

For immediate release
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Brennan Center Suit Challenges Sweeping Restriction on Relief Organizations Receiving U.S. HIV/AIDS Funding

NEW YORK -- The Brennan Center for Justice at New York University School of Law filed a lawsuit today challenging a requirement that relief organizations submit to a harmful and sweeping restriction on their free speech rights as a condition of participating in the U.S. government's program to combat the international spread of HIV/AIDS.

At issue in today's lawsuit is a requirement that United States Agency for International Development funding recipients pledge their "opposition to prostitution" in order to continue their life-saving HIV prevention work. While none of the relief organizations receiving funds "support prostitution," it is essential that they maintain their ability to engage in proven, effective HIV prevention methods with at-risk populations. That ability is inevitably compromised when groups are simultaneously forced to condemn those they are reaching out to. The "pledge requirement" puts providers in exactly this bind, and it thus undercuts evidence-based, practical and urgently needed public health policies in the name of ideological purity.

In addition to jeopardizing public health, the "pledge requirement" violates the First Amendment by forcing private organizations to adopt the government's point of view and by restricting what they can say and do with their private funding. While participating relief organizations are required to adopt the pledge, the government has refused to provide any guidance regarding just what it means to "oppose prostitution," casting a shadow of uncertainty over entire HIV/AIDS prevention programs. Organizations are left to wonder whether USAID will deem them out of compliance when they talk with allies, hold a conference, or issue a publication related to sex work.

Filed in the U.S. District Court for the Southern District of New York on behalf of the Open Society Institute (OSI) and its affiliate the Alliance for Open Society International (AOSI), the lawsuit alleges that this "pledge requirement" undermines the ability of relief organizations to stem the spread of HIV/AIDS internationally.

AOSI and OSI, in filing today's lawsuit, join a chorus of voices that have objected to a requirement that interferes with proven HIV prevention approaches. In July, Brazil declined tens of millions of dollars in U.S. funds for its anti-AIDS work. In February, 13 charitable organizations, including the International Rescue Committee, Save the Children and CARE, criticized USAID's policy, saying that it "greatly undermines" AIDS prevention efforts.

The lawsuit filed today on behalf of OSI and AOSI is brought by the Brennan Center's Non-Profit Rights Project, which advocates to protect First Amendment freedoms of non-profit

organizations when they partner with government. The Brennan Center also serves as co-counsel in a separate action challenging the pledge requirement brought by DKT International in August in federal court in the District of Columbia (see http://www.brennancenter.org/programs/pov/npr_dkt.html).