the individual organisations. The same disjunction is evidenced in a more direct fashion in the ILO/AIDS progress report, where the issue of ‘care and support’ is viewed as a contradiction of “principles vs. contractual status”:

For all agencies, national staff²⁴ (65-85% of local staff) has the same access to health insurance as international staff. 17 % of the UN country offices reported

²³ HIV Pre-Employment Testing: The Global Business Coalition on HIV/AIDS
<http://info.worldbank.org/etools/docs/library/49153/Pre-employment%20Test%20final.doc> Accessed 25 October 2008.

²⁴ UN staffers are either national (citizens on the country in which they serve) staff or international (foreign national passport holders). The terms and nature of the contracts differ.

total medical insurance coverage for their staff. For the majority of UN country offices, medical insurance coverage varies and depends on type and length of contract. Short-term or temporary staff with a contract of less than three or, in some cases, six months may have more limited health insurance entitlements, with dependants not automatically covered, although there may be the option for the staff member to cover them voluntarily (ILO/UNAIDS 2004: 4).

The above extract underlines the fact that, despite the rights based policy of access to care and support; some UN personnel do not (as a result of the nature and longevity of their contract) have cover for medical contingencies.

At this juncture it would be pertinent to turn the lens briefly to the private sector and review some of studies conducted in that sector. This would also provide the opportunity to understand some of the private sector responses and perspectives to HIV and AIDS policy-implementation. Both the Mapolisa and Stevens study (based in the private sector) and the ILO/AIDS report (based in the non-profit development environment of the United Nations) demonstrate some similarities, such as gaps between policy and practice in both commercial and development organisations; and a step-by-step weakening of momentum, as organisations move from policy to practice. However, as the demand for commitment and resources increases, the similarities are neither sufficiently significant nor compelling enough to permit cross-referencing between the two systems of management with such sharply differing operational bases.

Mark Donovan (as cited in Theodoulou 1996: 68-87), in an article on the Ryan White Act²⁵ and the social constructions of people living with the virus, establishes the “connection between pervasive stereotypes and public policy-making”. He refers to the 1993 Schneider and Ingram study as a

parsimonious model of policy-making that holds that both the justifications for and the substance of public policies can be broadly predicted by understanding the social construction and political power of the groups being targeted by a given policy (Theodoulou 1996: 69).

²⁵ Ryan White Comprehensive AIDS Resource Emergency (CARE) Act 1990 in the USA was a landmark act because it was the first comprehensive piece of legislation that mandated the access of treatment to PWHA. It did however exercise yardsticks of deservedness, resulting in children being categorized as “innocent victims” and therefore more deserving of treatment than “injection drug users” or “gay men” (modified from Theodoulou ed. 1996: 75-82).

Relevant for this present study is the link he makes, in a bi-polar map, between social constructions of various “hypothetical” population segments (such as gay people, people living with the HIV and AIDS virus, intravenous drug users etc.) and their relative power to “exert some leverage on the policy process” (Theodoulou 1996: 70). What is important is that he demonstrates that, despite the shift in focus from “risk groups” to “risk behaviors”, people living with HIV and AIDS (PLWHA) are categorised, labelled and judged. However, while Donovan’s analysis is lucid in its linkage between social construction and public policy, it falls short of actually explaining the dichotomy between policy and implementation. The relation between stereotyping of people living with the virus (with its consequent disempowerment) and policy implementation is an important sub-text of this study. It directs the study to explore the influence of stigmatisation and discrimination as possible reasons for the slow policy implementation. While much has changed in the decade and a half between the Ryan White Act and this present study, stigma and discrimination continues to be a key factor in the epidemic.

A Horizons Report (Hutchinson 2003: 4) finds that the fear of social exclusion and derision often prevents workers from revealing their sero-status and accessing workplace services. Another Horizons Report (Stewart *et al.* 2002: 4), already quoted, adds that, HIV and AIDS program staff have put forward the view that VCT facilities at the workplace are not being accessed by workers because of fears of HIV-related stigma and discrimination. They also state, that those living with the virus prefer to keep a positive HIV status secret until they are so ill that they have no choice but to reveal their status. Stigma and discrimination as a potential retardant to policy implementation is significant, in the context of benchmarks set by the ILO guidelines on care and support, espoused by development organisations. The ‘ILO Code of Practices’ recommends that,

“Solidarity, care and support are critical elements that should guide a workplace in responding to HIV/AIDS. Mechanisms should be created to encourage openness, acceptance and support for those workers who disclose their HIV status, and ensure that they are not discriminated against or stigmatized” (ILO 2003: 27).

Since managers' decisions are not made in a vacuum, the interplay and leveraging possibilities of power are analysed in this study. Power necessarily includes both agency and structural components in relation to the individual on whom the control is exercised. An important aspect of this study is the relational aspect of power. As Foucault (1990: 93) points out, in his analysis of the relational nature of power, the omnipresence of power lies not just in its potential of "consolidating everything under its invisible unity" but because it is:

produced from one moment to the next, at every point, or rather in every relation from one point to another. Power is everywhere; not because it embraces everything, but because it comes from everywhere (Foucault 1990: 93).

Moving from the 'what' of power to the 'how', it is important to explore the power dynamics of human agency at one level, as "a ... [potential] to get things done, a facility to secure certain goals", and at another level, "as a means of constraint, 'leverage' over others. The difference between them is perhaps best understood by contrasting the 'power to' side of things with that of the "power over dimension" (Allen 2003: 51). As Allen explains it, one approach offers the possibilities of cooperative gain and collective action through partnership and alignment, while the other seeks to "gain at the expense of another" (*ibid.*). Articulating the positive aspects of power, Wrong describes it as "a force ... that ... traverses and produces things ... induces pleasure, forms of knowledge, produces discourse ... [and has the] generalized capacity to bring about outcomes, par excellence" (Wrong 2002: xxiii). Outlining the manipulative aspects of power, Max Weber (as cited in Wrong 2002: 21) propounds the view that, "[i]n general, we understand by 'power' the chance of a man or a number of men to realize their own will in a social action even against the resistance of others who are participating in the action". Similarly, later-day sociologists, such as Lasswell and Kaplan (Wrong 2002: 21), refer to the intimidating and manipulative characteristics of power as "the process of effecting policies of others with the help of (actual or threatened) severe deprivations for nonconformity with policies intended". What all the definitions of power from Weber to Lasswell and Kaplan, to Foucault or even Wrong and Allen fail to capture clearly, is the prevalence of the invisible and concealed characteristics of power, where a subject has

been manipulated and discriminated against without any clear idea of why he or she has been so manipulated. However, both Wrong (1997: 221) and Allen (2003: 51-52) in their definitions of agency, refer to this phenomenon as the difference between the “power to” and the “power over”. The ILO/AIDS bar-chart, in Figure 1.1 of this study, demonstrates both uses of power. The power exercised to implement a work plan and budget as vis-à-vis the basic authority over the function. As the bar-chart demonstrates, in some offices of the United Nations, the process of work plan, budget and WWP’s have progressed considerably, while in other offices they are slow and/or at a standstill. The recently designed Wellness Programmes at the United Nations are sometimes proactive in nature (with the prevention programmes), but primarily reactive in nature to enable the organisation to manage the complex socio-medical consequences (stigma, discrimination and criteria based access to treatment) of contracting the virus.

In a society evolving and redefining itself in a world living with HIV and AIDS, it is necessary to understand not only power “asymmetries” and their consequences, but also the “degree of imposition and constraint” (Allen 2003: 27) that surfaces in a “multiplex” (Horowitz 1990: 12) management-staff relationship, which constitutes “more than one type of exchange”. Four aspects of power-hierarchy outlined by Horowitz (1990: 13) are considered in this study:

- Rank: an individual’s position in the prestige hierarchies of a group.
- Dominant: an individual with superior power in a relationship.
- Dependant: an individual with inferior power in a relationship.
- Stratification: the distribution of valued resources in a social group.

Foucault (1990) depicts power as “pervading all social relations” in the form of a micro-political system which exercises itself “from innumerable points ... Power is everywhere, not because it embraces everything but because it comes from everywhere”. Foucault’s (*ibid.*) assertion that power is not centralised occasionally deepens the challenge of locating the source and origin of a particular action, as is discussed later in this study. The dynamics of power, as already inferred, involve those wielding the power and those subjected to it. In the context of the workplace, this signifies management, on the one hand, and general staff members, on the other.

It is difficult to centre a study on the interaction of managers and staff without referring to the Marxian dialectics of management-staff relationships. However, it is important to keep in mind the caveat that, “a basically societal level theory, Marxism, is being made to do work for which it was not devised, that is the explanation of organizations” (Donaldson 1988: 124). What compounds the relevance of Marx’s theories, in the context of this study, is the economic aspect related to the domination of sources of production and profit, a phenomenon absent in the non-profit environment of an international development organisation, such as the United Nations. Although managing the budget is integral to staff management, the focus in this study is on workplace policy implementation, within the confines of an international development organisation and with regard to the HIV and AIDS pandemic.

2.11 Policies that guide the management of AIDS in the United Nations system

Policies are the means to administer situations with equity and consistency. They provide guidelines for the management of situations. For that reason, it is essential to explore some of the policies that govern the management of HIV and AIDS in the United Nations. However, before doing so, it is pertinent to observe that policies are in themselves inadequate tools without the staff and management who breathe life into them and convert the mandates and promises, embodied in the policies, into reality. The pivotal role of staff and management in the implementation of policy makes it important to understand their actions, inactions and decisions as drivers in the process and key stakeholders in the outcome.

The United Nations Policy on HIV and AIDS is enshrined in a document called, *An ILO code of practice on HIV/AIDS and the world of work* (ILO: 2001). Launched in June 2001 by the Director General of ILO, Juan Somavia, it has since formed the bases of numerous policies both in the private sector and the development sector. Somavia maintains that the document seeks to address current problems and to anticipate

consequences that arise from the epidemic and its impact in the workplace (ILO 2001: iii). This document thus forms the basis of the United Nations Policy on HIV/AIDS in the workplace (United Nations ST/SGB/2003/18).

Four key principles articulated by ILO to protect the rights and productivity of staff living with the virus are listed below. These principles provide a criterion for the analysis of the domestication of AIDS workplace policies in international development organisations and shed light on the actions and opinions of staff and managers in implementing the policy and their interpretation of it. The principles selected and cited in accordance with numbering in the ILO code, focus primarily on key issues of concern that surfaced in the interviews undertaken for the thesis:

4.2. Non-discrimination

In the spirit of decent work and respect for the human rights and dignity of persons infected or affected by HIV/AIDS, there should be no discrimination against workers on the basis of real or perceived HIV status. Discrimination and stigmatization of people living with HIV/AIDS inhibits efforts aimed at promoting HIV/AIDS prevention.

4.6. Screening for purposes of exclusion from employment or work processes

HIV/AIDS screening should not be required of job applicants or persons in employment.

4.7. Confidentiality

There is no justification for asking job applicants or workers to disclose HIV-related personal information. Nor should co-workers be obliged to reveal such personal information about fellow workers. Access to personal data relating to a worker's HIV status should be bound by the rules of confidentiality consistent with the ILO's code of practice on the protection of workers' personal data, 1997.

4.8. Continuation of employment relationship

HIV infection is not a cause for termination of employment. As with many other conditions, persons with HIV-related illnesses should be able to work for as long as medically fit in available, appropriate work (ILO 2001: 3-4).

The important point that the ILO guidelines make is that HIV, like many other serious and chronic medical conditions, should be mainstreamed, without the marginalisation and discrimination that the policy anticipates and the interviewees in this study articulate. The above mentioned principles outlined by the International Labour Organisation (ILO) find

echo in the United Nations HIV Policy launched by the Secretary General in 2003, in which he says that,

“The United Nations is committed to providing a supportive workplace for its employees, regardless of their HIV status. To achieve this, we must have an environment that promotes compassion and understanding and rejects discrimination and fear” (United Nations ST/SGB/2003/18 2003:1-5).

In order for us to attain the target of a compassionate workplace free of discrimination, the Secretary General reinforced the Organisation’s commitment to the United Nations Personnel Policy on HIV/AIDS (see annex). This policy has since guided (and, according to the Secretary General, will continue to guide) the United Nations’ efforts in the development and implementation of programmes concerning HIV and AIDS in the workplace:

- (a) United Nations staff and their families will have access to information about treatment and support, including how and where to obtain voluntary confidential counselling and testing, and antiretroviral drugs. The costs of these services and drugs will continue to be met to the maximum amount provided for by the medical insurance schemes in which staff are enrolled;
- (b) Staff members will not be required to undergo HIV testing as a condition for obtaining health insurance coverage;

C. Terms of appointment and service: Pre-recruitment and employment prospects

7. Under this heading, the following provisions apply:

- The only medical criterion for recruitment is fitness to work.
- HIV infection does not, in itself, constitute a lack of fitness to work.
- There will be no HIV screening of candidates for recruitment.
- AIDS will be treated in the same manner as any other medical condition in considering medical classification.
- HIV testing with the specific and informed consent of the candidate may be requested if AIDS is clinically suspected.
- Nothing in the pre-employment examination should be considered as obliging any candidate to declare his or her HIV status.
- For any assignment in a country that requires HIV testing for residence, the requirement must appear in the vacancy notice.

Continuity of employment

8. Under this heading, the following provisions apply:

- HIV infection or AIDS should not be considered as a basis for termination of employment.

- If fitness to work is impaired by HIV-related illness, reasonable alternative working arrangements should be made.
- United Nations staff members with AIDS should enjoy the same health and social protection as that afforded to United Nations employees suffering from other serious illnesses.
- HIV/AIDS screening, whether direct (HIV testing), indirect (assessment of risk behaviours) and/or questioning about tests undertaken should not be required.
- Confidentiality regarding all medical information, including HIV/AIDS status, must be maintained.
- There should be no obligation on the part of the employee to inform the employer regarding his or her HIV/AIDS status.
- Persons in the workplace affected by, or perceived to be affected by HIV/ AIDS, must be protected from stigmatization and discrimination by co-workers, unions, employers or clients.
- HIV-infected employees, and those with AIDS, should not be discriminated against, including with regard to their access to and receipt of benefits from statutory social security programmes and occupationally-related schemes.
- The administrative, personnel and financial implications of these principles under terms of appointment and service should be monitored and periodically reviewed.

D. Health-insurance benefits and programmes

9. Health insurance coverage should be available for all United Nations employees regardless of HIV status. There should be no pre- or post-employment testing for HIV infection.

10. Health insurance premiums for United Nations employees should not be affected by HIV status. No testing for HIV infection should be permitted with respect to any health insurance scheme (United Nations ST/SGB/2003/18 2003:1-5).

The United Nations HIV policy has translated the principles of the ILO Code of Practice directly into actionable clauses related to employment and medical coverage, providing what one would imagine, constitutes clear guidelines, not just of action, but also of perspective.

The Bill of Rights forms the guiding principles on which the courts of South Africa make their decisions. The workplace HIV and AIDS policies, too, take their inspiration from a number of these rights. To give a few examples, the WHO/ILO guidelines on HIV/AIDS in the workplace echo the Bill of Rights in all its clauses. The following matrix (Table 2.4), establishes the linkages between globally accepted workplace guidelines and the

South African Bill of Rights, with a commentary on the implication of some of these guidelines on the HIV policy of organisations managing a work force.

Table 2.4: Linkages between the WHO/ILO guidelines and the South African Bill of Rights and the potential consequences

WHO/ILO guidelines on HIV/AIDS in the workplace ²⁶	The South African Bill of Rights ²⁷	Observations
Informing the employer: There is no obligation on the part of the employee to inform the employer about his or her status.	Section 14: Everyone has the right to privacy.	
Access to services: Employees and their families should have access to information and other educational programmes.	Section 32: Access to information: Everyone has a right to access any information that helps the person to protect his or her rights.	
Benefits: HIV-infected people should not be discriminated against and should have access to all the standard Social Security benefits and occupationally related benefits.	Section 27: Everyone has the right to access health care services, social security and other suitable social assistance.	The mandates of Sections 27 and 32 attempt to address the issues of discrimination against staff members, either living with or perceived to be living with the virus, by articulating the rights of people and the responsibilities of duty bearers.
Continuation of employment: A person living with the virus should be permitted to work as long as the person is fit to do so.	Section 22: Every citizen has the right to choose their trade, occupation or profession freely	

Section 27 of the South African Constitution (The Constitution of the Republic of South Africa: Act 108 of 1996) stipulates that the State must take:

²⁶ The contents of this column have been taken from, *International Nursing Review*. 41, 1, 1994: 10. The WHO/ILO guidelines are often espoused by international development organizations such as UNDP, UNICEF as policy guides for HIV and AIDS.

²⁷ The contents of this column have been taken from a manual entitled, 'HIV/AIDS and the law. A Resource Manual'. 2nd edition (2001: 83).

reasonable legislative and other measures within its **available resources**, to achieve the **progressive realisation** of each of these rights (The Constitution of the Republic of South Africa: Act 108 of 1996, Section 27. Also cited in the Resource Manual 2001: 76).

This stance both commits and empowers decision-makers to decide upon a time frame of the roll out of measures and the allocation of resources, based on their best judgment. While this section of the South African Constitution might appear to give managers both options and opportunities to shift the burden of care away from the system, the sheer visibility of the epidemic and pressures on governments to deliver empowering AIDS legislation keeps the lens firmly trained on managers and policy makers. The TAC for the roll-out of ARVs and the subsequent government policy implementation is a case in point. If one were to have keyed-in the term, “TAC anti retroviral campaign results” on Google (as at 11.20AM on 14 August 2007) it would have yielded 50,100 results in 0.2 seconds.

It is also important to note that the South Africa Constitution, ILO Code of Practice and the United Nations AIDS Policy (referred to above) are in perfect synergy with one another, as demonstrated in the articles outlined earlier in this section. This context will, later in the thesis, provide the necessary focus to assess the actions of managers and staff on the subject of HIV/AIDS Policy implementation in the workplace.

James Slack (2002: 354-370) in a study entitled *Zones of indifference and the American workplace: The case of persons with HIV/AIDS* deals with the rights of people living with the virus and what “can happen with the work setting to thwart or facilitate the intent of this piece of legislation”. The study refers to the concept of “area of acceptance” or “zone of indifference”. The zone, as Slack defines it, covers issues that are “relatively non-controversial and, hence, provide little room for intense debate and disagreement” (Slack 2002: 354-370). It is his view that the wider this band is the more comfortable the employees. He also propounds that the “emotional baggage ... of shock, fear, and depression” (Slack 2002: 366) that goes with the detection of one’s status during the asymptomatic stage results in the narrowing of the zone of indifference, for those living with the virus. The emotional baggage reduces the perceived safe zones, thereby

narrowing the band. This thesis attempts to determine what effect the level of implementation of the HIV/AIDS policy within the United Nations system has on the well-being and perspectives of staff vis-à-vis the policy.

2.12 Conclusion

Chapter two captures central issues, theories and arguments related to the implementation of HIV and AIDS policies in international development organisations, as articulated in the public domain and in contemporary academic literature. The chapter examines sociological and historical descriptions of organisations and their functioning, and integrates key concepts and typologies. Whilst the broad approach to the presentation of organisational analysis is eclectic, particular attention is paid to Weber's classical works on the dynamics and coherence of bureaucratic systems.. Contemporary understandings of organisations as “goal-directed, boundary maintaining, and socially constructed systems of human activity” are explored and adapted to the international development environment. The chapter takes the position that international development organisations are and have been significant players in the last 40 to 60 years and proceeds to investigate the learnings and legitimacies of the United Nations and Bretton Woods institutions. From the macro setting of institutions and their structures and mandates, the chapter moves towards managerial responses within the organised social spaces of Human Rights based workplaces. Thus, the chapter explores the instrumentality, adaptability and moral conscience of managers in international development organisations, who are charged to implement HIV and AIDS policies in the workplace.

The central purpose of this chapter is to offer a detailed literature survey on how large organisations active in international politics can be analysed, understood and criticised. The numerous assumptions reviewed reveal a particular ‘gap’ that the study has been positioned to address empirically, viz. the question of how bureaucratic structure and the logic of “calculable rules” co-exists, or engages with, the evolving interpretations and applications of decision-makers in these challenging times. Later chapters search for answers on the issue of the moral conscience and agency of managers. They attempt to

offer insights into the role of managers in implementing or inhibiting HIV workplace policy and the reasons behind such actions.