

HIV/AIDS AND HUMAN RIGHTS: Continued Commitment in the Second Decade

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Fifteen years since the advent of the HIV virus, HIV/AIDS continues to challenge individuals, communities, nations, and the world—bringing out the best and the worst of individual and social responses. The epidemic has caused, and will cause, untold grief and misery. Yet like all great human dramas, it forces confrontation with fundamental issues. These issues have always enveloped humankind, but have seldom been so starkly exposed. HIV/AIDS is the harsh light bearing down upon them. They involve many aspects of human experience, including the nature of human sexuality; the power differentials among women, men, and children; the content of human autonomy and human privacy; and the shape of political and personal responsibility for the health of oneself and others. Perhaps the most crucial issue is the value and dignity of people who are in some way different—whether due to their health status, legal status, sexual orientation—the list goes on, as we human beings often appear more capable of identifying the differences than the similarities between us.

This confrontation with fundamental issues is the reason that HIV/AIDS highlights the synergy between health and human rights. Human rights are the insignia by which

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we affirm our essential sameness—as all are “born free and equal in dignity and rights”; and by which we celebrate our diversity, as no invidious distinctions are allowed on the basis of characteristics such as race, color, sex, language, religion, or other status, including health and HIV/AIDS. Yet it is a health threat that continues to be used to dramatically deny our human sameness and to pervert our human diversity.

It has become increasingly clear that health and human rights cannot be separated from each other, if either is to be secured. In particular, health is not a condition defined solely by the medical status of the individual. Rather, the health of the individual is vitally dependent on—indeed, enhanced or debased by—the social and environmental context in which the individual finds herself. This context is in turn directly influenced by the degree to which human rights are protected. Such a view recalls the nineteenth century roots of public health, when public health was part of a progressive political agenda led by political leaders and trade unions, and had not yet been taken over by medicine and technology. This view recognizes that the social, economic, and political health of a community or a nation is dependent on the health and human rights of its citizens.

The Joint United Nations Programme on HIV/AIDS (UNAIDS) is founded upon the same premise—that is, the recognition that a health threat like HIV/AIDS is an indivisible problem. It extends beyond the physical health of the individual and finds its sustenance and impact in the social, economic, and political conditions in which individuals live. It is for this reason that no one single UN agency, perspective, or vision has been considered sufficient, and an entity like UNAIDS has been established.

The link between human rights and health in the context of HIV/AIDS has become increasingly clear. But even so, we are at a critical stage in the discourse on health, human rights, and HIV/AIDS. On the one hand, we have a great deal on which to build. As we approach the fiftieth anniversary of the Universal Declaration of Human Rights, we have 50 years of articulation of the international human rights régime. We have 15 years of powerful advocacy concerning the link between human rights and HIV/AIDS, and we have 15 years of

lessons learned about what works and what does not work. Where the response has been effective is where there has been courage to face the difficult questions and discuss them openly; where there has been commitment to the identification and use of resources, both human and financial; where there has been willingness to embrace the complexities with multifaceted and coordinated approaches; and where there has been the insight to take on, as potent allies, those most affected, and break down the barriers among us that block awareness and action.

But 50 and 15 years on, there is still a great deal of denial of human rights and denial of HIV/AIDS, and ignorance and rejection concerning the link between the two remains. To move forward and not backward, we need to enlist more advocates and activists; we need to push the dialogue at community and national levels; and we need to find answers to difficult questions.

UNAIDS will continue to promote partnerships with those who can broaden the advocacy concerning HIV/AIDS and human rights and turn it into action. There is wonderfully fertile ground for this. There are myriad activists in AIDS service organizations, and people living with HIV/AIDS working on the front line. They see and live the human rights abuses related to HIV/AIDS, but not yet enough of them use the language and power of human rights. There are myriad human rights NGOs who know human rights and struggle to protect them, but not enough of them protect rights in the context of HIV. There are UN human rights bodies, some of which have made important statements in defense of human rights in the context of HIV, but not enough of them have built HIV/AIDS into their ongoing work.

They should all be encouraged and empowered to take on HIV/AIDS from the human rights perspective. They are the ones that can foster the dialogue on HIV/AIDS and human rights, find the human rights responses that are meaningful in their communities, monitor the abuses related to HIV/AIDS, advocate with governments to address these abuses, and make protection and promotion of human rights in the context of HIV/AIDS a reality.

But it is not only the promotion and enforcement of formal human rights standards that will change the day from

one of discrimination, stigma, and scorn to one of tolerance, inclusion, and compassion. It is translating these standards into language and experience that capture hearts and souls—those of a community of young people or a women’s self-help group or an association of medical professionals or the police patrolling a red-light district. We have to find ways to make human rights real to people. It is likely to be through creative, nonformal means—video messages in cinema halls, advertisements on the back of toilet doors, street drama, public testimonies by those living with HIV/AIDS—conveying the message of tolerance, compassion, respect. Whatever can keep the dialogue going, bring it out of and into lived experience, and move people in the right direction—the direction in which each community finds answers that enable it to cope with HIV/AIDS in its own way, and that result in its embracing its members living with HIV/AIDS.

We must also focus on the controversial issues which remain a primary source of resistance to the widespread adoption of a human rights response to HIV/AIDS. An effective and rights-based response to HIV/AIDS depends a great deal on the answers we find to some tough questions. However, these answers will also have repercussions far beyond HIV/AIDS. A few of them can be summarized as follows:

- What is the meaning and significance of “equality of dignity” and “reason and conscience” in Article 1 of the *Universal Declaration of Human Rights*? How do these concepts relate to coercive measures that are often taken in the name of public health—measures which are based on the premise that health status overrides dignity and that people will *not* act rationally, but must be identified against their will and their behavior monitored and forcibly modified?
- What is the meaning of privacy and integrity of the person in terms of confidentiality and informed consent? When, if ever, should the individual not be in control of decisions and information concerning his or her body? When do others have a “right to know”? How do these concepts differ across cultures?
- What is the meaning of privacy and integrity of the person in terms of sexual autonomy—the right to

decide freely what to do with one's body in sexual and reproductive terms, with whom, and under what conditions? What is the content of these rights for women, children, sex workers and their clients, people having same-sex sex, and transgendered people? How can these be protected?

- To what degree can one's human rights be limited by one's legal status? To what degree should the legal status of illegal immigrants and refugees, drug users, sex workers, prisoners, and people having same-sex sex affect their rights to health and nondiscrimination, including their right to HIV-related information, education, means of prevention, treatment, drugs, and support?
- What is the content of the prohibition of discrimination on the grounds of "other status," now interpreted to include health and HIV/AIDS? How does this relate to the protection of those living with disabilities?
- What are the obligations of governments to protect people from human rights violations that occur in the private sphere, particularly against people living with HIV/AIDS, and particularly against women?
- How can protection of the rights of people living with disabilities be extended, and extended to include people living with HIV/AIDS?
- How can the human rights of children empower them to live in a world with HIV/AIDS by ensuring their access to HIV-related information, education, and means of prevention, care, and support; by reducing their vulnerability to sexual exploitation and other marginalizing conditions; and by involving them as key actors in their own programs?
- What is the content of a government's obligation to take steps and allocate resources to achieve the right to health, including, *inter alia*, the right to HIV-related information, education, means of prevention, treatment, drugs, and support?

Certain answers to these questions can be found in our experience. Others were captured in the Second International Consultation on HIV/AIDS and Human Rights, sponsored by

the United Nations High Commissioner for Human Rights/Centre for Human Rights and UNAIDS. Its purpose was to move beyond the many declarations on HIV and human rights and to provide States guidance concerning concrete strategies to address HIV-related human rights issues. But the questions outlined above are not yet fully answered. We need to find these answers on the global level, but it is critical and urgent that communities throughout the world confront the questions and find and embrace the answers on their own.

We are in a world that has lived with HIV/AIDS for 15 years. It is a world that is beginning to realize that it will be living with HIV/AIDS for at least the next few generations. These are sobering thoughts.

In philosophical terms, this calls for a commitment to our human diversity, because it recognizes that the complexity of the epidemic is founded on the complexities of the human character and community. It thus needs complex and diverse responses. But it is also a commitment to our human sameness, because this very complexity requires that we bring our diversity together into a force of solidarity. Whether we succeed will depend on whether our struggle for human rights succeeds—the struggle to maintain, as human beings, the wonderful and terrible tension between human diversity and human sameness in a way that is life-giving and life-sustaining.

This challenge calls to mind a story told by Mettanando Bhikkhu, a Buddhist monk from Thailand.

A woman approached a Buddhist monk and said: "When I was twelve, my parents, who were very poor, sold me to a brothel, and I have had to do this work ever since. I must beg your forgiveness for my sin." The monk replied: "There is no need to beg forgiveness from me. It is I and the world who should beg forgiveness, for we have not done enough to protect you. Please forgive me and the world for having failed to protect you in the first place."

Only by joining together can we secure protection for us all.