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EDITORIAL

HUMAN RIGHTS IN RELATION TO HIV/AIDS/STDs

To understand the significance of human rights to the issues of HIV/AIDS, and STDs more generally, it is important to take both a practical approach and to understand the principle at stake.

The HIV/AIDS Paradox

Many people in the world in which we struggle against HIV/AIDS and STDs have little patience for the talk of human rights. They call for strict measures: - compulsory testing, obligatory screening of "risky groups", criminal punishments for spreading disease, and quarantine if at all possible. These, after all, are the usual responses to plagues and epidemics. We should

not be surprised that HIV/AIDS and modern STDs have produced similar reactions.

It is important that people in the know should patiently explain why such measures are ineffective, counter-productive and even positively harmful in the global struggle against STDs generally, and HIV/AIDS in particular. If ever there was a time when stern quarantine could have isolated HIV (which is unlikely) it has long since passed. Global travel spreads the virus to the remotest communities of our world. Testing and screening are expensive. They may be ineffective during the "window period" before antibodies show up. Furthermore, these measures tend to alienate and stigmatise the very people whose confidence we must win if behaviour is to be changed and the epidemic is to be contained.

As a judge, I know that it is easy to pass laws, or to hand down decisions. Much harder to change the conduct of individuals. Hardest of all to do so at the time of pleasure seeking, in sex and drugs. Without a vaccine or a cure, behaviour modification is the only preventive measure we have. But to make it work, we must win the confidence and attention of the people we are targeting with our messages.

#### The human rights movement

This is where human rights comes in. The movement to declare and defend human rights on a global basis has only really gained momentum since the end of the Second World War. It arose out of the ashes of the Second

World War, the Holocaust and Hiroshima. The *Universal Declaration of Human Rights* 1948, and the *International Covenants on Human Rights* 1966 incorporate basic principles which uphold the dignity and fundamental entitlements of each human being. Rights to privacy (now held to extend to rights to sexual privacy and one's own sexual orientation). Rights to health care, which include preventive health education and self-protection. Rights to shelter and housing. Rights to protection from oppressive laws and policies of the State. Rights to due process in the law. Rights to employment without discrimination. Rights of children to be given basic information necessary for their protection, health and life. Rights of women to the dignity of their person. Rights of gays to be protected in their humanity from vicious conduct and hate speech.

This issue addresses all of these topics, and more. It draws upon the global movement for the defence of human rights, which is one of the most hopeful developments in a century otherwise marked by war, destruction and abiding hatreds. It is not always easy to explain what human rights observance has to do with containing the epidemic of HIV/AIDS and other STDs. The explanation involves a paradox. But unless we can combat the "second epidemic" of discrimination and retaliation against people who are infected (or thought to be infected) with HIV/AIDS, the virus will continue to spread like wildfire. No other strategy at the moment promises a chance of convincing people to change their conduct: to avoid unprotected sex; to use condoms; to avoid injecting drug use; or to use only sterile equipment. Only a full

appreciation of the HIV/AIDS paradox will secure from governments and health bureaucrats, the media and the community generally, the effective measures which offer a chance of providing protection to all.

When HIV/AIDS came along, the period of mandatory screening, quarantine and criminal laws led to something of a confrontation between health officials and human rights advocates. By 1987, most informed health officials, led by the World Health Organisation, have come to recognise the AIDS paradox, and the need to supplement public and health prevention efforts with attention to human rights. Now that we are in the third phase it is realised that the right to health itself is a basic human right. Understanding the global principles of human rights helps to put strategies to combat HIV/AIDS and other STDs in a context of basic universal principles. Those principles are designed to defend and uphold the human dignity of each individual.

#### Defending Principle

This brings me to the second justification for attention to human rights. It is important to understand the lessons of fundamental human rights because these are entitlements which inhere in every human being, simply because of our unique individuality. At a United States law school, I once spoke on this topic, emphasising the AIDS paradox, and the pragmatic reasons for upholding human rights in the face of the HIV/AIDS epidemic. "You have forgotten the main reason", interjected a student. "We should accord every human being their human rights because it is our duty and their right". In dangerous times of

epidemics, human rights too often go out the window. Departures from basic rights must be controlled by law. They must be limited to what is strictly and probably necessary. They must be compatible with the other objectives of a democratic society.

Nearly a century ago, these lessons were taught in the context of syphilis, and other STDs then incurable, with delayed manifestation of symptoms and incompetent drug therapy having serious side effects. We have had to relearn those lessons in the face of HIV/AIDS. HIV/AIDS has at last shone the spotlight of human rights on medical practice and epidemic control. Things will never be the same again.

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