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Parliament: The Heart of Governance

Good morning President Gurirab, Khun Supachai, Secretary-General Johnsson and distinguished Members of Parliament.

I am delighted and deeply honoured to have an opportunity to participate in the discussion of this eminent and longstanding gathering of the world's parliamentarians. This meeting, and indeed the Inter-Parliamentary Union, represents for me the heart of governance. As parliamentarians, you are of vital importance to the citizens who elected you and who look to you for leadership.

Today in 2010, the world is intensely focused on issues like climate change and terrorism, with good reason. But having travelled to all the forefronts of the HIV epidemic this year, I can say that the other great global issue is inequity—the growing gap between the rich and poor, between the socially powerful and the powerless. HIV shines a harsh spotlight on that inequity, revealing how, in ugly and dramatic fashion, the poor die when they get sick while the rich live.

Where income is low, and food is scarce, the gap between rich and poor expands, and AIDS-related disease spreads through that widening hole. I have seen this in many places—families forced to choose between treatment and food. Or where treatment is available, the person living with HIV does not have enough food to be able to take the treatment or enough cash to be able to take the bus to the clinic to get it. And in some countries, we have indications that the financial crisis is cutting the availability of HIV treatment. This is madness in a world where in 2008, countries spent a combined US\$ 1.464 trillion on global military expenditure.¹ Don't tell me there is not enough money to treat people for HIV and all other health conditions.

For this reason I am happy to report that I also see an increased willingness to challenge the equity gap. People want social justice. They want their human rights. They want their nation's wealth to be invested in the people. As Parliamentarians, you are in the position to deliver these "asks."

I have seen that the AIDS response can be—and has been—an agent of profound social change. It has focused global attention on a health emergency as never before. It has demanded the participation of those affected and it has demanded inclusive governance. It has required that aid delivery be aligned with national needs. It has driven down prices for

essential medicines and created a public health priority in intellectual property law. It has made economic, social and cultural rights justiciable before the courts, resulting in the legal recognition of the right to health and treatment. It has made science work for the poor like never before.

This same movement is now mobilising new partners and is poised on the brink of new paradigms. It is up to all of us to take full advantage of the energy and expectations surging around it.

I am happy to tell you that we have made important gains in the AIDS response. Through our efforts, more than 4 million people are now receiving treatment. In one year, from 2007 to 2008, coverage of those in need of treatment went from 33% to 42%. Global infection rates have dropped 17% since 2001. The percentage of pregnant mothers living with HIV who are receiving treatment to prevent transmission of the virus to their child has increased to 45% in just a few years.

These are encouraging numbers, but we have still a long way to go, and your leadership is needed now more than ever. We need your help to build and strengthen governmental response and accountability or we will not reach our goal of Universal Access to HIV prevention, treatment and care services or the Millennium Development Goals—two commitments that your governments have signed onto and which are necessary to overcome HIV.

No universal access without human rights

I know that the AIDS epidemic consistently places complicated demands on you, the world's lawmakers. This is because HIV links public health and human rights in a way that requires governments to work harder to achieve health, education, non-discrimination and gender equality for all those vulnerable to or living with HIV. Where we don't achieve these, the epidemic continues to rage.

Law, law enforcement and access to justice are the three components of the legal environment that are critical to achieving these HIV-related human rights. But we have made much less progress in creating the legal and social environments necessary to deliver a future generation free of HIV.

In 2008, the good news was that two-thirds (67%) of countries reported having laws that prohibit discrimination against people living with HIV. However, we do not see enough enforcement of these laws, and a third of countries don't even have them. Laws that protect populations most at risk of HIV infection are even less common—only 39% of countries report protections for men who have sex with men, 33% report protection for sex workers and 27% have them for people who use drugs.²

What is worse is that 84 countries report having laws and regulations that present real obstacles for vulnerable sub-populations to access HIV prevention, treatment and care.³ Punitive laws that fuel stigma and discrimination are widespread: 49 countries have HIV-specific laws that criminalise HIV transmission or exposure;^{4,5} 86 countries have laws that prohibit homosexuality, with seven providing the death penalty for it,⁶ and numerous countries criminalise harm reduction measures in the context of drug use.⁷

Access to justice for people affected by HIV is extremely limited. NGO informants indicate that HIV-related legal services are available in fewer than half of countries. Punitive and illegal police activity, such as harassment and violence against key populations, further fuel HIV-related stigma and discrimination. Countries have also failed to implement mechanisms to report, document and address cases of discrimination against people living with HIV or populations most at risk.⁸

Punitive approaches to controversial adult behaviour drive people to the margins, away from critical health and social support services, including HIV prevention and treatment. Punitive laws also appear to be behind government failure to recognize and address the needs of stigmatised and/or criminalised populations in terms of sufficient access to HIV services for these groups. Conversely, a supportive and protective legal environment enables governments and individuals to better respond to HIV. For example, the reach of HIV prevention programmes for populations most at risk is generally better in countries with non-discrimination laws in place than in countries without such laws.⁹

Establishing protective—not punitive—laws and legal frameworks

For all these reasons, I have made one of the corporate priorities of UNAIDS to support governments to remove punitive laws, policies, practices, stigma and discrimination that block effective responses to AIDS.

Let me name the punitive laws and practices of greatest concern:

- The overly broad criminalisation of HIV transmission
- The denial of protection from marital rape and domestic violence
- The criminalisation of people who use drugs or engage in commercial sex
- The criminalisation of homosexuality
- The restriction of entry, stay and residence based on HIV status.

I know that these issues involve very difficult social issues. What I am calling for is that people not be criminalised, but that society deals with controversial adult behaviour through discussion, debate, support—not by throwing people in jail.

Instead of punitive approaches, UNAIDS calls for laws that protect people in the context of HIV and that lead to more effective responses. These are laws protecting people from discrimination on the basis of HIV status; laws protecting women and girls from sexual violence and protecting their equality inside and outside marriage, including in the context of inheritance and property rights; the decriminalisation of sex workers, people who use drugs, men who have sex with men and transgender people; and laws that protect informed consent and confidentiality and privacy. Such laws better protect human rights and more effectively address HIV.

Restrictions on entry, stay and residence based on HIV status

Let me raise the issue of restriction on entry, stay and residence based on positive HIV status. The United States this year lifted longstanding travel restrictions on people living with HIV. President Obama said, “We talk about reducing the stigma of this disease, yet we’ve treated a visitor living with HIV as a threat. If we want to be the global leader in combating AIDS, we need to act like it.”

I salute the leadership of the United States, removing restrictions, making such an important change for the dignity of people living with HIV. We know there are other countries where there is progress – Namibia is in the process of removing their restrictions, and China and Ukraine have pledged to do so. In all the 52 countries, territories and areas that still have legal restrictions on the entry, stay and residence of HIV-positive people, it is time to reverse these outdated restrictions. They do not protect the public health, and they discriminate for no reason against people living with HIV. Such laws prevent healthy HIV-positive people from engaging in tourism, business travel, employment abroad, labour migration, study, and immigration. They can also restrict the entry or stay of those who seek asylum.

I am reminded of a young man I spoke with who had gone abroad to work. At one point to renew his work visa, he was tested for HIV without being told so. Months later, he was unexpectedly removed from his job and placed in an isolation area – very much like a jail cell, he told me. There he learned, to his shock, that he was HIV-positive. He spent three weeks in isolation and was then deported from one day to the next. He never received a penny from his employer for the work that he had done.

This man was not sick. He was not a danger to his employer or his customers or the people around him. But his livelihood was destroyed, nevertheless.

Most of these restrictions were put in place in the 1980s when there was confusion, fear and lack of understanding about HIV. Everyone treated HIV as a disease that could be transmitted casually and resulted in death sentence. But we now know that HIV is only transmitted through the exchange of bodily fluids, that everyone has the ability to protect themselves, and that treatment keeps people healthy, productive and less able to infect anyone. Many countries do not even remember they have such restrictions. But if a country chooses to maintain such restrictions in 2010, this means that at best there is confusion about what is the most effective way to respond to HIV; and at worst, there is discrimination against people living with HIV and/or that something is wrong in the national response to the epidemic.

It is for these reasons that UNAIDS is engaging in an all-out effort to get rid of these laws, and, my friends, these are easy ones to change. I thank you for your support in this initiative and look forward to working with you on it.

Parliamentarians as exemplars

Let me underline that UNAIDS looks to you as exemplars of integrity, responsiveness and accountability. As public servants, you can set personal and professional examples of openness and commitment to address the inequities and denial that fuel the AIDS response.

As opinion-leaders and decision-makers, you can promote respect among your constituents for people living with HIV, and can encourage informed debate on issues related to HIV, based on scientific evidence and human rights—not myths, ideologies or prejudices .

Acting for change

If I may be so bold, I would like to ask your assistance in doing the following:

First, please speak out—personally—against stigma, discrimination, gender inequality and the other drivers of the AIDS epidemic. Meet publicly with people living with HIV, and call for tolerance, non-discrimination and equal rights for women, children and other vulnerable populations in the context of the epidemic. Ensure that national AIDS authorities develop a prioritised and costed plan to fight stigma and discrimination.

Second, consider decriminalising people who use drugs, adults who engage in commercial sex, and homosexuals. Decriminalisation does not necessarily mean legalisation; rather, it means not applying criminal or punitive penalties to private adult consensual behaviour. Around drug use and sex work, necessary and legitimate social goals can be achieved through regulation.

Third, address structural drivers of the epidemic, such as gender inequality and violence against women. Secure changes to law and law enforcement to protect the rights of women. For the response to the epidemic to be successful, national HIV responses need to be reoriented to support women's equality inside and outside the home and to prevent sexual violence and harmful traditional practices, such as early marriage and discrimination in property, inheritance, and child custody. I hope you will also support greater representation of women in parliaments.

Fourth, support the rapid expansion of prevention of mother-to-child transmission services. PMTCT provides an ideal platform from which to deliver other services catering to maternal, child and sexual and reproductive health and rights. Ensure that all pregnant women are offered HIV testing and counselling with their voluntary informed consent and are offered ART to prevent vertical transmission as well as to treat the mother. And get the fathers involved!

Finally, I urge you to rise above arguments framed by who is "innocent" and who is "guilty." No one is. We have an epidemic among us that can strike any one of us. Instead, develop strong messages and strategies on openness, non-discrimination and sustained political commitment. Broaden and strengthen engagement with communities, civil society and networks of people living with HIV. And importantly, be willing and able to talk with knowledge about the hard things in any society: sex, sexual relations, secrecy and fear around sex and disease, different sexualities, sex out of marriage, drug addiction as an illness, inclusion versus exclusion and support versus condemnation.

I very much look forward to the discussions that will unfold over the next days. In this room we have an amazing collection of leadership, sharp minds, diverse experiences and respected authority. I am convinced that with these great gifts we can end this epidemic.

Thank you.

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UNAIDS is an innovative joint venture of the United Nations, bringing together the efforts and resources of the UNAIDS Secretariat and ten UN system organizations in the AIDS response. The Secretariat headquarters is in Geneva, Switzerland—with staff on the ground in more than 80 countries. The Cosponsors include UNHCR, UNICEF, WFP, UNDP, UNFPA, UNODC, ILO, UNESCO, WHO and the World Bank. Contributing to achieving global commitments to universal access to comprehensive interventions for HIV prevention, treatment, care and support is the number one priority for UNAIDS. Visit the UNAIDS web site at www.unaids.org.

¹ Stockholm International Peace Research Institute

² 40 percent of countries report having laws that interfere with their ability to provide services for injecting drug users, 32 percent and 45 percent report laws that hinder the access of men who have sex with men and sex workers respectively to HIV services. UNGASS Country Progress Reports, 2008

³ Ibid

⁴ Global Network of People Living with HIV, “Global Criminalisation Scan”, last updated 17 August 2009 (available at: <http://www.gnpplus.net/criminalisation/>)

⁵ International Planned Parenthood Federation (2008) *Verdict on a Virus - Public Health, Human Rights and Criminal Laws* (available at: <http://www.ippf.org/NR/rdonlyres/D858DFB2-19CD-4483-AEC9-1B1C5EBAF48A/0/VerdictOnAVirus.pdf>)

⁶ International Lesbian and Gay Association (2008) *State sponsored homophobia- a world survey of laws prohibiting same sex activities between consenting adults* (Available at: http://www.ilga.org/statehomophobia/ILGA_State_Sponsored_Homophobia_2009.pdf)

⁷ International Harm Reduction Association (2007) “The Death Penalty for Drug Offences - A Violation of International Human Rights Law” (available at: <http://www.ihra.net/Assets/489/1/DeathPenaltyforDrugOffences.pdf>)

⁸ UNGASS Country Progress Reports, 2008

⁹ Ibid