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Michael Kirby*

Let's start with the usual parental warnings. This article is about sex. It mentions injecting drugs and prostitution. If you wrap the rubbish with it, please turn the newspaper inside out and keep it from the reach of children.

Yet children inherit a world where HIV, the virus that causes AIDS, is still a major problem. AIDS is not over. Every year about 2.7 million people get infected. We do not seem to know how to stop the spread. Untreated, HIV leads to serious diseases as the body's immune system breaks down. Without expensive anti retro-viral drugs (ARVs), HIV will kill nearly all of those infected. To mobilise the world's effort to treat the condition and to halt its spread, the United Nations in 1996 established a joint programme, UNAIDS. Before and after this initiative, I have been involved on the periphery of the global effort.

Despite all the energy, more than 40 million people have been infected since HIV was first identified and more than half of them have died. HIV spreads fastest in developing countries, wreaking havoc mostly on young adults.

* Michael Kirby was until February 2009, a Justice of the High Court of Australia and Australia's longest serving judge. He is now President of the Institute of Arbitrators & Mediators Australia. The ANU in 2006 conferred on him the honorary degree of Doctor of Laws. He writes here of his work in the Global Reference Panel on Human Rights of UNAIDS, the joint UN body to combat the spread of the human immuno deficiency virus (HIV).

A few weeks back, I attended a closed door meeting in New York organised by the American think tank, the Council on Foreign Relations. It gathered a group of scientists, doctors, public health experts, and statisticians to puzzle over the next phase of the struggle against HIV.

One of the best initiatives of the unlamented George W. Bush as US President was the provision of huge US resources to combat three diseases: AIDS, tuberculosis and malaria. These initiatives were taken in good economic times. They resulted in the establishment of The Global Fund, to which developed countries, like the US and Australia, contribute billions of dollars. Most of the money goes to combating AIDS. Much of it is spent on ARVs. Patients in poor countries, otherwise condemned to die, have been restored to health and economic activity by medical treatment. Taking the ARVs reduces the 'viral load' and this cuts down on further infections.

With the global economic downturn, there is a growing realisation that the world cannot afford to pump vast resources into supplying ARVs to meet the needs of the growing numbers of infected. A ghastly international triage may have to be devised to write off huge numbers of newly infected people and perhaps some presently receiving ARVs. Otherwise, something radical must be done to cut down on the rates of infection. What will work to achieve this?

In the early days of AIDS, epidemiologists insisted that the only effective way to achieve reduction of the spread of HIV was by basing strategies on sound scientific data and an approach that addressed the fears of those on the front line. In 1986, brilliant scientists, like Luc Montagnier of France, and Robert Gallo of the US, predicted that a cure and a

vaccine would be available within twenty years. Montagnier later won the Nobel Prize for medicine. But a vaccine has proved elusive. So has a cure. ARVs reduce the effect of HIV, but often with serious side effects and always at great cost.

I became involved in HIV strategies, in part because, in the early days I sat at the bedside of friends who died of AIDS. In Australia, AIDS then mainly hit the gay community. It still does. However, worldwide, men who have sex with men constitute just a fraction of the infected. Most infections come about through heterosexual sex, sometimes via commercial sex workers. Sometimes through injecting drug use involving unclean needles and through mother to child transmission. But overwhelmingly, it is adult straight sex that transmits HIV.

Every lawyer knows that attempts to modify behaviour in matters of sex and drug use are problematic. It is human nature to take risks. Despite the Pope, condoms reduce the risk of viral transmission. But they are often unavailable or too expensive. Or using them in a married relationship may be hard to negotiate.

Faced by the ongoing explosion of HIV, many societies in the last few years have rushed to criminalise the transmission of HIV, to close down brothels and arrest sex workers found with condoms in their possession.

Many speakers at the New York meeting argued that this was quite the wrong way to tackle the spread of HIV. Our own experience in Australia, in the 1980s, following initiatives of Health Minister Neal Blewett and Shadow Minister Peter Baume (later ANU Chancellor), showed the way. Paradoxically, the best way to achieve behaviour modification lies not

through criminal prosecutions and it is now far too late to resort to quarantine. The strategy that seems to succeed in developed countries involves accepting a paradox. Getting into the minds of people at risk requires protecting them against the burden of stigma, shame and discrimination. Only then will they obtain and observe the messages that are essential to reducing HIV spread. Educational messages, availability of condoms, removing criminal penalties on gay sex, empowering sex workers, that's what works. Needle exchange for drug users and ARVs for expecting mothers to reduce transmission at birth. These strategies are successful. But in the developing world the leaders generally retreat to denial and ignorance. For them, protecting those in the front line seems a bridge too far.

Participating in the New York meeting was Michel Sidibe, newly appointed Executive Director of UNAIDS. He is the third person to lead the world effort against the AIDS pandemic with its double whammy of medical and stigma burdens. Born in Mali, Sidibe listened closely to the contributors. He follows the charismatic Jonathan Mann and the distinguished Belgian scientist, Peter Piot. When it was my turn to speak, I suggested that Sidibe would face the challenge to lead the struggle against AIDS into its third phase. Jonathan Mann alerted the world to the enormous challenge of AIDS. Peter Piot led UNAIDS into initiatives to make ARVs available to all in need. But this cannot go on at the present rate of spread. So Sidibe must somehow mobilise the world community to tackle the tricky issue of prevention. If that means explaining the AIDS paradox, this is now his challenge and responsibility. To persuade leaders that criminalisation is ineffective and counter-productive. To get fundamentalists to remove the laws against gay sex. To coerce the ignorant to empower and not arrest sex workers.

To promote knowledge and protection in the place of ignorance, fear and stigma.

All this is a big ask. Pie in the sky, I hear you say? Yet already Michel Sidibe has embraced his challenge. Repeatedly in recent weeks, he has addressed the urgent need to change the laws on commercial sex work. The clock is ticking. Every day, hundreds of people are infected. Sidibe, with his self-confidence and energy, directs strategies to help reduce stigma, reform criminal laws, and promote awareness of the tactics that fail and those that work. As an African himself, perhaps Sidibe's voice will be heard where new policies matter most.

The ANU can be proud that its former Chancellor, Peter Baume, helped to promote these lessons in Australia. They reduced our infections. But can Michel Sidibe sell the same messages to hostile leaders in developing nations running out of time and money? On his shoulders rest the hopes of unknown millions. Just think of his burdens next time a day in the office gets you down.

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