



Joint United Nations Programme on HIV/AIDS

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**Joint United Nations Programme on HIV/AIDS
Canadian HIV/AIDS Legal Network
AIDS Law Project, South Africa**

‘Putting Third First : Critical Legal Issues and HIV/AIDS’

**Official Satellite, XIIIth International AIDS Conference
Durban, South Africa
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Opening Statement by Dr. Peter Piot, Executive Director, UNAIDS

Honourable Minister,
Honourable Justices,
Ladies and Gentlemen,

It gives me great pleasure to address you today. As many of you are aware, the Joint United Nations Programme on HIV/AIDS, which is known as UNAIDS in short commenced operations on 1 January 1996, and is the lead Programme on HIV/AIDS in the United Nations system. It is cosponsored by UNICEF, UNDP, UNDCP, UNFPA, UNESCO, WHO and the World Bank, all of which are committed to joint planning and action in the field of HIV/AIDS, yet which offer complementary mandates and expertise. HIV/AIDS is the first issue to be tackled with such a structure within the UN system, and it is an appropriate one.

From its inception UNAIDS integrated human rights and law as central to the response and has since then committed human and financial resources to advancing this.

I am thus most pleased that UNAIDS is co-hosting this meeting with 2 NGOs namely the AIDS Law project (South Africa) and the Canadian HIV/AIDS Legal Network. Both of who are UNAIDS collaborating centres in the area of human rights. I am informed that this is the first official satellite meeting on legal issues to be held at an International AIDS Conference.

Ladies and Gentlemen statistics on HIV/AIDS speak for themselves- As of December 1999, we estimate that there were over 34 million people living with HIV infection around the world. Over 16 million people have died of AIDS-related illnesses since the beginning of the epidemic. The epidemic is worst in sub-Saharan Africa, with seventy percent of the global total of HIV-positive people. Over 14 million Africans have died of AIDS. Of all infectious diseases it is the number one global killer, now ahead of tuberculosis and malaria. One thing is clear a multi-sectoral and multi prong action is needed. And needed now.

Ladies and Gentlemen, through out this century, HIV/AIDS remains one of the foremost human rights challenges of our time. HIV/AIDS has brought in its wake widespread discrimination and human rights abuse.

The success of various HIV/AIDS interventions has been shown to be directly proportional to the degree to which human rights are promoted and protected in the context of these interventions. It is clear therefore that the promotion and protection of human rights must be an integral component of a rights-based response to the epidemic.

In the context of this satellite on AIDS, law and human right, I would like to raise four points that relate to the individual, community, national and international levels.

My first point is that when we speak about rights, we must also speak about the obligations which give the language of rights substantive meaning.

Under international law, States are responsible for ensuring the respect, protection and fulfilment of the rights of their own citizens, and others within their borders. On the other hand the citizens equally have a responsibility to adhere to the law of the land.

Beyond their borders, States have a responsibility also to contribute the extent they can in providing international assistance and collaboration that advances the respect, protection and fulfilment of human rights principles. It is essential therefore that the legal and human rights framework be strengthened at both the national and international level and also that the rights and responsibilities of both States and individuals are advocated for. Obligations of the States are at both levels.

My second point is that respect for human rights (including civil and political, as well as economic, social and cultural rights) is intricately linked to vulnerability to HIV infection.

Experience has shown us that information, education and communication on HIV/AIDS can not be advanced if human rights are not respected. For example, women's economic, social and cultural subordination impedes their access to the necessary information and also creates dependency, and hence vulnerability. The lack of reproductive rights such as little or no sex education, no access to condoms, or the inability to insist on their use makes women and girls doubly vulnerable to HIV infection. In fact, the infection rate in young African women is far higher than those in young men. An 11 population based studies recently conducted revealed that the average infection rates in girls were over five times higher than the boys.

Governments have a particular responsibility towards ensuring that those most vulnerable such as women, prisoners, military populations, men who have sex with men and sex workers are legally protected. Legal and other measures should be taken so that these populations are given the necessary information, the means to prevent infection and protect the communities within which they live. The need for this is not a new realisation, we have been saying this the last ten years but there has not been enough change!

In some societies many individuals and communities are denied the right to freedom of association and freedom of information. Thus people do not have full opportunity to discuss the difficult issues surrounding HIV/AIDS, to organize themselves into AIDS service organisations and self-help groups and to take the necessary measures for protection from HIV infection. Further, educating people about HIV/AIDS prevention, disseminating information about protection, distributing condoms to sex workers and men who have sex with men is considered illegal, immoral and taboo.

Recently in one country, (El Salvador) , a leader of an NGO HIV/AIDS prevention project had been physically assaulted and beaten because of the mere fact that he was carrying STD and HIV/AIDS prevention information and condoms. In yet another

country, (India) Two HIV/AIDS activists were arrested for publishing a report analysing how certain traditional practices created vulnerability. UNAIDS has also received many reports of human rights violations against health care providers and others working in the field of HIV/AIDS - people whose work takes them to the frontlines of oppression and vulnerability.

On economic, social and cultural rights, we must advance the realisation of the right to health- States need to ensure medical care and availability of medication for ailments and opportunistic infections from HIV/AIDS. Reducing the prices of AIDS therapies and drugs is essential and UNAIDS is working intensively with the major pharmaceutical companies to cut prices in developing countries. The Trade Related Intellectual Property Service Agreement may provide another option as today a number of anti-infective agents needed by People Living With HIV/AIDS still remain under patent. However, further to tackling patent laws, there is much more that Governments must do to promote access to therapies, such as monitoring quality and supporting the health infrastructure necessary for distribution to rural areas.

My third point is that the impact of HIV infection and AIDS is worse when other rights are not respected.

When human rights are not respected, people suffer double jeopardy. Over and above from being infected, people suffer from loss of other rights- such as *the right to employment* (for example, in a recent case a cabin attendant in South Africa was denied employment based on his HIV/AIDS status, fortunately he was able to successfully challenge this in court); *the right to marry* (for example, some jurisdictions require mandatory HIV tests before granting marriage licenses, thus denying those who test positive the right to marry. In a recent decision the Supreme court in India ruled that a person living with HIV/AIDS has no right to marry and found a family) *and the right to privacy and freedom of movement* (For example some States require that nationals returning to their country submit themselves to HIV testing. Other States restrict movement of national and aliens living with HIV/AIDS within their countries, through segregation, quarantine or rehabilitation. Further, certain population groups have been denied the right to return to their country on suspicion of being HIV-positive or are denied visas or entry permission. (For example (i)China is subjecting all foreigners, except diplomats, wishing to settle in China for over a year, to an HIV test; (ii) All foreigners wishing to work in Bolivia, except diplomats, have to undergo an HIV test. (iii) In Egypt, all foreigners wishing to stay for over one month must be tested - this does not apply to diplomats or tourists wishing to spend up to three months in the country. (iv) Germany (Bavaria) is subjecting those individuals wishing to settle to an HIV test).

This signifies a lot of misery and suffering of millions of people- In the face of this suffering, people ask- what is the worth of human rights instruments?

We must always recall that there are no short cuts. The law can not be seen as a short cut to addressing the epidemic. Thus crude approaches such as the criminalization of the spread of HIV infection do little to stop the epidemic but rather exacerbates (enhances)

its negative impact. These measures also enhance fear and discrimination. Fear and discrimination discourages people from getting tested and being open about their status, as well as seeking preventive and care services. This compromises public health and makes the community more vulnerable. Thus, governments can and must address these issues, both through community education and through laws to protect people if discrimination persists. The law has a role to play in defining the rights of people and also in ensuring enforcement.

My fourth point is that human rights are essential to our collective response to the epidemic.

For a long time we have known that the role of the community sector is particularly important in responding to AIDS as this sector is often better placed to work with marginalized groups than government service providers. Community organisations can collect first-hand information about the epidemic and the behaviour that drives it - intimate knowledge about local sexual and drug-taking behaviour on which a sound public health response must be based.

Countries that protect human rights and have a vibrant, organised community sector, which is free to engage in a constructive dialogue with governments over the direction and priorities of the national response, fair better than countries where the community voice is fragmented, weak or suppressed. Protection and enjoyment of human rights are, therefore essential for an effective and expanded response to the epidemic.

We must act! Action must be based on good science, sound public health and universal human rights, if we are to limit the spread and impact of AIDS. Let me conclude, chairperson, with four messages to individuals, governments, civil society, and the international community.

- 1. To those communities already engaged in the struggle against HIV based on the respect for human rights, I say: stay your course!** We have good evidence that what you are doing works and we now need to go to scale by expanding local and community responses in a sustainable way to increase our coverage and impact. Advocacy partnerships are the way ahead here: Building of strategic alliances between groups who understand the epidemic and those who understand human rights and are more engaged in advocacy, and have the resources to bring urgent issues to the attention of governments, the private sector and the international community. Communities are the building blocks of societies, where our understanding of the epidemic must begin, be enhanced and supported and where our best efforts must finally lead us.
- 2. Governments have a responsibility to create and maintain a legal framework that protects human rights and an environment in which the rest of the community can play its part.** In the last couple of years we have seen a number of good examples such as the . Philippines' *AIDS Prevention and Control Act*. This law prohibits compulsory testing and discrimination, while protecting confidentiality and

promoting AIDS education. We need more such laws and these laws need to be enforced. UNAIDS and other relevant agencies such as the Office of the High Commissioner for Human Rights have been developing tools to assist States to develop such legislation. Some such tools are *“The International Guidelines on HIV/AIDS and Human Rights* and the *“Handbook for Legislators on HIV/AIDS, Law and Human Rights* developed and jointly published in 1999 with the Inter-Parliamentary Union (IPU).

- **Sustainable human development and the protection and promotion of human rights, not profits, should be our collective goals- the international community, including trans-national corporations must be partners for us to defeat the AIDS epidemic.** There is a strong correlation between exclusion from the global economy and increased rates of HIV infection: the gap between the most privileged and the poorest nations and communities is growing, not shrinking. AIDS is both a cause and a consequence of this disparity.
- **My final message is to you today- Each and every one of us has the opportunity to demonstrate ‘personal political commitment’ in our families, our communities and our countries.**

As the Universal Declaration of Human Rights states: ‘Everyone has duties to the community in which alone the free and full development of his (or her) personality is possible.’ I believe the community referred to in the Universal Declaration of Human Rights is the global community, and each of us has a corresponding duty to inform himself or herself, to reflect, and then to act.

This is the ultimate challenge of the call for more personal political commitment, for who are our leaders but those amongst us who have stepped forward at the community, national or international level? I am sure that everyone in this room has played a leadership role in some way, shape or form. From wearing an AIDS ribbon when it wasn’t popular to do so, to community mobilisation, speaking out against HIV-related injustice, or perhaps disclosing your own serostatus to educate others about AIDS.

This commitment does not require financial resources. If everyone generated this commitment within themselves and their communities, this would go a long way in complementing and enriching the national response and in perhaps, indeed reducing the stigma and discrimination associated with the epidemic.

We have no choice but to seize this opportunity. As the UN Secretary-General, Kofi Annan, recently stressed, ‘AIDS is a threat to an entire generation - indeed, a threat to human civilization as a whole.’ In the face of such a threat, failure is not an option.

I wish you the best for today and the coming week, with all the opportunities it will offer you for learning, reflection, and commitment through action.