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UNDP LAW COMMISSION CARIBBEAN DIALOGUE: SUMMING UP

United Nations Development Programme
Global Commission on HIV and the Law
Caribbean Regional Dialogue

Port of Spain, Trinidad
12-13 April 2011

The Hon. Michael Kirby AC CMG

UNITED NATIONS DEVELOPMENT PROGRAMME

GLOBAL COMMISSION ON HIV AND THE LAW

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A CRITICAL MOMENT

The Economist of 2 April 2011 reminds us all that the week of this regional dialogue in the Caribbean coincides with the sesqui-centenary of the beginning of the Civil War in the United States of America:

“This month marks the 150th anniversary of the American civil war’s beginning. The first shots were fired at Fort Sumter, in South Carolina, on April 12, 1861. Passions can sometimes still flare – as William Faulkner, the South’s great novelist wrote. ‘The past is never dead. It is not even past’”. (*Ibid*, p.41)/

Yet from those shots that rang out 150 years ago, a message went around the world. It was that all people have human dignity. That poverty and slavery are intolerable to human beings. And that nobody should be disadvantaged, least of all in the law, because of indelible features of their person.

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The American Civil War was fought over gross racial discrimination. As *The Economist* points out, it took more than a century to rid the United States and its laws of the imposition of second class status upon people on the grounds of race. The struggle against racial discrimination continued in Southern Africa and in many other places, including my own country Australia. Some of the struggles have been led by lawyers and judges, and eventually by politicians and civil society. The struggle is not yet fully won. But great victories have been achieved.

The efforts to end slavery and other forms of human bondage continue to the present day. The attempts to rid human society and many of its laws of stigma and discrimination against people on the grounds of indelible features of their personalities other than race remain to be won. Those features include gender, age, ethnicity, aboriginality, disability and sexuality. We in this Caribbean dialogue can take strength from this reflection on human history. The Caribbean itself produced great leaders in the struggle for racial equality and for an end to discrimination on that ground. Now the call goes out for a continuance of the struggle, not only on that ground but on others. The shots fired at Fort Sumter remain in our collective memories. The central challenge of this dialogue has been, in the words of Miss Mia Mottley QC MP, spoken in this meeting, to end the “cancer of discrimination” and to answer affirmatively the popular song: “Do You Still Care?”. I believe that the outcome of our discussions in Port of Spain is a response to that question in a ringing affirmative. We do care. And we will act on our care.

This Caribbean dialogue has been part of a systematic process of consultation which has been initiated by the United Nations

Development Programme (UNDP). The Administrator of the Programme, the Rt. Hon. Helen Clark, former Prime Minister of New Zealand, knew from her experience in politics in her own country the need for leadership, courage and example in changing laws to end discrimination and inequality. Such changes are not only important in themselves for true equality of citizenship. They are also as events transpire, vital initiatives to assure an effective and powerful response to the global HIV/AIDS epidemic that has confronted the world these past 30 years.

The meeting in Port of Spain opened with a video message of welcome from the UNDP Associate Administrator, Rebeca Grynspan. Her public life began not so far from here. She reminded us of the bright hopes of UNDP that its Global Commission on HIV and the Law (“the Global Commission”) would contribute to a successful strategy for the world community, designed to promote prevention of the spread of HIV; access for all in need to the anti-retroviral and other therapies, care and attention; and a concerted effort to turn the corner and to promote human health not only as part of the Millennium Development Goals, but beyond.

THE GLOBAL COMMISSION

The Global Commission has been created to help unblock an impasse that has arisen in many countries whereby the law, far from assisting and supporting an effective response to the HIV/AIDS epidemic, has all too often become an impediment and an obstacle to effective policies. How do we break the logjam of human inaction, even in the face of the terrible suffering which the unexpected pandemic of HIV has brought to humanity? That is the challenge which the Global Commission has

accepted. In its response, it is led by Fernando Henrique Cardoso, former President of Brazil. The example of Brazil has constantly been before us in this dialogue. It has been one of courage, self-confidence, strength and determination to protect its citizens and to advance their welfare. That is the banner we should all accept. The Global Commission is seeking to promote that end.

Three Commissioners have attended the Caribbean dialogue: Mr. Stephen Lewis of Canada (Commissioner), Mr. Prasada Rao of India (Member Secretary) and myself. In these remarks, I do not speak for them or for the Commission. I simply offer a few closing reflections on the exchanges that we have observed during the dialogue. A formal report will be distributed in due course. It will be shared with our colleagues in the Commission and with the wider international community. It will contribute to the deliberations of the Commission as it moves towards its conclusions, to be reached by the end of 2011 or early in 2012.

On behalf of the Commission, I thank all who have taken part in these conversations. I also thank the magnificent team from UNDP, both at Headquarters and in the region, who have assisted in our debates. Most expressly, I mention the many contributions of Dr. Mandeep Dhaliwal, Cluster Leader of the UNDP Commission's Secretariat, and Mr. Vivek Divan. They have respected our independence and integrity. But they have added to our deliberations from the wealth of their knowledge and experience. I also thank the representatives of UNAIDS and of other United Nations agencies who have come to be with us on this journey.

Commissioner Stephen Lewis began the dialogue with a strong call for action. He suggested that the time for prevarication over the need for legal reform was past. And that bold action – even extending to ‘naming and shaming’ national and regional leaders who have failed to adopt the measures of law reform that are urgently needed, must be considered. This was the right note of challenge on which to instil in us a sense of the urgency that is demanded by the suffering, pain and deaths of so many people, including in the Caribbean region. In fact, after sub-Saharan Africa, the Caribbean has experienced the most intense manifestations of the HIV/AIDS epidemic in the whole world. Amongst the data which the dialogue received was:

- The HIV prevalence among adults in the Caribbean is about 1.0%, which is higher than in all other regions outside sub-Saharan Africa;
- In the Caribbean, every day there are 50 new infections, and 33 people die because of AIDS;
- HIV rates vary throughout the Caribbean region. The exceptionally low HIV rate in Cuba (0.1%) contrasts with a high HIV prevalence in the Bahamas (3.1%);
- The Caribbean remains the only region besides sub-Saharan Africa, where women and girls outnumber men and boys among people living with HIV;
- Thirteen countries in the Caribbean region criminalise some aspects of sex work;
- Eleven countries in the Caribbean region criminalise same-sex relations; and
- Up to four countries in the Caribbean region impose travel restrictions on people living with HIV.

In the context of a global epidemic which has led to the deaths of almost 40 million human beings and which has resulted in more than 30 million people living with HIV, this is the challenge that UNDP and its Global Commission is seeking to answer. The answer must be given in the context that, 30 years into the epidemic, the world still has no safe and effective vaccine against HIV. We still have no therapy that will rid the human body of the virus. Every year, between 2.6-2.7 million people become infected with HIV. The therapies we have may not remain effective over the long term. New and even more expensive therapies will be required, involving a great challenge to the justice of the world's intellectual property laws. And all of this occurs in a context where the global community is struggling with a great financial crisis that impacts on the capacity and willingness of developed countries to contribute to the funding of therapeutic responses for poorer countries, including many in the Caribbean.

So this is the world of HIV. It is the challenge which we have addressed. And I believe we have made some headway.

THE RICHTER SCALE OF RESPONSE

At the outside of this closing summation, it is appropriate to note some of the contributions which drew the warmest response from participants in this dialogue, as it unfolded:

- * The comment I made, at a point during my own remarks, that within the Caribbean there must be gay members of parliament, perhaps even presidents and prime ministers, who could, if they were totally honest, give leadership on reform of the laws against

same-sex relations, drew a warm and knowing applause. I would judge that this was equivalent to a *six* on the Richter scale;

- * When Commissioner Stephen Lewis declared that the time had come to 'name and shame' political leaders who were part of the problem, rather than of the solution, this too drew a strong response. I would say that that was a *seven* on the Richter scale of response;
- * When another speaker urged the dialogue to integrate the notion of religion and true morality; of effective responses to prejudice and hypocrisy in the Caribbean, there was a huge response. It measured *eight* on the scale;
- * When another speaker, calling on her background as a sex worker, declared her sense of outrage at police condemnation because "the same police officers are our clients", the knowing response measured nine on this Richter scale. So did the repeated calls of many participants, and not only from civil society, that demanded the urgent repeal of the criminal laws prohibiting same-sex relations. Every time this idea was expressed, it drew a response at the level of *nine*; but
- * The strongest applause of all was for the wise assessment of Miss Mia Mottley QC MP. Nearing the end of this dialogue, she grappled directly with both the limitations and the potential of law reform. "Laws don't change culture", she declared. "But changing the laws is necessary to stop arbitrary actions and as a precondition to improvement in society". This strong affirmation drew the strongest approbation of our meeting. It measured a full *ten* on our Richter scale. It has set in train tremors which, we may predict, will be felt years from now and far away.

THE GENERAL APPROACH THAT IS NEEDED

Non-starters in reform

During the dialogue, many suggestions were made for change. Some of them will almost certainly not come to pass:

- * One participant urged that UNDP should, even now, appoint a Caribbean commissioner to the Global Commission so that the distinctive features of this region of the world will be expressed at the table of the Commission. I have to tell you, that this will not occur. The Commission is now in the home straight. It must prepare and complete its report, effectively by the end of 2011. The appointment of new commissioners will not occur. But this dialogue has been a practical opportunity for those participating from this region to speak directly to three of the Commissioners. And through them, to all members of the Commission to whom we will report; and
- * Then, another participant asked that the judges present should give advice about the cases that should be brought to court and the challenges that would succeed to improve the law and thereby strengthen the Caribbean response to the HIV epidemic. This too will not happen. Judges, by their offices, cannot give such advice. Their duty is to decide cases that are brought to them in the independent courts. This is a distinct limitation on their powers. They must always preserve their manifest impartiality and independence. They have a creative role. But it is limited to being exercised in test cases that are brought to their courts by individuals. This means that they are never free agents, simply to rove across the face of the law and to achieve reform in the law that personally they may favour. It is for others to bring cases to them. And the value of doing so in the Caribbean, where the

legislative reforms seem so slow in coming, has been emphasised in this dialogue, including by the judges who have been present.

General strategies and approach

Other points of general advice on the way forward have been made and deserve consideration:

- * At one point, a participant, himself a member of a Caribbean legislature, urged that “good science wins support amongst legislators”. This is true. It constitutes a universal lesson that I learned early in the HIV epidemic. Indeed, it was taught to me in the first global commission, established by the World Health Organisation (WHO): the Global Commission on AIDS. Before that Commission, Professor June Osborn declared that all strategies in response to the epidemic must be based on good science. Not on mythology. Not on religion. Not on intuition or fear. This is the approach that was embraced by the WHO and later by all the agencies of the United Nations and by its joint programme on HIV, UNAIDS;
- * HIV being a global challenge, the use of international legal principles to assist judicial consideration of the validity of domestic laws was mentioned by several participants. There should be more appeals to the wisdom of the international legal community. The 2009 decision of the Delhi High Court in *Naz Foundation v Union of India* is a case in point. That decision invoked universal principles of human rights as well as the provisions of the independence constitution of India, which finds reflections in the constitutions of several countries of the Caribbean;
- * One judge urged the need to sensitise judicial officers of the Caribbean about developments that have been happening

elsewhere in the common law world. Speaking the same language and heirs to the same legal tradition and methodology, our judges share their wisdom with colleagues in other countries. On the legal response to HIV and AIDS, there is much wisdom in the courts of other lands and different regions. Judges need to be informed of these resources so that, in the countries of the Caribbean, they can have access to them when like problems arise for their consideration;

- * A participant from Suriname reminded the participants from Commonwealth countries of the differences in the law that exist within the region. One of those differences is the absence in the law of Suriname of criminal prohibitions against MSM activities. Because Napoleon's codifiers removed those laws from the French *Penal Code*, they disappeared, in turn, from the laws of the Netherlands, Belgium, Germany, Spain, Scandinavia, Russia and the empires of those countries. There is still stigma. But it is not reinforced by law, least of all criminal law. There are lessons for other Caribbean countries to learn from this. And a question as to why it has taken so long for the reforms to be accepted elsewhere in the Caribbean. Indeed, the differences suggest that prejudice against MSM is not, in fact, a deep attribute of regional cultural values. It is simply an unloved relic of colonial rule which has long since been discarded in the law of Britain, from whence it was exported to the British colonies in this part of the world;
- * Because stigma and prejudice exist outside a context of legal reinforcement, it is essential that this be tackled and that the sources of such attitudes be addressed, if we are to rid the human mind and society of such unwelcome emotions. This would have been important on its own account. However, it has become

extremely urgent with the advent of HIV. As many of the participants in the dialogue explained, it is essential quickly to break the cycle of lethargy, hostility and inactivity. Tackling the source for prejudiced responses towards minorities and their lives is the link to achieving action;

- * So is discovering legislative champions who will take up the cause of securing reform. Dame Billie Miller, DBE, was such a parliamentary champion in Barbados for the cause of law reform in the laws concerning women's reproductive health. She described the loneliness of her early years in parliament where, for a long time, she was the sole woman legislator. She described the way she would talk with everyone, and especially her colleagues, to try to convince them to embrace her ideas, as eventually they did. It was she who secured the support of the Prime Minister and eventually of a majority in parliament. But it took leadership, persistence and determination in the face of the opposition. Also, a willingness to reach out, to try to understand the causes for opposition and to explain her divergent point of view. As an instruction, by analogy, on strategies that will be necessary to carry forward the law reform programme of UNDP, it was a brilliant exposition from a distinctively practical Caribbean perspective;
- * Several participants described the current disillusionment in parliaments and politics, especially amongst the young, that may be found today in most countries, at least in the Caribbean region. Senator the Hon. Joan Purcell of Grenada urged the participants, especially the young, to take part in the work of civil society. She reminded us that politics is generally a reflection of ourselves. If we wish to change politics, we ourselves need to be part of the process of change;

- * One speaker cautioned against judgmental attitudes directed at Caribbean politicians. Because of the hard-won struggle for independence and autonomy, the people of this region can sometimes be suspicious, or at least cautious, when calls for change are made from outside. Those who propose reforms must respect the national dignity of the Caribbean countries. They must realise the deep-felt need for independence and for finding solutions within their own countries and peoples. Whilst this is true, all of us in the global community today can learn from each other. Nowhere more is this necessary than in the world of HIV because no country is now immune from the urgent perils and dangers that HIV present; and
- * Several participants emphasised the need, in the Caribbean and elsewhere, to address the feelings of fatigue that afflict many countries in the face of more than a quarter of century, struggling against this unexpected challenge to global health. We must refresh the messages of AIDS care and prevention. This is one of the reasons why UNDP has established the Global Commission. It is why the Global Commission has reached out to Caribbean countries, to listen to their stories and to learn from their suggestions on the ways ahead.

A CARIBBEAN ACTION PLAN

Immediate action

Several ideas were presented for consideration by the UNDP Commission. Some of them involve simple and direct proposals which, it was considered, might facilitate and expedite the initiatives for law reform in this part of the world:

- * In the Caribbean, some aspects of the musical culture, especially rap music, has been an angry source of stigma and violence targeted on people living with HIV and AIDS (PLWHA) and especially at sexual minorities. Music calling for the killing of “Battyman” (homosexuals) represents a disquieting feature of this region. Such music can reinforce feelings of hatred and stimulate actions of violence. There are many similarities between the death in Jamaica of the gay activist, Brian Williamson (in January 2004) and the death in January 2011 in Uganda of David Kato. Some participants called for the introduction of laws to prohibit violent discourse of this kind that preaches hatred and stigma. While all countries must be careful to avoid the seductive embrace of prohibitions on opinions and language, some words cause death and injury. They may need legal response to uphold the human rights of the vulnerable and of minorities;
- * Turning the amazing vibrancy of Caribbean artists, entertainers and youth, to positive effect, several of the younger participants in this dialogue proposed the utilisation of Caribbean artists and music to reinforce the messages that must be used in successful strategies against HIV. The use of modern media to communicate ideas in this way is at least as important as any learned report of lawyers or even of the Global Commission itself;
- * Upfront strategies were suggested by participants, including the embrace of T-shirts declaring that the wearer is “HIV+”. When the Nazi occupiers insisted that Jewish citizens should wear the yellow star to mark them off for oppression, the King of Denmark himself began to do the same, in order to show wartime empathy and engagement. We need similar gestures of solidarity. But we also need to go beyond gestures into practical action. Including the

removal of laws that make the lives of PLWHA more difficult and vulnerable;

- * As we repeatedly heard, transsexuals are often at the end of the societal action chain. Many of us have little or no insight into their lives. During the dialogue, participants heard of the stigma which one of our participants said she suffered when she sought admission at the airport to Trinidad. The disrespect allegedly shown to her should be drawn to notice by UNDP so that it can be investigated and rectified by this country. One should never accept such disrespect. Every human being is entitled to dignity. Several participants also describe the stern laws against cross-dressing (transvestites) in Guyana. Yet such laws are targeted at transsexuals and not at the increasing cohort of women who today wear pants, without the slightest disturbance from the law or from society; and
- * A number of participants emphasised the need for education of police officers, immigration officers, judges and other public officials. In Australia, this task has been undertaken with the aid of gay liaison officers. But, once again, until the laws that criminalise such people are changed, the possibility of establishing such internal experts, is difficult to secure. This is yet another reason for the urgency of law reform, without which the prospects of securing real change in society are unlikely to be fulfilled.

Longer-term strategies

Other participants made suggestions for longer-term strategies that should be considered for the Caribbean region, both by the Global Commission and by UNDP, as well as by governments and officials in the region itself:

- * Law reform does not emerge fully made. It needs painstaking work and careful preparation. One of the endemic difficulties faced by countries in the Caribbean, and elsewhere, involves securing trained legal drafters who can express the law reforms proposed in appropriate legislative language. Without support of this kind, it is often difficult to secure the passage of proposals through busy legislatures. Consideration should therefore be given to practical subjects such as this;
- * Because, at least in the laws affecting men who have sex with men (MSM), and possibly also sex workers, the laws in many Caribbean countries are the same or even identical. One suggestion that is certainly worthy of consideration is the drafting of laws to amend the common language of the criminal codes that stand in the way of effective reform. When the British colonisers provided criminal codes for their Empire, they drew upon three models: those of Macauley, Fitzjames Stephen and Australia's own draft, in the form of the Griffith criminal code. There are not a great number of verbal variations in different Commonwealth countries. A common form of legislative amendment could be considered, to remove discrimination against sexual minorities, to provide gender-neutral provisions; to protect children and minors; and to introduce anti-discrimination provisions. Dame Billie Miller explained how, in the reform of abortion laws, she had secured support to pay a trained drafter to express in proper form the legislation that was necessary. It would be appropriate for UNDP to support a similar gesture so that, if the will for reform of intrusive laws can be found in the Caribbean, the way can be made simpler by the provision of a suitable template of statutory language;

- * Many participants stressed that, in responding to the HIV epidemic, it was not the law alone that needed to be reformed. Reforms were also needed in governmental policy and official practice. Indeed, the process of reform will often extend to education and social interaction. In this respect, several participants proposed the need for changes in school education to confront the tragic circumstances that lead to suicide amongst stigmatised students at school. The utilisation of media can be important to achieving social change. In Australia, more improvements in popular attitudes were probably won as a result of television soap opera *No.96* than as a consequence of formal law reform. Education, media and legal change go hand in hand if lasting reform is to be secured. In the contemporary age of social media, it is essential to consider the reforms that can be promoted by these means, particularly amongst young members of society. Reaching out to special audiences and to the public generally is a challenge for any strategy to remove legally enforced impediments and to remove barriers to a successful response to HIV and AIDS;
- * Other means to obtain movement were described by several participants. Those who promote the idea of legal reform in the Caribbean need to become more skilled in strategic lobbying. They need to reach out to opposition politicians who may, in a comparatively short time, be elected to government. But they also need champions in the legislature and, at the present time, the landscape in that respect looks comparatively bleak;
- * A number of participants urged civil society organisations, proposing reform, to reach out to churches and other faith-based organisations. Dame Billie Miller described how she had done this in Barbados. Minister Douglas Slater from St. Vincent urged a

similar approach in respect of HIV/AIDS. After all, most religious bodies are illuminated by scriptural injunctions towards love and reconciliation. Many take an active part in treating the sick and helping their families. Those who seek reform need more effectively to tap the possibility of enlisting aid and support, at least from enlightened members of religious organisations;

- * The issue of drug use was described by several speakers. In the Caribbean, reportedly, the incidence of injecting drug use (which can be such a direct way of passing the virus from the infected to others) is not a major challenge. But the use of other, presently illegal, drugs is connected with the epidemic because such use can inhibit self-protection which is essential to the consistent protection of self and of others. The need for a harm reduction strategy in relation to drugs and for a review of the prohibition of drug laws in force in the Caribbean was emphasised by many participants;
- * Several speakers described the features of domestic and social violence that exist in the Caribbean, as a special attribute of the disempowerment of women. Such disempowerment can render ineffective the initiatives of self-protection that are essential to preventing the spread of HIV. One reason for reform of the laws against MSM, emphasised by several speakers, is the empirical evidence that many MSM in the Caribbean do not identify exclusively (or at all) as homosexuals. They are frequently married. Because of their sexual experiences, they may become infected and pass the virus to their female sexual partners, including wives. This is a common challenge in the Caribbean and yet another reason for removing stigma against MSM which

inhibits the spread of the messages and the empowerment of those to whom the messages are addressed;

- * The special dangers and vulnerability of prisoners in the Caribbean was mentioned by several participants. The need for access to self-protection and to respect for the essential dignity for prisoners was a frequent theme. Yet, in one Caribbean country, when a senior corrections official provided access in prisons to condoms, in order to improve their condition of safety from HIV whilst incarcerated, he suffered a negative public and official response. Eventually, he was sidelined. Still, his strategies were entirely consistent those that are urged by the United Nations. Instead of being removed from his office, he should have been promoted. We can learn from such cases and the need to instil in the Caribbean community and its leadership, a feeling of empathy and respect for those who are at risk to HIV. Unless we do this, such people will become a means for spreading the virus in a way not only dangerous to themselves, but to the entire population of which they are members;
- * The special needs of sex workers were expressed and explained by a number of participants, some of whom were themselves participants in transactional and inter-generational sexual activity. They stressed the need to distinguish voluntary, adult sex work from unlawful human trafficking. Whilst condemning the involuntary exploitation of some unwilling sex workers and the engagement of minors, such participants emphasised the need to respect the rights of sex workers and to protect them, in that work, from violence, intimidation and legal oppression. Such responses merely drive such workers underground. They commonly place them beyond the pale of effective communications on the needs

for, and means of, safer sexual activity. Yet such protection is essential, not only for the sex workers, but for their clients and their families. Countless submissions called for greater realism in the law's response to voluntary adult involvement in commercial sex work;

- * Several participants described the problems that can arise in the Caribbean in providing access to anti-retroviral therapies (ARVs). It was acknowledged that, in respect of ARVs, the position had improved in recent years in the Caribbean, thanks to the initiatives of UNAIDS, WHO, UNDP and of national governments. Nevertheless, several vivid descriptions were given of the special problems faced by PLWHA. Burdened with stigma, such persons could often not secure remunerative employment. In too many cases, they were thereby condemned to a life without wages in societies that provided no effective social security. In many such cases, unable to purchase food, they could secure the ARVs but could not metabolise them successfully, because of malnutrition. The resulting devastation of their lives and the extreme poverty of their existence was a vivid image that will remain with many participants long after the conclusion of this dialogue; and
- * Fortunately, the dialogue witnessed amongst the participants one from the Caribbean who could explain the special problems which were now arising in the field of intellectual property law, particularly in relation to patents. Such legal monopolies enhance the prices of the therapies that are necessary to diminish the effect of HIV on PLWHA. The growing evidence of new 'side effects' and the need for "second line" and "third line" therapies will oblige Caribbean countries, in the near future, to address the operation of new drugs essential to preserve and sustain the lives of infected citizens.

Armed with this information, several participants urged the UNDP Commission to pay close attention to access to essential health care. Such access should not be determined simply because of the place on earth where an infected person was born or lives. Access to essential health care is a fundamental and universal human right. The need to preserve the TRIPS exception to international patent obligations, that permit developing countries to take special measures in circumstance of national health crises, was mentioned by several participants. As Dr. Mandeep Dhaliwal explained, it is one of the key subjects under consideration by the UNDP Global Commission.

DEPARTING FROM THE CARIBBEAN

Many visitors to the Caribbean come and then depart with only happy memories of sun, and sand, of shopping and touring and a friendly welcome. Those who took part in the UNDP dialogue had a somewhat different Caribbean encounter. It was serious, focused, practical and strategic. There were differences, of course. But also a common realisation of the urgency of the state of the Caribbean epidemic and of the intensely personal character of the suffering which it involves for ordinary human beings, having all the strengths and weaknesses that our species is heir to.

The dialogue revealed, once again, the eloquence and passion of political and social discourse in the Caribbean. The pride of all members of the Caribbean community in their culture, history and the earlier struggle for independence from colonial rule. However, it also disclosed a continuing timidity or disinclination to tackle a really serious regional

challenge which manifests itself in too many infections and too many deaths.

Somehow, the fundamental urgency that emerged from the dialogue was to alter the seeming indifference of many leaders to the strategies that have worked elsewhere in the world to remove the pacivity that presently impedes the achievement of law reform in what are otherwise vibrant and functioning democracies, with legislatures that have shown themselves capable, in other fields, of protecting their people and defending their fundamental rights. If this dialogue showed nothing else, it demonstrated the urgency of translating fine words into action and following up the practical proposals made in the encounter, so that this would not just be another high-sounding international debate that ultimately translates into no practical action or reform.

How does one secure change in sensitive areas of law and public policy where there are noisy opponents, political timidity and sometimes religious and other opposition? Answers to these questions were offered by some of the participants. It ultimately depends on persuasion and on whether the leaders in the Caribbean still care for their fellow citizens who continue to be infected, and to die, from AIDS. In part, they do so because current laws enlarge discrimination and diminish effective communication of the words and strategies that will save lives and reduce the toll of HIV in a most beautiful corner of the world.

In Australia, we achieved a number of changes in the law as it affected vulnerable minorities, in part because of political leadership and, in part, because our citizens came to understand the injustice of discrimination and the need for legal and social reform. Our journey is not yet

complete. In every country, there are reforms still to be made. But now, the whole informed world, through the United Nations, is speaking to the Caribbean about HIV/AIDS, urging action. But will the Caribbean listen and act?

In the course of this dialogue, there were some hopeful signs. The participation of past and continuing political leaders in the Caribbean, of great distinction, offered the prospect of the emergence of legislative champions who would speak up for equality and against stigma. In St. Kitts and Nevis, the Prime Minister, the Hon. Denzil Douglas MP has already called on his colleagues as heads of government to consider the proposals for reforms made at all levels of the United Nations. Similar proposals will be urged on Commonwealth countries in the report of the Eminent Persons Group, of which I am a member, now pending. That report will be tabled at the next meeting of the Commonwealth Heads of Government (CHOGM) to take place in Perth, Australia, in October 2011. This also is the message that is being considered and advanced by the UNDP Commission. It is a message that has worked elsewhere, when it has been adopted. It needs to be addressed in the Caribbean. Many have been the voices at this dialogue, raised in support of such a consideration. It is to those voices that I now add my own.

Each one of us brings to an interchange such as this dialogue has been his or her life's experience. None of us can insist or demand still less impose proposals on independent countries. All we can do is share experiences and wisdom on what has worked elsewhere and what has failed. Something seriously has been failing in the Caribbean. Amidst the sunshine and the sand, the second most serious epidemic of HIV in the world has continued to unfold, substantially unabated. Those who

truly love their fellow citizens will want to do better. We must hope for legislative champions. We must help them to emerge. And we must believe that the initiative of the UNDP Commission will serve to strengthen them and to fortify their resolve. Law reform alone is not enough to change inhibitory cultures and attitudes. Law alone cannot erase discrimination, disempowerment and stigma that afford the breeding ground for HIV and AIDS. But law reform is necessary to stop arbitrary action; to reinforce rational policies and action; and to spread lifesaving knowledge and kindness to fellow human beings in one of the most beautiful corners of our world.
