EDITORIAL

Learning from the Past: Confronting Legal, Social, and Structural Barriers to the HIV Response

LUISA CABAL AND PATRICK EBA

The first special issue on HIV and human rights published by this journal in 1998 highlighted emerging concerns that structural, legal, and social barriers were at the core of vulnerability to HIV.[1] It called attention to the specific challenges and human rights violations faced by women, gay men and men who have sex with men, people who use drugs, and persons with disabilities, and stressed the need to address these challenges.[2] Nearly 20 years later, significant transformations and progress have occurred in the global AIDS epidemic and our response to it. In 1998, less than 500,000 people worldwide had access to antiretroviral therapy. Today, 21 million people receive highly active antiretroviral therapy, the majority of whom live in low- and middle-income countries.[3] We now have better understanding of the epidemic, and of the approaches and tools for successful HIV prevention, testing, treatment, and care.

However, many of the human rights, social, and structural barriers described in the 1998 special issue continue to hinder the HIV response. The historic achievement in expanding access to treatment has not been matched with the commensurate commitment and courage to tackle the underlying determinants that continue to fuel the epidemic among the most marginalized.

This December 2017 special section offers critical observations on the past, present, and future of human rights in the response to HIV, and in efforts to realize better health for all within the Sustainable Development Goals agenda. The history of the HIV response is marked by hard-fought victories of inclusion, human rights, and accountability. Across the world, there is increased recognition that legal, social, and structural barriers to the response must be addressed. However, this recognition often does not translate into action by governments and other duty-bearers. As Jamie Enoch and Peter Piot (the former executive director of UNAIDS) note, there is no "guaranteed march to progress" on the human rights of people living with HIV and key populations, especially in a global climate of indifference, hostility, and contestation of human rights.

HIV-related stigma and discrimination remain pervasive. Nearly four decades into the epidemic, some 35 countries, territories, and areas still impose restrictions on entry, stay and residence for people living with HIV. Through an analysis of the legal and social situation in the Republic of Korea, Jessica Keralis shows that HIV-related travel restrictions perpetuate stigma, violate human rights, and threaten

Luisa Cabal is chief of human rights and law at UNAIDS, the Joint United Nations Programme on HIV/AIDS.

Patrick Eba is senior human rights and law adviser at UNAIDS, the Joint United Nations Programme on HIV/AIDS.

Please address correspondence to Patrick Eba. Email: ebap@unaids.org.

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the HIV response.

From the beginning, the HIV epidemic has exposed the human cost of exclusion because of the increased burden of HIV on the most vulnerable segments of society. People who inject drugs have 36 times the risk of acquiring HIV than adults in the general population.[4] Men who have sex with men are 22 times and sex workers 10 times more likely to acquire HIV.[5] Transgender women are 49 times more likely to be living with HIV.[6] HIV prevalence among prisoners is five times higher than in the general population.[7] Gender inequality and the low socioeconomic status of women and girls in many parts of the world contribute to their vulnerability to the epidemic.

Carmen Logie et al describe the challenges faced by gay men, men who have sex with men, and transgender women in Jamaica, while Tingting Shen and Joanne Csete address the multifaceted human rights violations and barriers to health care services against sex workers in China. These two contributions involve qualitative research methods with key informant interviews, surveys, and focus group discussion, thus documenting the lived realities of the affected populations. Importantly, these contributions document the health and HIV impact of harassment, violence, and other human rights violations committed by police.The possession of condoms as evidence for arrest and prosecution of sex workers, described by Shen and Csete, is a vivid expression of punitive law enforcement that jeopardizes health and leads to human rights violations.

In addition to the negative consequences of ingrained discrimination against key populations, pervasive gender inequality and discrimination—often intersecting with other forms of discrimination—undermine progress in the HIV response. Luisa Orza et al and Terry McGovern et al highlight the increased vulnerability of women and girls, which remains of great concern. Young women and adolescent girls face heightened vulnerability to HIV infection, and 7,000 young women (aged 15–24) acquire HIV each week.[8] In some regions, women who have experienced physical or sexual intimate partner violence are 1.5 times more likely to acquire HIV.[9] Among women living with HIV, intimate partner violence can lead to lower antiretroviral therapy use and adherence to HIV treatment, and higher viral loads.[10] Michael L. Scanlon et al express serious concerns about the failure to prioritize access to HIV treatment for children, noting that it violates fundamental human rights principles. As several authors note in this special issue, these challenges occur in a context of contestation of human rights and decreasing funding for HIV and for human rights-based approaches to the epidemic. These are compounded by restrictions of political and legal space for civil society organizations.

Enduring stigma, discrimination, and emerging human rights challenges in spite of tremendous scientific and medical progress are proof that we will not treat our way out of the HIV epidemic. Increased efforts to address human rights challenges should be prioritized alongside engagements to expand prevention, treatment, and care services. This special issue describes some rights-based approaches that are desperately needed to advance protection and evidence-informed HIV and health services.

Several contributions point to the importance of access to justice for protecting human rights and ensuring accountability at national, regional, and global levels. R. Taylor Williamson et al describe the role of the Ghanaian Commission on Human Rights and Administrative Justice in addressing rights violations suffered by people living with HIV and key populations. This is a reminder of the potential role of such national institutions in advancing human rights, including in relation to HIV. Similarly, Keralis notes the important contribution of national and global human rights mechanisms in efforts to challenge HIV-related travel restrictions in the Republic of Korea.

Groundbreaking initiatives from funders, such as the Global Fund to scale up human rights programs described by UNAIDS and endorsed by UN members, as stressed by Ralf Jürgens et al, could provide strong impetus for accelerating interventions to address stigma and discrimination and increase access to justice.

Tomás A. Chang Pico et al offer an innovative framework for transparency, accountability, and participation that reaches beyond HIV and health

to address broader considerations of inclusive governance that are essential to advancing social justice. Furthermore, the language and tools of the right to benefit from scientific progress are explored by Scanlon et al as potential solutions to the challenges of access to treatment. The integration of human rights and community participation into the standards and process for the certification of the elimination of mother-to-child transmission, described by Kismodi et al, illustrates the strategic engagement of civil society in placing human rights at the center of global health practice. This provides critical lessons for other disease-related certification processes, at a time of emerging discourse on HIV epidemic control and transition.

Together, these innovations speak to the resilience and creativity of actors involved in the HIV response. AIDS activists have long recognized that HIV was broader than health, and that health was much more than pills. The transformative and integrated SDG framework, with its anchorage in the rule of law, equality, and commitment to leaving no one behind, holds promise for addressing the root causes of vulnerability to HIV and barriers to health services. But, as McGovern et al note, whether the SDG promises are met will depend on effective mechanisms for monitoring progress in rights-based, disaggregated, and inclusive data that demonstrate clear positive outcomes for all people.

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