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In AIDS in the Industrialized Democracies: Passions, Politics, and Policies, David L. Kirp and Ronald Bayer examine the AIDS disease, the politics surrounding the epidemic, and the social policies that have evolved from this medical, social, and political phenomenon. Their approach is an international one. They provide eleven chapters, each written by a policy expert from a different industrialized democracy. Each contributor addresses how various political, historical, and medical factors influenced bureaucrats' and citizens' responses to the discovery of AIDS. Each also discusses how these factors subsequently influenced individuals' choices toward dealing with a new and devastating epidemic.

Kirp and Bayer propose that their review of eleven countries provides a unique opportunity to make international policy comparisons, to see how disease is a culturally constructed concept, and to speculate on effective strategies for confronting modern epidemics. For the purpose of facilitating these comparisons, Kirp and Bayer gave the contributors a list of AIDS-related factors and asked them to discuss those factors within the context of their respective country's public health strategies. These factors included national public health policies for infectious and sexually transmitted diseases, social perceptions of sexuality in general and homosexuality in particular, attitudes toward drug use, social and individual feelings about persons in high risk groups, and governmental mechanisms to care for the sick. The editors argue that by analyzing these factors public health officials can make

† Dr. David L. Kirp is a professor of public policy at the University of California, Berkeley, and is the author of LEARNING BY HEART: AIDS AND SCHOOLCHILDREN IN AMERICA'S COMMUNITIES.

†† Dr. Ronald Bayer is a professor of public health at Columbia University and is the author of PRIVATE ACTS, SOCIAL CONSEQUENCES: AIDS AND THE POLITICS OF PUBLIC HEALTH.

††† Dr. Jonathan Mann is a professor of public health at Harvard University. He formerly headed the World Health Organization's Global Program on AIDS and was general editor of AIDS IN THE WORLD.
conclusions about the strengths and weaknesses of their nation's AIDS policies. Furthermore, public health officials can consider the strengths and weaknesses of their policies for a larger purpose, such as a reflection of a government's political balance, its cultural perceptions of privacy, its social commitment to personal liberty, and its appreciation of volunteers. Kirp and Bayer then conclude that political interests and values, as opposed to a medical agenda, shaped the course of AIDS. They argue that AIDS demonstrates that for many industrialized democracies "the politics of AIDS is the politics of democracy in the face of a critical challenge to communal well-being." 4

The editors, as part of their attempt to assimilate a uniform context of discussion, asked each author to comment on how his or her respective government responded to the tension between protecting the public health and maintaining individual rights and privacy. Kirp and Bayer then hypothesize that this tension could be explored within the parameters of three public health models: a traditional public health strategy of "contain and control," a modern strategy of "cooperation and inclusion," or a combination of these two models. For this theory, the editors defined a "contain and control" strategy as one where the government uses compulsory means to identify the infected, and then control the epidemic through isolation and quarantine. They define a "cooperation and inclusion" strategy as one that utilizes education, voluntary testing, and counseling as a tool for changing human behavior and thus limiting the spread of disease.

Kirp and Bayer explain the importance of comprehending and comparing these models because AIDS, like any other medical condition, is socially constructed. 5 Therefore, effective treatment plans must incorporate strategies that address viral and behavioral components. Public health officials across the globe struggle with the solutions of how to contain the virus.

5. Id. at 364-70. See also Alexander M. Capron, Informed Consent in Catastrophic Disease Research and Treatment, 123 U. PA. L. REV. 340, 375 (1974) (stating that "disease itself is not an objective concept but depends upon the degree of dysfunction experienced under given conditions by each individual").
Their dilemma centers around the difficult decision of whether to implement strategies that would disregard personal liberties and rights or to control the virus by providing educational programs that encourage individuals to voluntarily change their behavior and personal habits. The editors suggest that governments can speculate on these answers if they analyze the spread of AIDS within a nation through that nation's public health model. They then argue that national models that successfully confronted AIDS in the 1980s should be used as paradigms for approaching our next communal health crisis.

The editors present many critical points and arguments about the lessons learned from the AIDS epidemic, including: a democracy's response to AIDS is a reflection of how well that democracy will respond to future critical challenges; politics rather than science determines the course of AIDS; disproportionate amounts of funds were poured into “hard” science research instead of behavioral science, social-epidemiological research, and education; confronting the AIDS epidemic provides a point of entry for those concerned about reform in education, prisons, law, and social values; and although the epidemic was perceived as a serious public health threat, it was frequently ignored because AIDS was perceived as a marginal group's disease.

Many of the editors' important arguments were not as well-developed as they could have been. Frequently, the editors used a polemic style instead of a careful and methodical fact presentation. For example, in the introduction, the conclusion, and the chapters on the United States, the editors frequently made vague and broad comments that the Reagan administration made horrendous policy errors in the AIDS arena. These statements would have been more meaningful if they had been supported with a stringent reconstruction of applicable facts. Instead of leaving the reader with a sense that perhaps policymakers did not react appropriately to the AIDS epidemic, this editorial choice leaves the reader with a sense that AIDS could have been prevented if only Americans were not homophobic and were more generous with research grants. This is disingenuous. The AIDS epidemic is not merely the result of bigotry, it has many complex social and scientific components.

Fortunately, the individual contributors' chapters make this truism amply clear. In fact, the individual chapters provide the
reader with very useful information. The contributors' comments are so rich, I would have preferred a conclusion by Bayer and Kirp with a more detailed comparison between the nations and more ideas about what information could be derived from the various nations' similarities and differences. Despite these shortcomings, *AIDS in the Industrialized Democracies* raises many interesting issues and offers helpful information to those concerned about AIDS, public policy, international epidemics, and global health.

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The market for books on Human Immunodeficiency Virus (HIV), like the disease itself, parallels the complacency and denial of those who see HIV only as "someone else's problem." If it were not necessary to produce books on HIV, our world would be an infinitely better place. However, we are a society that lives with HIV, even if we are uninfected. As of this writing, fourteen million adults and one million children are infected with HIV.\(^1\) Of these adult infections, an estimated seventy to eighty percent are attributable to heterosexual intercourse.\(^2\) By the end of this decade, HIV will infect an estimated thirty to forty million people.\(^3\) The magnitude of these numbers alone should demand our attention and motivate us to act.

Unfortunately, many persons erroneously perceive HIV as a disease affecting only marginalized members of society. HIV is seen as a disease belonging to gay men and intravenous drug users. The misperception persists despite declining infection rates among gay men and increasing rates among heterosexuals.\(^4\) There is also a common view that AIDS is an

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\(^1\) HIV Vaccine Development at Crossroads, AIDS WKLY., May 2, 1994.
avoidable disease, which reinforces discriminatory attitudes against persons who contract it. Although HIV is responsible for immeasurable suffering throughout the world, public response demonstrates the "growing complacency, persistent denial, and resurgent discrimination." Additionally, "[the] lack of protection of human rights and dignity [is] rising, fueled by economic, social, and political instability, resurgent complacency, prejudice, denial, and an unwillingness or inability to address discrimination in all its forms." This book challenges complacency and denial; it also provides valuable material to those working to challenge discrimination.

Dr. Jonathan Mann is the lead editor on *AIDS in the World*. He is an American epidemiologist and the former director of the World Health Organization’s Global Program on AIDS. As director, Dr. Mann was widely recognized as the driving force in persuading many countries, especially developing countries, to recognize the dangers of the HIV pandemic. Dr. Mann is now the François-Xavier Bagnoud Professor of Health and Human Rights at the Harvard School of Public Health. He is also the chairman for the Global AIDS Policy Coalition, which is the institutional author of *AIDS in the World*. Each chapter is written by one or more experts in the particular field addressed, with numerous contributions from around the world.

The book describes its impetus as the "unavailability of information about many key aspects of the pandemic — not only about its impact but also about the response: how much is

6. Id. at 538.
8. The chapter on human rights, for example, was written by Katarina Tomasevski, a fellow at the Danish Center for Human Rights, Copenhagen, Denmark, with the collaboration of Sofia Gruskin, Dean’s Fellow, Center for the Study of Human Rights, Columbia University, New York; Zita Lazzarini, a public health attorney working in Boston on international health and human rights issues; and Aart Hendriks, a legal researcher attached to the Faculty of Law, University of Utrecht, the Netherlands. THE GLOBAL AIDS POLICY COALITION, supra note 5, at 538.
being spent, what has worked, what common features determine success or failure."\(^9\) Although many people generally believe that individual governments are doing something about AIDS, it is difficult to determine exactly what is being done. The editors identify a fundamental problem that threatens to characterize future responses to HIV. Every country amassed painful experiences in crafting governmental responses to HIV. We can either learn from those experiences or we can repeat our mistakes. This book attempts to capture lessons from our collective tragedy and pain.

Our lessons have taught us that responses to HIV can be either effective or ineffective. We have learned that it is not easy to implement effective responses without sufficient social and political support.

For example, we know that proper use of latex condoms can be an effective barrier to HIV transmission. We also know that poor storage or packaging can lead to condom failure.\(^10\) However, the knowledge that condoms work may not be enough; attitudes toward condoms also affects their use.\(^11\) For some couples, condoms may imply infidelity or a lack of trust.\(^12\)

Condom use can raise "beliefs about the efficacy of condoms as a barrier to HIV infection" and misperceptions about HIV altogether.\(^13\) For example, the book describes a group in Tanzania where certain individuals were the first to use condoms because they felt themselves most at risk. This book reveals that "[t]his self-selected group was also among the first to be diagnosed with AIDS—most resulting from infections which occurred long before they started using condoms—and some linked getting AIDS to their adoption of condoms."\(^14\) The book emphasizes that education about the HIV latency period may prevent a similar misconception in another country.\(^15\)

Governments around the world may believe — correctly or not — that it is not always feasible to disseminate information about HIV prevention, even when it is the right thing to do.

\(^9\) Id.
\(^10\) Id. at 395.
\(^11\) Id. at 391.
\(^12\) Id. at 395.
\(^13\) Id. at 391.
\(^14\) Id. at 395.
\(^15\) Id. at 391.
Problems may arise because an effective response to AIDS may be culturally inappropriate. Even when we know the answers, the questions do not cease to be difficult. Should we allow high school students access to condoms, or will increased condom availability only encourage teenagers to have sex? Should we distribute condoms to inmates, or should we simply close our eyes to the sexual activity that occurs in prisons and jails? AIDS in the World does not mandate particular answers to these difficult questions, but instead offers the experiences and attempts at solutions by various countries as possible solutions. Successful solutions can be adapted, with appropriate cultural modifications, for HIV prevention programs in other countries.

AIDS in the World proves we can learn from the experiences of other persons and other countries. We know HIV prevention is entirely possible with proper information, education, health services, social services, and supportive social environments. It is increasingly critical to study our collective responses to HIV as we encounter "new challenges for policy and leadership." We should address those challenges with the knowledge gained from our experiences.

With more than 1000 pages, the size of the book is intimidating. Its size suggests it will be an important reference work, for it includes comprehensive discussions of the critical issues facing countries today. AIDS in the World will undoubtedly fill gaps in the knowledge of those who work in AIDS-related fields, where access to information is often incomplete. Its chapters on potential solutions include increasing access to injection equipment through needle exchange programs, promotion of the "female condom," and a supportive social environment includes a supportive legal environment. See id. at 4.

16. A supportive social environment includes a supportive legal environment. See id. at 4.

17. Id. at 6 (describing the "[n]ew challenges for policy and leadership" as a concern for "the increasing spread of multi-drug resistant tuberculosis; concerns about HIV infections among health care workers; the inequitable distribution of resources and benefits of new scientific research; resurgent threats to human rights and the need to develop a comprehensive human rights-public health alliance; and the battle against denial and complacency").

18. Id. at 685–99. Other harm reduction strategies discussed to reduce HIV transmission among injection drug users (IDUs) are: "drug treatment on demand, low-threshold methadone maintenance programs, provision of housing for IDUs, outreach and education programs, lifting of restrictions on syringes, [and] training pharmacists to provide education when selling syringes." Id. at 685.

19. Id. at 700–07. The "female condom" is also known as the "plastic sheath"
implementation of controversial partner notification plans. To its credit, the book’s discussion of critical issues places a strong emphasis on the consequences of failing to protect human rights. The section on partner notification, for example, wisely concludes that “partner notification can only serve as a public health tool if the human rights of both index persons and their partners are protected.” We should no longer focus on public health control without protecting individual rights.

For those just starting to read about the problems facing persons infected with HIV, *AIDS in the World* provides a comprehensive introduction. The book describes the devastating demographic, economic, and social consequences that has made HIV the greatest health and social problem facing our world today. The book provides hope, however, by relating our many achievements in research, treatment, and prevention.

*AIDS in the World* teaches that the ideas of vulnerability and empowerment are essential in understanding the history and future of the HIV pandemic. These concepts complement the book’s attention to protect the human rights of persons and “has been tested in diverse populations and is becoming available.”

20. Id. at 707–20.
21. Id. at 720.
22. Id. at 538–39 (stating that “[i]ncorporating human rights into public health responses to epidemics has not been easy. Public health developed through centuries by relying on coercion, compulsion, and restriction and, therefore, does not readily adjust to the requirements of human rights”).
23. Id. at 195–226. Reviewing HIV’s impact on demography, economy, and society should stimulate an enhanced response worldwide to both expand prevention efforts and to care more effectively for persons infected and affected by the pandemic. The monitoring and evaluation of AIDS programs are still weak: there is insufficient understanding of what should be measured and how; there is also a lack of commitment to critical and objective assessment of the effects—or lack thereof—of programs or interventions. Social, behavioral, and economic research leadership and effort are desperately required, not only to improve understanding of the dynamics of the pandemic and its impact, but also to be translated, as never before, into public health and societal action and an ever more solid understanding of the inextricable relationship between the individual and public health and between health and society.

24. Id. at 229–535.
25. Id. at 6.
affected by HIV. Emphasizing human rights and personal vulnerability as a risk factor for HIV are major contributions to the battle against HIV.

The chapter on human rights correctly notes that we have entered a new era of public health policy formation. It states that "AIDS is the first worldwide pandemic to occur in the modern era of human rights." This means policy makers must consider both customary and conventional developments in international law relating to human rights as they create policies to control the spread of HIV.

26. See id. at 537-73. The editors note that the heated, intense dialogue between public health and human rights has been one of the most important and unanticipated outcomes of the first decade of the AIDS pandemic. Discrimination has been identified as both counterproductive for public health program effectiveness and as a major underlying cause of ill health worldwide. It is reasonable to speak of a 'revolution' in thinking about health through its inextricable connection with human rights. Yet, the temptation to return to so-called traditional public health approaches is also strong and will intensify as the number of people with AIDS and the economic impact of the pandemic increase during the 1990s. As a result, some people speak of the need to end the special treatment accorded to HIV prevention (translation: special treatment = strong emphasis on human rights as a key component of public health strategies). Rather, as the challenges of AIDS and other major public health problems of the future involve behavior—individual and collective—the value of incorporating human rights norms within public health practice will increase.

27. Id. at 538. Furthermore, AIDS in the World points out that before AIDS, public health laws and measures were rarely, if ever, reviewed by human rights criteria, either in individual countries or by the international human rights bodies. When the AIDS pandemic triggered a whole gamut of coercive and restrictive public health measures, many proved to be incompatible with human rights, and this provided an incentive for in-depth examinations of public health from the viewpoint of human rights.

28. Conventional international law binds countries that sign relevant human rights conventions. See, e.g., U.S. CONST. art. VI, § 2 (stating that "all Treaties made . . . under the Authority of the United States, shall be the supreme law of the Land; and the Judges in every State shall be bound thereby, and Thing in the Constitution or Laws of any State to the Contrary notwithstanding"); RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 701(a) (1987) (stating that "[a] state is obligated to respect the human rights of persons subject to its jurisdiction that it has undertaken to respect by international agreement"). Customary international law arises from the constant
practitioners must design and implement programs that are both "effective in public health terms" and "respect and respond to human rights norms."29

We know, however, many national responses to AIDS "create[] a wide range of human rights problems by imposing coercive or restrictive AIDS control measures."30 For example, Cuba quarantines all persons who are HIV positive,31 although Cuba promised to ameliorate its controversial and unique program.32 AIDS in the World recognizes that "[v]irtually every measure of disease control has human rights implications: public health surveillance may seek and record the identity of infected persons, and people identified as carriers may be subjected to isolation and quarantine."33

The book does not discuss potential human rights violations only in terms of a need to respect human rights, it also describes human rights violations as impediments to the fight

and uniform practice of states if the practice is motivated by a sense of legal obligation. See, e.g., Continental Shelf (Libya v. Malta), 1985 I.C.J. 13, 29–30 (Judgment of June 3); Asylum Case (Colom. v. Peru), 1950 I.C.J. 26, 276 (Judgment of Nov. 20); The Paquete Habana, 175 U.S. 677, 700 (1900); Richard B. Lillich, International Human Rights Law in U.S. Courts, 2 J. TRANSNAT'L L. & POL'Y, 1, 2–3, 13–14 (1993); RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 701(b) (1987) (stating that "[a] state is obligated to respect the human rights of persons subject to its jurisdiction that states generally are bound to respect as a matter of customary international law"). Furthermore, in some instances a court can recognize a treaty as declarative of customary international law that will be binding on a State that is not a party to the treaty. See Vienna Convention on the Law of Treaties, opened for signature May 23, 1969, U.N. Doc. A/Conf. 39/26, art. 38 (1969); Michael Akehurst, Custom as a Source of International Law, 47 BRIT. Y.B. INT’L. 1 (1977); see also RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 701(c) (1987) (stating that "[a] state is obligated to respect the human rights of persons subject to its jurisdiction that it is required to respect under general principles of law common to the major legal systems of the world").

29. THE GLOBAL AIDS POLICY COALITION, supra note 5, at 538.
30. Id. at 539. In another framework, it was noted that "AIDS control is really people control." Michael L. Closen et al., AIDS: Testing Democracy — Irrational Responses to the Public Health Crisis and the Need for Privacy in Serologic Testing, 19 J. MARSHALL L. REV. 835, 848 (1986).
32. Wojcik, Inside Cuba’s AIDS Camps, supra note 31, at 35.
33. THE GLOBAL AIDS POLICY COALITION, supra note 5, at 539.
against AIDS. Human rights violations produce "a discriminatory social environment [that is] counterproductive for HIV information/education and prevention programs." Unfortunately, the "fear of AIDS has prompted the public to support coercive and restrictive measures" that would be intolerable in other areas. The evidence in AIDS in the World shows that supporting discriminatory actions ultimately hinders development of effective public health programs.

An important chapter of this book is the discussion about the different ways in which persons are vulnerable to the HIV infection. First, there is "biological vulnerability" by which any person can contract HIV through sexual intercourse or through blood. Second, there is an "epidemiological reality" that "HIV requires specific, identifiable actions (behaviors) for transmission to occur." Third, personal vulnerability to infection depends on extrinsic factors, beyond the foregoing "two human common denominators," that will "diminish, sustain, or accelerate" progress of the HIV pandemic.

It is the extrinsic factors that compose this third point of personal vulnerability that will determine the effectiveness of an HIV prevention program. The book identifies three factors that may increase personal vulnerability to HIV. First, the lack of "accurate, relevant, and comprehensible" information may increase the spread of the virus. Second, personal vulnerability increases when individuals are not concerned about the dangers of HIV infection. This unconcern may reflect the lack of relevant and comprehensible information. Third, personal vulnerability increases "when the individual lacks [the] skill, ... services, supplies ... and the power or

34. Id. at 540. It further relates that "[t]hreats and coercion toward HIV-infected people had the effect of driving people with risk behaviors away from the health and social services created to help prevent HIV transmission. Thus, from a practical viewpoint, discrimination was viewed as a danger to public health." Id.
35. Id. at 542.
36. Id. at 577.
37. Id. The book emphasizes that "[t]o become infected with HIV, or to transmit it to another person, visible actions must occur involving two or more participants. Precisely because these are visible, specific, and concrete, the transmission of HIV can also be prevented through specific behaviors." Id.
38. Id. at 578.
39. Id. at 579.
40. Id.
confidence to sustain or implement behavior[al] changes." 41 A woman, for example, may understand how HIV is spread, but she may be powerless to force her sexual partner to use a condom.

Unfortunately, the pages setting forth the framework of individual vulnerability is presented in an outline format rather than full text. 42 This format, reminiscent of slides for a medical lecture, does a disservice to the information it attempts to convey about decreasing personal vulnerability to HIV infection. The format is a marked departure from the remainder of the book, which is exceptionally well-written and edited. Perhaps, future editions of the book can place these pages in a text deserving of the material.

*AIDS in the World* is a visionary guidebook of the social, economic, political, and scientific responses to the HIV pandemic. Although the editors disclaim the book's value as a textbook, 43 it could complement a casebook used in courses on legal issues related to HIV. 44 The text will also be a valuable resource to AIDS advocacy groups and to those whose research concerns protecting the human rights of persons with HIV.

This first edition of a global report on the HIV pandemic covers the recognition period in the early 1980s, when the HIV disease was mis-identified as the Gay-Related Immune Deficiency (GRID), through mid-1992. The editors plan future editions to update information in the first edition and offer further analyses on the problems confronting a world living with HIV. 45 The second edition of *AIDS in the World* promises to address AIDS-related discrimination complaints as human rights violations and to compare binding international human rights norms with data on AIDS prevention measures that should conform to the norms of individual countries. 46

41. *Id.*
42. *Id.* at 580–87.
43. *Id.* at 1–2 (stating that "AIDS in the World is a guide, not a textbook; its goal is to provide a coherent picture and essential understanding of the pandemic, the response, and the concept of vulnerability").
44. MICHAEL L. CLOSEN ET AL., AIDS LAW AND POLICY (forthcoming 1994) (manuscript, on file with the author).
46. *Id.* at 540; see also Michael L. Closen & Mark E. Wojcik, *Living with HIV and Without Discrimination*, in INTERNATIONAL LAW AND AIDS 151 (Lawrence Gostin & Lane Porter eds., 1992); Michael L. Closen & Mark E.
The authors have undertaken an ambitious task. It would be tragic if their important work was met with the complacency and denial that faces persons infected with HIV disease. If this book can challenge complacency, denial, or discrimination anywhere, we will all be the better for it.

Mark E. Wojcik*
