



A message for World Aids Day

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A Message for World AIDS Day 2008

The criminal prosecution of people with HIV is accelerating insidiously around the world. This article charts developments since Alice Welbourn's openDemocracy [report \[1\]](#) on this 'war on women' for International Women's Day 2008.

It's a real challenge, this AIDS business: you can't take your eye off the ball for one minute and you are in constant danger of being hit by a bludger. Two to three years ago, we thought we'd won the battle over whether we people with HIV could take our drugs *responsibly* or not - we thought *that* particular prejudice had receded. At last, life-saving treatment started to be rolled out across Africa and beyond, creating more people like me - I have now been healthy, living *and working* with HIV for 20 years, eight of them on anti-retroviral drugs. Hospitals, formerly over-flowing with the sick and dying have emptied. If we are given consistent access to drugs in good time, we now have long life-expectancy. Thanks to this Lazarus effect, whole economies and work-forces - individual lives and families - have been able to get going again. Nonetheless, only around 3 million out of the 9 million of us who need these drugs *now* are currently able to get them. We are still a long way from the 'Universal Access by 2010' commitments endorsed again this week by International Development Minister, Ivan Lewis. So that battle isn't over yet: but we have hope

Then a year or two ago, we realised the *new* battle ground was to ensure that treatment access was being properly rolled out to *women*, *not* just for a few months while we were pregnant and gave birth to our children, but for *all* our lives and whether we are mothers or not. WHO and UNAIDS reports cryptically [state](#) [2] that more 'women' than 'men' are accessing anti-retroviral drugs. This is being economical with the truth. In reality, what swells the first figure is not women in their own right, but 'women-who-are-being-used-as-vessels-to-give-drugs-to-unborn-children'. Pregnant women are targeted for 'voluntary and confidential' testing - translated by health ministries and their staff around the world into mandatory and public testing. They are given drugs until the child is born, so that a box can be ticked to fulfil US government 'Pepfar' funding commitments to 'save the unborn child'. Then mother and child are released from health centre 'care' - only to find that their child succumbs to HIV through breastfeeding because they can't afford an alternative, aren't alert to the need for one, or can't hide an alternative feeding process from their curious neighbours. To rub salt in our wounds, as my previous article for openDemocracy explained, women with HIV are now being criminalised for transmitting HIV to our children, without any regard for the chronic social, economic and medical [complexities](#) [3] of this virus.

Alice Welbourn is an international activist and campaigner on women's rights and HIV/Aids, and former international chair of the International Community of Women Living with HIV/AIDS ([ICW](#) [4]) During the last year, the entire global AIDS community has been brought to the chilling realisation that whilst these and many other important [battles](#) [5] were - and still are - being fought, a major [war](#) [6] on *all of us* with HIV has quietly been breaking out worldwide. This war is called [criminalisation](#) [7] and its perpetrators are governments we naively looked to to *protect* our rights.

Personally I don't like warfare. I even find competitive games hard work. I am someone who believes strongly in the power of positive language to create energy and vision and new ways of seeing the world and acting in it. I far prefer to seek mediation and reconciliation, and not to use the language and metaphors of aggression and violence so over-subscribed to by the world's powers-that-be. But in this business of AIDS I often despair of finding the positive language that we need to convey the enormity and urgency of what is going on here, which is why I have had recourse to this militant language. It terrifies me to see how these punitive new measures are being rolled out with such crushing alacrity, unravelling years of quiet, careful, committed and compassionate work.



Prominent human rights lawyer, Baroness Helena Kennedy QC, speaking at the [Sophia Forum](#) [8] inaugural lecture in London last week, compared this criminalisation of people with HIV to that other imposition of punitive and restrictive legislation, which has curbed *all* our human rights, in response to terrorism over the last few years. She described how hysteria and fear of the 'other' has encouraged governments to 'reach for the law' in a vain attempt to 'control' the spread of HIV, along similar lines to their 'war on terror'. She also highlighted how prosecutions for HIV transmission in the UK have unevenly targeted men who were refugees or asylum seekers. To take her analogy further, and to quote from her book, [Just Law](#) [9], 'the flames of public fear are fanned by government rhetoric and behaviour'.

Will we never learn from history that the law is a blunt instrument in relation to public health concerns? The experience of American [prohibition](#) [10] springs to mind, as does the case of [Typhoid Mary](#) [11]. Baroness Kennedy chose to recall the response to the arrival of 'Grandgor's distemper' in [Edinburgh in 1497](#) [12]. She described how King James decreed that all those with this new condition, probably syphilis, must either be banished to an off-shore island or branded with an iron on the cheek to let all know of their condition. Kennedy continued, quoting Justice [Michael Kirby](#) [13] of Australia: 'Panic. Alarm. Banishment. Cruelty. Public stigmatisation. Law. These are the melancholy companions of disease and epidemics. The question is whether, in the five hundred years since King James IV issued his Proclamation against Grandgor we have advanced in our appreciation of the limits and opportunities of law in the face of a public health crisis'.

The answer is, tragically, no: this very week we learn that parliamentarians in Indonesian [Papua](#) [14] are planning a new bye-law to insert micro-chips into people with HIV who are sexually active. Next month [Uganda](#) [15], once the beacon of good practice in relation to a compassionate AIDS response - and now a major recipient of US government funding - plans to introduce legislation making couple-disclosure compulsory, despite three women being killed by their husbands this year alone because of their HIV status. 'Wilful transmission' will henceforth be punishable by death. These are just the latest in a long line of moves around the world to criminalise, isolate and alienate all of us with HIV in ways which are unjust, unworkable - and terrifying.

To complicate matters, various women's rights groups around the world - including some well-intentioned positive women - have promoted these punitive laws, imagining that they would curb the spread of HIV from men to their multiple female sexual partners who are fearful of negotiating condom use.

Too late, several women activists have now realised that these laws are dangerous for them also, who are the first to be tested - in ante-natal clinics - and who often therefore bear the brunt of the shock and blame. Such laws are generated by powerful patriarchal hegemonies like our own in Britain, where male establishment heterosexuality and women's subordination are [institutionalised](#) [16]. Thus it is women - and others who are least able to defend themselves, including, gay men, asylum seekers, injecting drug users, migrant workers and people in prison - who are most likely to be targeted by the introduction and use of such legislation. In truth, there are very few women - or men - in the world who are really hell-bent on spreading this virus. It is fear of rejection that smothers disclosure. Yet these laws, like the virus itself, take no heed of the social, economic or other circumstances of those on whom they are unleashed. Criminalisation only serves to exacerbate fear - in all of us, positive, negative or not knowing our status.

This year we have also learnt much about the effectiveness of care, treatment and respect for people with HIV. Recent medical [studies](#) [17] have confirmed that people with HIV who are given love and support are more likely to take their drugs regularly, cope with side-effects and maintain the high level of adherence needed to enable the drugs to work. People whose drugs are working well and who have an 'undetectable viral load' and no other sexually transmitted infection [can have](#) [18] unprotected sex with someone else with negligible chance of transmitting HIV to them. Moreover, pregnant women with HIV, with an undetectable viral load, [can give](#) [19] normal birth to a child with 99.9% chance of the child being HIV-free.

This World AIDS Day, on the 60th anniversary of the UN Declaration of Human Rights, can we send out a concerted message to parliamentarians worldwide, calling on them, as Helena Kennedy did so powerfully, to put the human rights of all, including people with HIV, first in whatever they do to curb



the spread of this pernicious virus? Punitive laws should be consigned to the dustbin of history. Parliamentarians, law enforcers, health workers, the media - and we the public at large - should be learning about the power of compassion in healing both bodies and minds. We must between us keep up the pressure to roll out universal treatment, and recognise with humility how HIV may affect each and every one of us. One day these laws may terrorise your family too - I hope they never do.

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