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UNITED NATIONS DEVELOPMENT PROGRAMME

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The Hon Justice Michael Kirby AC CMG

This is the book of the papers of a meeting held in Cebu, the Philippines, on Law, Ethics and HIV.

The object of the meeting was to provide a forum for the exchange of experience amongst experts from countries in the region of Asia and the Pacific. Of course, the region is really a collection of nations and peoples exhibiting enormous variety. The experts came to Cebu from countries as far apart as Mongolia and Malaysia, India and the Philippines. As an indication of the even greater diversity of the region, I, an Australian, have been asked to provide this Foreword.

The contributions collected in this book show the variety of the legal regimes which are in force and the religious and cultural traditions which influence the responses of the countries represented, to the sudden peril presented by the AIDS epidemic. For example;

\*If one strategy for checking the spread of the virus is the greater availability and use of condoms amongst sexually active citizens, in a country like the Philippines, this runs headlong, into the opposition of the Roman Catholic Church.

\*If another strategy for family education and observance of safe sexual practices is the empowerment of women to protect their own health and that of their families, (in India) this runs headlong into the long standing disadvantages of women - with forced marriage, the dowry system, low literacy standards, and the endemic position of social inequality and disadvantage.

\*If one means of spreading messages about the dangers of HIV/AIDS and about the need for new policies on drug use and the sex industry, this confronts, throughout the region, double standards and hypocrisy - societies which would prefer to pretend problems do not exist rather than face them squarely in the name of harm minimisation and the saving of lives.

Although the contributions in this book never under-estimate the problem of securing an effective response to the AIDS epidemic, they adopt a positive approach to a most urgent problem facing humanity. It is by no means a problem confined to the Asia/Pacific region. Because, in that region, there are found the highest concentrations of population in our planet, it is here that the major battle ground of HIV/AIDS in the decades ahead will be fought. And the important point is made that this is a development issue worthy of the attention of the United National Development Programme and other national and international agencies concerned with lifting

the developing world out of the cycle of poverty and disadvantage. In their paper on "The Law and HIV/AIDS in the Workplace: A Case Study on the Philippines", Johannes Ignacio and Manuel Goyena make the point that must be brought home to policy makers, both national and international:

"There is no doubt that HIV-Aids is not just a health problem, but a development problem as well. The fact that the disease affects the most productive segment of society (ages 20 to 35), and is incurable and debilitating, makes it a threat to the country's economic growth. Its negative impact is felt more seriously by the poor and the marginalised. In the context therefore of underdeveloped countries where the majority are poor, the disease can shake the very foundations of civil society."

I say Amen to that. If decision-makers cannot be persuaded by ethical arguments or even the grim messages of public health experts, let them listen to the economists. Already the devastating economic impact of HIV/AIDS in simple economic terms is being felt throughout the world. Its impact in the towns of sub-Saharan Africa is already grievous. But its potential impact in Asia and the Pacific is the greater because of the high concentrations of people living in cities where the HIV vectors are at work. What a tragedy it would be if the Asian economic miracle of the last decade, bringing so

many portents of economic and social promise for the coming century, were to be cut down before realising its true potential. Let there be no doubt that AIDS is a personal tragedy, a public health crisis but also one of the greatest challenges to the economic and development programmes of nation States and of the international community.

There are two points which I admire in the papers of this book. The first is that the authors have not been content to explain the difficulties. They have gone on to make recommendations for the legal changes and social reforms that are necessary for an effective response to HIV/AIDS. These reach down into quite detailed ideas which are worth reflecting upon. In the Malaysian context, there are proposals for the education of judges and other decision-makers; the provision of marriage counselling; the availability of a telephone information service; and the provision of tax relief to relatives who support members of the family, ill with HIV/AIDS.

In the Philippines, the early approach to mandatory testing of some immigrants has given way to a more rational and cost-effective response that concentrates on education and prevention. The need, so often emphasised, for anti-discrimination legislation and the protection of confidentiality and privacy of those who are infected, or at risk, is stressed over and over again in these pages. From India, comes a message woven also

through other papers, concerning the vital need for the empowerment of women. At a recent conference which I attended in France, this was one of the major conclusions that was reached. In population control, limiting the spread of HIV and general social advancement, it is essential to step up developmental efforts to improve the education of women and stem the tide of HIV. We are involved in a long term strategy here. And in that strategy UNDP and other organs of the United Nations will play an essential part.

The second thing I admire is that the authors, by their papers, inspired the creation of an Asia and Pacific regional Network on Law, Ethics and HIV. Proposals have now gone forward for the creation of this network. It would link the distribution and exchange of information on legal and social policies adopted to respond to the HIV epidemic. Although the legal regimes and cultures vary significantly in such a broad sweep of the world's surface, the enemy is a common one: the AIDS virus. And there is also another common enemy in the discrimination, prejudice and ignorance which foster the spread of the epidemic and prevent effective strategies to halt the flood.

Because there is no vaccine or simple cure for HIV/AIDS - and because an affordable vaccine and cure seem a very long way off - we have here an epidemic in which our major weapons at the moment are behaviour modification and social engineering. That is why lawyers, ethicists

and public policy-makers have a vital role to play in this epidemic. It is a unique opportunity for co-operation between epidemiologists, public health officials and health workers (on the one hand) and lawyers, ethicists, economists and public policy experts (on the other). To be kept steadily in mind is the human dimension of this enormous and unforeseen tragedy. But if that does not persuade a distracted world into action, the devastating economic impact, and the risks for civic peace, must be brought home to decision-makers.

I hope that this collection will be the first of many which portray the problem and suggest action which is feasible and needed. I also hope that the regional network will be established. In the common cause of humanity we can overcome linguistic, religious, cultural and other barriers that exist in our region and unite in the common struggle against a deadly enemy to our species. May the meeting in Cebu and the papers of that meeting, contribute to an effective regional response to the challenge we face.

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