

The UN General Assembly Special Session on HIV/AIDS: Were Some Lessons of the Last 20 Years Ignored?

The United Nations General Assembly Special Session (UNGASS) on HIV/AIDS, held in June 2001, was hailed as a watershed event. It drew representatives from the highest levels of government and close to a thousand representatives of civil society organizations, including many people living with HIV/AIDS, from countries around the world.

The outcome document from this special session, as for other UN conferences (e.g., the International Conference on Population and Development and the Fourth World Conference on Women), was negotiated by the governments of the world. Although not legally binding, these documents represent political commitments and can serve as frameworks to guide national and international work. Their importance over time stems from the fact that they can form the justification for resource allocation and priority setting and that they set out specific targets for achievement, on which governments are expected to report publicly.

These conferences build on sound technical evidence fed into the debate by specialists and others engaged in the field, but they are also a part of larger geopolitical processes reflecting battles being fought elsewhere—a fact that affects their outcomes. For example, participants in the special session debated condoms, commercial sex work, injection drug use, the impact of gender relations on sexuality, and men having sex with men. Such discussion would have been unimaginable even a decade ago. Yet in the final Declara-

tion of Commitment there is no mention of men having sex with men or of commercial sex workers—omissions that may undermine those groups' ongoing participation as full actors in the response to HIV/AIDS.

In the final analysis, we must recognize and acknowledge not only the strengths but the limitations of the special session. The final UNGASS document may well represent the lowest common denominator, to which all countries could agree. To deal effectively with prevention, care, and treatment and to mitigate the impact of HIV/AIDS, we must bear with this political document. However, we must ensure that this document, which is relatively vague on “sensitive issues,” is used as a complement to, not a substitute for, other, more technically explicit international and domestic policy and program guidance.

GETTING RIGHTS RIGHT?

The last few years have seen unprecedented awareness at global, national, and community levels that all human rights—civil, political, economic, social, and cultural—must be respected, protected, and fulfilled, not only because they are the binding legal obligations of governments but because they are critical to an effective response to the HIV/AIDS epidemic. More than 20 years of experience has shown that prevention and care strategies that fail to address civil, political, economic, social, and cultural factors such as gender relations, homophobia, and

racism are of limited effectiveness. Nonetheless, while the final document recognizes the rhetorical value of human rights and even includes a section titled “HIV/AIDS and Human Rights,” it moves a step backward, making human rights a separate component of the response rather than fully integrated within it. This is apparent in the document's focus on legal structures to the exclusion of other tools and mechanisms and, especially, in its failure to acknowledge the value or even the existence of rights-based approaches to HIV/AIDS policy and program work.

Attention is given to the rights of people living with HIV/AIDS, but the primary human rights focus of the document is on preventing and reducing the vulnerability of women and girls. While a focus on women is always welcome, one wonders why at the very least there is no recognition of other issues relevant to women—including that of receiving equal access to care and support once infected with HIV. The final document fails also to acknowledge the differences among women (and among men) that result in increased discrimination and thereby increased vulnerability. In addition, the declaration ignores the ways in which explicit attention to discrimination—on the basis not only of gender but also of such attributes as race, religion, sexual orientation, and language—has been critical to shaping effective policy and programmatic work to address all aspects of the epidemic.

The UNGASS document's emphasis on the vulnerability of

women and girls resulted in part from the recognition that the likelihood of individuals' becoming infected with HIV and the likelihood of their receiving adequate care and support were largely influenced by the environment in which they live. Another factor was the recognition that civil, political, economic, social, and cultural context affects the extent to which people are able to access services and make and act on free and informed decisions about their lives. A "rights-based approach" to HIV/AIDS has meant that, from a policy and program perspective, efforts to control the pandemic and mitigate its impact include not only traditional, narrow strategies such as those that focus on making prevention information and services available to individuals. Efforts have also included strategies that consciously set out to reduce vulnerability, such as identifying and modifying laws, policies, programs and practices that discriminate against certain populations. Yet even the section of the declaration titled "Vulnerability Reduction" focuses primarily on addressing activities and factors that place individuals at risk of infection, such as "risky and unsafe sexual behavior" and "drug using behavior." Only passing attention is given to the links between these activities and the environment that surrounds them. There is also nothing in the declaration that considers vulnerability as it relates to accessing needed care and support.

The national AIDS program documents of most countries around the world have been far more explicit and far more daring than what appears in the final UNGASS declaration. It is worth noting that there are direct references to men having sex

with men and to commercial sex workers in the national AIDS plans of many of the countries that actively rejected the inclusion of such references in the global consensus. The policy and strategic documents of the UN system to address HIV/AIDS that predate the UNGASS are also far more inclusive of many of the issues that the declaration does not address. It is unfortunate that political alliances and political blocks were able to shift the UNGASS consensus away from what individual countries, the UN system, and civil society organizations have set out and accomplished.

CARING ABOUT CARE

The UNGASS declaration is, however, far reaching in its recognition that access to medications in the context of HIV/AIDS is a fundamental element of the right of all people to the enjoyment of the highest attainable standard of health. While international human rights law does not specifically state that there is a right to treatment, in the context of HIV/AIDS the right to health was interpreted first by the UN Commission on Human Rights and then in the UNGASS declaration to include governments' immediate obligation to make drugs, goods, and services available to the maximum extent possible, and the progressive obligation to continuously improve access for all people. These obligations exist both within countries' own borders and, for wealthier countries, as a part of what they need to do in terms of development and bilateral assistance.

This recognition by the governments of the world foreshadowed and set the stage for the

declaration of the World Trade Organization on the Trade-Related Intellectual Property Rights (TRIPs) Agreement and Public Health (Doha, Qatar, November 14, 2001). In Doha, for the first time, the relationship between health and trade—with specific mention of HIV/AIDS and other epidemic diseases, such as tuberculosis and malaria—was debated in an economic forum. The fact that compulsory licensing is ensured by the flexibility provided in the TRIPs agreement was clearly stated. The concerns of ministers of trade and ministers of health of developing countries converged, and their call for greater access to the drugs needed to combat epidemics was heartening. Even more important, as a result of these declarations, all governments are now more directly accountable for their actions to make needed drugs available to infected people no matter where they live in the world.

DRIVING THE MESSAGE HOME

How is all this relevant to the United States? Although the HIV/AIDS and tuberculosis epidemics in the United States have reproduced patterns of discrimination, there has traditionally been skepticism about the domestic value of international human rights law and international agreements with regard to the ways in which the government conducts its affairs. The principles of transparency and accountability that form the basis of a rights-based approach to HIV/AIDS provide that governments must account publicly for their actions and any lack thereof. The United States was

an active participant in the global forums that formulated these documents and therefore, like other governments, is ostensibly bound to honor them.

As members of the global community, we must recognize that the impact of HIV/AIDS will never be brought under control in one place unless it is brought under control everywhere. It is the role and duty of the public health and the human rights communities together to inform the actions that will be critical to the future of the HIV/AIDS epidemic in the United States and around the world. ■

Sofia Gruskin, JD, MIA

About the Author

Sofia Gruskin is with the Program on International Health and Human Rights, Harvard School of Public Health, Boston, Mass.

Requests for reprints should be sent to Sofia Gruskin, JD, MIA, 651 Huntington Ave, Boston, MA 02115 (e-mail: sgruskin@hsph.harvard.edu).

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Note. The UNGASS Declaration of Commitment on HIV/AIDS is available at <http://www.unaids.org>.