

HIV/AIDS POLICY & LAW REVIEW

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HIV/AIDS and human rights: we've only just begun

Public health and human rights often used to be seen as incompatible frameworks for action. HIV/AIDS was supposed to break that mould and be the epidemic where respecting human rights would be the most effective way to achieve the public health goal of conquering the epidemic. In this article, Joanne Csete suggests that while in theory everybody buys into the effectiveness of rights-based approaches to HIV/AIDS, the practice leaves much to be desired. The author describes the human rights framework that is the foundation for a more effective response to HIV/AIDS and stresses the urgency of paying more than lip service to the need to put human rights at the centre of the fight against HIV/AIDS in Canada and beyond.

[Other] patients did not suffer from the same degree of stigmatization as those suffering from this mysterious illness that was linked to the twin societal taboos of homosexual sex and illegal injection drugs. "Why didn't you tell us you're a hemophiliac?" a nurse in a downtown Toronto teaching hospital asked activist James Kreppner when he was in hospital with an AIDS-related illness in the 1990s. "We would have treated you much better."¹

Why are we still "doing" human rights?

At a recent press conference in Montréal that featured the announcement of some new work of the Canadian HIV/AIDS Legal Network, a journalist kicked off the question-and-answer period with this query: "Why, after all these years, are we still having to hear about HIV/AIDS and human rights?" Why indeed?

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HIV/AIDS and human rights: we've only just begun

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Before there was HIV/AIDS, protecting the human rights of individuals as patients was frequently seen to be on a collision course with the pursuit of public health goals. That is, ensuring the public's health might sometimes require that individuals be quarantined or screened for health conditions without their consent, or identified by name as carriers of a disease in violation of their right to privacy. The intellectual discipline of "health and human rights" seemed for a long time to revolve largely around reconciling this inevitable conflict between repressive public health measures and human rights.

HIV/AIDS was to change all that – but has it done so?

Even before the biology of HIV/AIDS was well understood, the human rights challenges associated with the disease were clear, though they were not always expressed in human rights terms. This was a disease that affected first and most profoundly people who already faced social marginalization and systematic human rights abuse. In its early days in North America, HIV/AIDS was known for a time as GRID, "gay-related immune deficiency." In other countries, it was sex trade workers, injection drug users, prisoners, or migrants who were most associated with AIDS in the public mind. The link between HIV/AIDS and marginalized, "different," or socially "deviant" populations in the collective consciousness has been strong from the beginning. Hence the public health and human rights question: Would further repression or isolation

of these populations be effective in containing the spread of HIV, or would working with them in a rights-respecting way be more effective?

Visionary people who are now celebrated as AIDS heroes answered that question unambiguously. They understood early on that repressive measures of the kind used to control infectious disease epidemics in the past would spell trouble when it came to this new disease. The late Jonathan Mann, the founding director of the first United Nations system-wide program on HIV/AIDS, is perhaps most associated with an articulation of the global importance of respecting the human rights of people vulnerable to, and living with, HIV/AIDS as a central strategy in fighting the disease. As he wrote early in the epidemic: "In each society, those people who before HIV/AIDS arrived were marginalized, stigmatized, and discriminated against become those at highest risk of HIV infection....The French have a simple term which says it all: HIV is now becoming a problem mainly for *les exclus*, the 'excluded ones' living at the margin of society."² Mann always concluded that more repression would only favour the epidemic.

Today there are numerous lectures and awards given in honour of Jonathan Mann. His work is spoken of worshipfully in conference after conference. Attention to the human rights of people with HIV/AIDS and those at risk is de rigueur in global analyses of the epidemic. UNAIDS has conducted worldwide campaigns on stigma and discrimination, and now on violations of women's human

rights, as important drivers of the pandemic.

The national AIDS strategies of many countries equally reflect a commitment to putting human rights at the centre of AIDS control efforts. Canada admirably exemplifies this pattern in both its domestic HIV/AIDS strategy and in the stated principles for its international assistance in the global fight against HIV/AIDS. The Canadian Strategy on HIV/AIDS is explicit in its commitment to the right of people living with HIV/AIDS to be free of discrimination and other human rights abuses.³ The "guiding principles" of Canada's assistance to AIDS programs in developing countries include a central commitment to the human rights of people affected by the epidemic.⁴

Somewhere between the theory and the practice, this fortuitous coincidence of health and human rights has fared badly.

HIV/AIDS, then, would be the disease where human rights protection and public health goals would, happily, coincide. But somewhere between the theory and the practice, this fortuitous coincidence of health and human rights has fared badly. For example:

- Millions of sex trade workers – men, women, and transgender

persons – continue to face HIV risk that is sharply heightened by violence, police abuse, and social disdain. In Canada, recent events in Vancouver have highlighted the extreme violence faced by sex workers, the inadequacy of laws to protect them, and indeed the potential of Canada's Criminal Code to exacerbate the danger they face.⁵ Around the world, police and other agents of the state make it impossible for sex workers to organize for their own protection and that of their clients, even though collectives of sex workers have been shown in many communities to be among the most effective agents of HIV prevention. The UN doesn't say much about this in its ostensibly human rights-based analyses of the global epidemic.

- After years of clinical and public health practice in HIV prevention and in addressing the much older health problem of narcotic drug addiction, it is well understood that the right of injection drug users to health is best respected by taking immediate measures to mitigate the worst harms of drug addiction rather than to insist on the possibility of all drug users becoming abstinent in the near future. Among the most widely studied and proven of these harm-reduction measures is needle exchange. In Canada, needle exchange is permitted and even supported by the government at various levels, but prisoners do not have access to this service in spite of their urgent and demonstrable need for it.⁶ Around the world, it is sadly clear that millions of young drug users will die terrible and premature deaths because they

are denied needle exchange, opiate substitution, and other cost-effective and proven methods of preventing HIV, hepatitis, and death from overdose. UN officials occasionally speak about these issues, but the governing bodies of the UN agencies dealing with AIDS, drug use, and health have never come near an endorsement of human rights-friendly policies for injection drug users.

- Gay, lesbian, bisexual, and transgender persons face hostility and discrimination even in countries like Canada where homosexuality is not criminalized. In many countries, widespread violence and marginalization of gay and bisexual men, including by agents of the state, are exacerbated by repressive sodomy laws, making it impossible to reach out to this population with HIV/AIDS programs. The recent refusal of the government of India to rescind the antiquated sodomy law, dating from the 1860s, in India's penal code removes hope for official redress from the fear and abuse faced by millions of men who have sex with men in that country. The United Nations chose not to speak officially in the India case; UN officials rarely speak on the dangers of sodomy laws.
- Aboriginal people comprise 3.3 percent of the population of Canada but in 2002 they accounted for 14 percent of people living with AIDS among those whose ethnicity was known.⁷ The legacy of subordination of Aboriginal peoples has included factors such as poverty, discrimination, social and political exclusion, violence,

and substance abuse – factors that increase the HIV/AIDS risk faced by these populations. Aboriginal people in many parts of the world face similar challenges.

- People living with HIV/AIDS, like people with other medical conditions that do not threaten contagion on casual contact, have a right to privacy regarding their HIV status in the health-service system and in their lives generally. In Canada, legal provisions in some provinces allow for revealing the HIV status of individuals in ways that do not correspond to human rights norms and to Canada's own Charter of Rights and Freedoms.⁸ The right to privacy is particularly important in the case of HIV/AIDS because persons living with the disease are still widely stigmatized and subjected to discrimination. Around the world, confidentiality of HIV status in health systems is frequently violated.

These and many other human rights violations that drive HIV transmission or impede access to treatment and care for those living with HIV/AIDS are an affront to both justice and public health and go well beyond just "stigma and discrimination," the catch-all phrase used by the United Nations. They represent violations of a wide range of human rights laws that bind states to do better than this.

Human rights: back to basics

Making the link between human rights and the struggle against HIV/AIDS requires going back to the basics of human rights and the protections they offer.

Human rights are those entitlements that a person has not by virtue of citizenship or other civil status but by virtue simply of being a human being. There is no institution on earth that has the authority to take away people's human rights. Government obligations with respect to these rights include to:

- *Protect them* – that is, governments must be sure that the actions of individuals or institutions do not undermine human rights and must provide some mechanism for redress when rights are violated.
- *Respect them* – governments' own actions cannot run counter to the provisions of human rights law.
- *Fulfill them* – governments should take measures actively to promote and implement human rights law.

There is no institution on earth that has the authority to take away people's human rights.

Human rights are sometimes categorized as civil and political rights – including what North Americans may think of as the constitutionally protected civil rights of assembly and association, religious freedom, freedom of the press, freedom from discrimination and censorship, due process protections, the protection from torture and other cruel treatment, and so on; and social, economic, and political rights – including the rights to health, food, shelter, freedom from poverty, and protection of cultural institutions and expressions. These rights are embodied respectively in

the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both of 1966. Canada is a party to both these international treaties, which are legally binding. Many other human rights instruments add other protections or make explicit the need for special attention to persons such as women, children, prisoners, refugees, and others at particular risk of discrimination and abuse.⁹

Some people have criticized the traditional divide between civil and political rights, on the one hand, and economic, social, and cultural rights, on the other, noting that it is impossible for people struggling for survival or wracked by hunger to enjoy political freedoms, just as it is impossible for people whose political rights are repressed to enjoy the benefits of economic security.¹⁰ With respect to HIV/AIDS, both civil and political rights, on the one hand, and economic, social, and cultural rights, on the other, are crucial to responding to the epidemic, and the two are integrally linked. All people have a right to health that includes being protected from HIV by basic prevention services, and people living with HIV/AIDS have a right to treatment and care. Linked to these are many other rights, both civil or political and social or economic, such as:

- The right not to be discriminated against (based on HIV status or HIV risk) in access to health services or to health information, or in the job market, educational institutions, or other services of the state.
- The right not to be impeded by police abuse or lack of due process from access to services related, in

this case, to HIV prevention or AIDS care and treatment.

- The right to be free of the violence, abuse, or marginalization that may make it impossible for people to seek HIV prevention services or to protect themselves from exposure to HIV.
- The right to adequate food, water, shelter, and income, without which people living with HIV/AIDS risk becoming more ill. Poverty may also lead those without the disease to face greater risk, such as having to trade sex to survive.
- The right to uncensored information about HIV/AIDS, including about all means of prevention of HIV transmission and complete information on AIDS care and treatment.
- The right to keep private one's medical status to the degree that that privacy poses no threat to others, and the right to be counselled confidentially about HIV/AIDS and HIV testing.

Realizing all these rights is a tall order, but two decades of experience have shown that they are all an essential part of an effective response to HIV/AIDS.

Interpreting, and elaborating on, HIV/AIDS-related human rights

HIV/AIDS is not explicitly mentioned in international human rights law. As a result, it is useful to have authoritative interpretations of the importance of various elements of human rights law for HIV/AIDS. The United Nations endorsed one such interpretation in the form of the International Guidelines on HIV/AIDS and Human Rights, published in 1998 by

UNAIDS and the UN Office of the High Commissioner for Human Rights.¹¹ The Guidelines provide detailed recommendations to governments of actions they should take to ensure that human rights of people affected by HIV/AIDS and those at risk are respected, protected, and fulfilled. Among the recommendations in the guidelines are these:

- that each country's public health laws and regulations, criminal laws, anti-discrimination laws, laws regarding the rights of women, and child-protection laws and policies be reviewed and revised to reflect the need to protect persons affected by HIV/AIDS and to ensure access to prevention, treatment, and care services;
- that the national program framework for responding to HIV/AIDS be managed in a transparent way, and so as to encourage consultation with communities affected by HIV/AIDS and to enable community organizations to participate actively in the fight against HIV/AIDS;
- that each country ensure that high-quality goods, services, and information are available and accessible for HIV/AIDS prevention, care, treatment, and support;
- that each country take measures to ensure that people affected by HIV/AIDS have access to legal support and services, that they are made aware of their rights, and that they have access to mechanisms of redress if their rights are violated; and
- that each country make it a high priority to fight discrimination and stigma by educating the public about the basic facts of

HIV/AIDS, including through mass education, training, and media-based information.

Although they originated from a widely participatory United Nations–overseen process, the Guidelines do not have the force of law, in contrast to international covenants and other human rights treaties. The Guidelines have been “welcomed” by the UN Commission on Human Rights (CHR), the premier human rights mechanism of the UN system.¹² When there was a chance to endorse the Guidelines formally at the UN General Assembly Special Session (UNGASS) on HIV/AIDS in June 2001, however, that effort was blocked by the United States, which did not favour a blanket endorsement of all of the Guidelines' provisions.¹³

The Declaration of Commitment on HIV/AIDS from the 2001 UNGASS, endorsed by the 189 nations represented at the session, nonetheless promotes the realization of human rights as a central element of the global response to HIV/AIDS. In particular, it enjoined governments (by 2003) to ensure that their legislation addresses all forms of discrimination against people affected by HIV/AIDS; and (by 2005) to ensure that laws and policies contribute to the protection of women and girls from HIV by ensuring their equality under the law, addressing all forms of sexual violence, banning harmful traditional practices, and otherwise contributing to their empowerment so as to enable them to have greater control over their sexual lives.¹⁴ Countries are required to report periodically on their progress with respect to these commitments.

In addition to the Guidelines and the Declaration of Commitment, the

human rights bodies of the United Nations system have made numerous statements related to HIV/AIDS and human rights. Notable among these have been several resolutions of the CHR asserting the right of persons living with HIV/AIDS to have access to antiretroviral treatment and treatment for opportunistic infections. This resolution passed unanimously over the abstention of the United States in 2001 and, in a similar version, was endorsed in subsequent years by all members of the CHR.¹⁵ On several occasions, the CHR has also urged states to review their legislation in line with the Guidelines and especially to create mechanisms to enforce measures related to discrimination based on HIV status.¹⁶

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How do human rights come to be meaningful?

There is effectively no international police force that can be mobilized to enforce or protect human rights. The United Nations is the steward of the world's body of international human rights law. The Security Council of the United Nations has the power to mobilize armed forces or peacekeepers, but it has rarely done so even in the presence of egregious, widespread, and high-profile crimes against humanity, not to speak of the more silent destruction of an epidemic such as HIV/AIDS. Special tribunals of the

United Nations system have been established to consider cases of war crimes and related human rights abuse in particular situations, such as in the former Yugoslavia and during the Rwandan genocide. The newly established International Criminal Court will, according to its mandate, prosecute persons accused of genocide, war crimes, and crimes against humanity.¹⁷ It is unlikely to focus on human rights violations directly related to HIV/AIDS, though its mandate recognizes, for example, that rape and other sexual violence can constitute crimes against humanity.¹⁸

In the absence of a global body that is likely to hear cases of human rights violations related to HIV/AIDS, it is important that those human rights most linked to the epidemic be protected in national and regional justice systems. In Canada, the Canadian Charter of Rights and Freedoms protects the human rights mentioned in this article (with the exception of the right to privacy, which is unstated in the Charter but is implicit as a principle of the Charter's protections of liberty and security of the person and against unreasonable search and seizure).¹⁹ The federal government and most Canadian provinces and territories have human rights commissions that can investigate cases of discrimination related to HIV/AIDS, which are not generally able to be brought to the courts in civil lawsuits. These commissions have also played a significant role in establishing that people living with HIV/AIDS may be considered to be living with a disability and thus may be eligible for protections and support for the disabled.²⁰ Some people who have filed complaints with human rights commissions have reported that their slowness and bureaucratic require-

ments are impediments to their usefulness;²¹ it is likely that this has been a very underused mechanism of redress for people with HIV/AIDS suffering discrimination.

Canadian courts have also made key decisions related to the human rights of people living with or affected by HIV/AIDS, particularly the right to be free from discrimination. For example, a 2000 decision of the Supreme Court of Canada recognized that discrimination based on disability may occur even when the discrimination is based only on the perception that a person is disabled rather than on visible or functional impairment, a conclusion that is relevant to the case of people living with AIDS.²²

Regional courts and human rights bodies can also play an important role. For example, in 1997 the European Court of Human Rights overruled the United Kingdom's immigration service when it tried to deport a Saint Kitts citizen terminally ill with HIV/AIDS despite the absence of treatment in his home country.²³ The Inter-American Commission on Human Rights has on several occasions asserted the obligation of governments in the region to provide antiretroviral treatment to people living with HIV/AIDS,²⁴ though implementation of such rulings has been weak or non-existent.

National courts and to some degree human rights commissions may be able to put some teeth into enforcement of human rights protections through various sanctions and penalties, but these institutions represent only part of the struggle for realization of human rights. The protection and promotion of human rights also depends on exposing human rights violations in ways that provoke public concern or outrage, leading to pres-

sure on governments from their own people to address abusive practices. Non-governmental organizations – both global organizations such as Amnesty International and Human Rights Watch, and regional and national organizations – often have as an objective to “name and shame” governments failing to protect, respect, or fulfill human rights. National, regional, and international news media play a crucial role in this process. Initiatives of numerous non-governmental organizations around the world have helped to bring HIV/AIDS-related human rights abuses to light and have led to legal and policy changes that have reinforced relevant human rights protections.

The real benefit of Canada's leadership will depend on the example it continues to set at home and abroad in the protection, fulfillment, and respect for human rights.

A role for Canada

As a country that has made strong public professions of its commitment to putting human rights at the centre of its domestic and international response to HIV/AIDS, Canada is a de facto leader in addressing the kinds of abuses discussed in this article. The real benefit of Canada's leadership will undoubtedly depend on the example it continues to set at home and abroad in the protection, fulfillment, and respect for human rights

embodied in its HIV/AIDS-related laws and policies.

In domestic policy, there are numerous current issues that will test that leadership, including several noted above. Legislative initiatives related to privacy will continue to be pursued at the provincial level. There must be a clear commitment at all levels to the principle that health information, including HIV status, can be disclosed without consent of the person concerned only in the most exceptional circumstances. Detailed guidance in this area has been set out by the Canadian HIV/AIDS Legal Network.²⁵ In the coming months, Correctional Services Canada will demonstrate whether its commitment to prisoners' right to health is real enough to include recognition of the urgent need for needle exchange services in Canadian prisons.

More broadly, Canada's stated commitment to harm-reduction measures should be better reflected in resource allocation. A report of the Auditor General in 2001 indicated that over 90 percent of resources to combat illicit drug use in Canada went toward interdiction and other law enforcement measures rather than public health measures.²⁶ This disproportionate response should be changed urgently. The Canadian government at all levels should ensure that human rights commissions have the staff and other resources they need to process cases in an efficient and user-friendly way. Federal and provincial/territorial governments should adopt policies that respect and protect the right to give informed consent to HIV testing, including for women during pregnancy.

Canada's role as a global citizen is equally important. Canada is the biggest donor to the World Health Organization's 3 by 5 Initiative, which

aims to ensure that three million persons living with HIV/AIDS who need antiretroviral treatment receive it by the end of 2005. The 3 by 5 Initiative, and the prospect of rapid expansion of treatment programs more generally, has led many experts to call for more extensive use of compulsory or "routine" HIV testing without informed consent, or to encourage testing without pre- and post-test counselling.²⁷ Canada's voice should be lifted in favour of protecting the voluntary and confidential nature of HIV testing and of the importance of counselling and informed consent as the default preference. Canada is also an important contributor to the Global Fund to Fight AIDS, Tuberculosis and Malaria. The Global Fund's project submission guidelines are weak on human rights issues, and the Global Fund secretariat has committed few resources to ensuring that people with HIV/AIDS and others at risk are appropriately included in country coordinating mechanisms for Global Fund-supported projects. Canada should raise these concerns and target some support to strengthening human rights elements of Global Fund grants.

Canada should set an example on overall levels of official development assistance (ODA). Canadian ODA remains well below the target of 0.7 percent of GNP set over 30 years ago by the UN, partly through the efforts of Canadian Prime Minister Lester Pearson.²⁸ ODA levels are also a matter of human rights. Article 2 of the International Covenant on Economic, Social and Cultural Rights binds states to engage in international cooperation for the progressive realization of human rights. International cooperation is especially crucial in the global fight against HIV/AIDS.

Canada and other countries that have made a commitment to human

rights-based approaches to HIV/AIDS must be more active in pushing the United Nations to pay more than lip service to addressing human rights violations linked to HIV/AIDS. Canada should push for the United Nations to have an official policy endorsing syringe exchange, opiate substitution, and other measures as central elements of HIV/AIDS programs for drug users as a matter of human rights. UNAIDS established a Global Coalition on Women and HIV/AIDS, but it has done little to work with donors to ensure adequate resources for programs that address legal dimensions of women's equality. Canada's global AIDS strategy is particularly focused on the situation of women, and Canada should make efforts to ensure that the UN's efforts result in more than just words and reports on women and HIV/AIDS. Men who have sex with men are often cited in UN documents as a vulnerable group, but United Nations agencies have not fought systematically for the abolition of antiquated and harmful sodomy laws that so effectively hamper the delivery of HIV/AIDS-related services to this population. Canada's voice on this issue is crucial.

Conclusion

Human rights-based approaches to HIV/AIDS are under constant attack in today's world. The rise of religious fundamentalism and its moral judgments in the halls of political power, including in the United States, has the potential to handicap greatly the work of those who understand that fighting AIDS means protecting the human rights of sex workers, men who have sex with men, prisoners, and drug users, who continue to be the objects of knee-jerk moralizing. The importance of everyone's right to basic

information on HIV transmission and AIDS care is drowned out in the din of the well-funded preaching of sexual abstinence, which placates religious extremists. Globally, the approach to narcotics drug use remains too heavily one of repressive criminalization and “wars on drugs” in spite of the clear failure of these approaches to control drug use or its harms. Wars on drugs are politically expedient. Espousing the human rights of socially unpopular people is rarely politically expedient.

But the track record of human rights-centred successes is compelling: for example, the needle exchange programs run by and for drug users that have stopped HIV transmission in its tracks in very high-risk settings; the sex worker collectives that have shown how effective sex workers are as AIDS educators and agents of HIV prevention in the community; and the courageous leadership of people with HIV/AIDS as parts of policy decision-making processes. These and many other victories are widespread, real, and well documented. The struggle is, as it always was, to support those with the courage to see beyond what is politically expedient and what placates the moralizers to human rights-friendly measures that really work against this formidable enemy.

– Joanne Csete

Joanne Csete is the Executive Director of the Canadian HIV/AIDS Legal Network. She can be reached at jcsete@aidslaw.ca.

¹ A Silversides. *AIDS Activist: Michael Lynch and the Politics of Community*. Toronto: Between the Lines, 2003, at 237-238.

² Quoted in: Doctors of the World. Jonathan Mann: International Health and Human Rights Pioneer. September 1998, available at www.doctorsoftheworld.org/about/about_details.cfm?QID=1327 (retrieved 4 January 2005).

³ See details of the numerous elements of the Canadian Strategy on HIV/AIDS at www.phac-aspc.gc.ca/aids-sida/hiv_aids/ (retrieved 3 January 2005).

⁴ Canadian International Development Agency. CIDA's HIV/AIDS Action Plan (Second Edition). July 2000, at 1. Available at [http://www.acdi-cida.gc.ca/INET/IMAGES.NSF/vLULImages/Social_Development3/\\$file/aidsactionplan2.pdf](http://www.acdi-cida.gc.ca/INET/IMAGES.NSF/vLULImages/Social_Development3/$file/aidsactionplan2.pdf) (retrieved 2 January 2005).

⁵ See, eg, Pivot Legal Society Sex Work Subcommittee. *Voices for Dignity: A Call to End the Harms Caused by Canada's Sex Trade Laws*. Pivot Legal Society: Vancouver, 2004, available at www.pivotlegal.org.

⁶ See Canadian HIV/AIDS Legal Network. *Prison Needle Exchange: Lessons from a Comprehensive Review of International Evidence and Experience*. Montréal: Canadian HIV/AIDS Legal Network, October 2004. Available at www.aidslaw.ca/Maincontent/issues/prisons.htm.

⁷ Public Health Agency of Canada, Centre for Infectious Disease Prevention and Control. HIV/AIDS Epi Update, April 2003, available at www.phac-aspc.gc.ca/publicat/epiu-aepl/hiv-vih/aborig_e.html.

⁸ See Canadian HIV/AIDS Legal Network. *Privacy Protection and the Exposure of Health Information: Legal Issues for People Living with HIV/AIDS in Canada*. Montréal: Canadian HIV/AIDS Legal Network, August 2004, at i-ii. Available at www.aidslaw.ca/Maincontent/issues/privacy/PrivacyE/toc.htm.

⁹ Among the human rights treaties that establish rights relevant to HIV/AIDS and health are: the Convention on the Elimination of All Forms of Discrimination Against Women (1979), the Convention on the Rights of the Child (1989), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984). The Standard Minimum Rules on the Treatment of Prisoners (1955) are UN-endorsed guidelines. The text of all these instruments is available on the website of the UN Office of the High Commissioner for Human Rights, www.ohchr.org/english/law/index.htm.

¹⁰ See, eg, E Press. Human rights – the next step. *The Nation* (New York), 25 December 2000. Available at www.thenation.com/doc.mhtml%3Fi=20001225&s=press (retrieved 3 January 2005).

¹¹ Office of the United Nations High Commissioner for Human Rights and Joint United Nations Programme on HIV/AIDS. *HIV/AIDS and Human Rights: International Guidelines*. Second International Consultation on HIV/AIDS and Human Rights, Geneva, 23-25 September 1996. New York and Geneva: United Nations, 1998. (Guideline 6 amended at the Third International Consultation on HIV/AIDS and Human Rights, Geneva, July 2002.)

¹² United Nations Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities. The protection of human rights in the context of human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS), Sub-Commission resolution 1997/40, 1997. Available at www.unhcr.ch/Huridocda/Huridoca.nsf/01b1454971e6aa98a8025663300508ea5?Opendocument.

¹³ See, eg, F Girard, International Women's Health Coalition. Our History at the UN: Reflections on the

Declaration of Commitment Adopted by the UN General Assembly Special Session on HIV/AIDS, June 27, 2001. Available at www.iwhc.org/global/un/unhistory/hivaidsreflections.cfm.

¹⁴ United Nations General Assembly. Declaration of Commitment on HIV/AIDS, GA Res/S-26/2, 27 June 2001, paras 16 and 58-61.

¹⁵ United Nations Commission on Human Rights. Access to medication in the context of pandemics such as HIV/AIDS, CHR Resolution 2001/33, available at www.unhcr.ch/Huridocda/Huridoca.nsf/0/a5c6e2109117dc36c1256a3b00446247?Opendocument.

¹⁶ See, eg, United Nations Commission on Human Rights. The protection of human rights in the context of human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS), CHR Resolution 2003/47, 2003, available at www.unhcr.ch/Huridocda/Huridoca.nsf/TestFrame/c73b1b5e18ebae52c1256d1f00419762?Opendocument.

¹⁷ United Nations. Rome Statute of the International Criminal Court, Article 1. Available at [www.un.org/law/icc/statute/english/rome_statute\(e\).pdf](http://www.un.org/law/icc/statute/english/rome_statute(e).pdf) (retrieved 2 January 2005).

¹⁸ *Ibid*, Article 7, item 1(g).

¹⁹ Canadian Charter of Rights and Freedoms, available at <http://laws.justice.gc.ca/en/charter/>. For a discussion of the constitutional right to privacy under section 7 of the Charter, see *Privacy Protection and the Disclosure of Health Information: Legal Issues for People Living with HIV/AIDS in Canada*. Montréal: Canadian HIV/AIDS Legal Network, 2002-2004, at 17.

²⁰ For a discussion of discrimination law and HIV/AIDS in Canada, see D Webber. *AIDS and the Law*. 3rd ed, 2004 Cumulative Supplement. New York: Aspen, 2004, at 225-231.

²¹ R Jürgens, B Waring, *Legal and Ethical Issues Raised by HIV/AIDS: Literature Review and Annotated Bibliography*. 2nd ed. Geneva: Canadian HIV/AIDS Legal Network & UNAIDS, 1998, at 12-18.

²² *Québec (Commission des droits de la personne et des droits de la jeunesse) v Montréal (City); Québec (Commission des droits de la personne et des droits de la jeunesse) v Boisbriand (City)*, [2000] 1 SCR 665.

²³ European court prevents deportation of man with AIDS. *Canadian HIV/AIDS Policy & Law Newsletter* 1997/98; 3(4)/4(1): 47-48.

²⁴ International Network for Economic, Social and Cultural Rights. Case Law Detail: Jorge Odir Miranda Cortez (no. 12-249), Inter-American Commission on Human Rights, available at www.escri-net.org/EngGeneral/CaseLawSearchResult.asp.

²⁵ *Supra*, note 8 at 57-61.

²⁶ Government of Canada, Office of the Auditor General, 2001 Report, especially Chapter 11 – Illicit Drugs: The Federal Government's Role. Ottawa, 2001.

²⁷ See, eg, M Heywood. Human rights and HIV/AIDS in the context of 3 by 5: time for new directions? *Canadian HIV/AIDS Policy & Law Review* 2004; 9(2): 1, 7-13.

²⁸ See, eg, Action Canada for Population and Development, 2002 Pre-Budget Consultations: Submission to the House of Commons Standing Committee on Finance, available at www.acpd.ca/acpd.cfm/en/section/Resources/articleid/177.