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## AIDS 2002, BARCELONA

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## AIDS 2002, BARCELONA

The AIDS epidemic is now entering its third decade of devastation.<sup>1</sup> The number of those infected has reached a staggering 42 million, 5 million of which were reported in 2002 alone.<sup>2</sup> With these statistics, it is has become increasingly clear that battling this virus requires more than the efforts of a single nation. Instead, all nations must band together to overcome the paralyzing consequences of the disease.

By the mid 1990s, the United Nations (“U.N.”) recognized the need for further involvement in prevention of the virus and the factors surrounding the catalyst that helped fuel the spread of the disease. In 1996, the U.N. brought together United Nations Children’s Fund (“UNICEF”), United Nations Development Programme (“UNDP”), United Nations Population Fund (“UNFPA”), United Nations Educational, Scientific, and Cultural Organization (“UNESCO”), World Health Organization (“WHO”), and World Bank to form UNAIDS.<sup>3</sup> Today, UNAIDS is directed by Dr. Peter Piot<sup>4</sup> and is comprised of the original six cosponsors and two additional cosponsors, United Nations International Drug Control Programme (“UNDCP”) and International Labour Organization (“ILO”).<sup>5</sup>

UNAIDS operates on a yearly budget of \$95 million.<sup>6</sup> The donated funds go primarily to research the HIV virus and to prevent the spread of the disease.<sup>7</sup> The majority of the funds enabling

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<sup>1</sup> BBC News, *AIDS Around the World*, available at [http://news.bbc.co.uk/hi/english/static/in\\_depth/world/2001/aids/default.stm](http://news.bbc.co.uk/hi/english/static/in_depth/world/2001/aids/default.stm). (last visited, May 15, 2003).

<sup>2</sup> *Id.*

<sup>3</sup> UNAIDS, *What UNAIDS Does*, available at [www.unaids.org/about/what.asp](http://www.unaids.org/about/what.asp), (last visited May 15, 2003).

<sup>4</sup> UNAIDS, *Biography of UNAIDS Executive Director Peter Piot*, [http://www.unaids.org/about/staff/profiles/Piotbio\\_en.html](http://www.unaids.org/about/staff/profiles/Piotbio_en.html). Since its inception, UNAIDS has been directed by Dr. Peter Piot, the Under Secretary-General of the United Nations. Dr. Piot has dedicated his career to the prevention of the spread of HIV/AIDS and research of the deadly virus. “In 1992, Dr. Piot joined the Global Programme of Aids of the World Health Organization in Geneva, as Associate Director, with responsibilities for HIV research and intervention development.” *Id.*

<sup>5</sup> UNAIDS, *What UNAIDS Does*, *supra* note 3. UNDCP (United Nations International Drug Control Programme) joined UNAIDS in April of 1999 and ILO (International Labour Organization) joined in October of 2001. *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

UNAIDS to continue to battle the disease come from the United States, the Netherlands, the United Kingdom, Sweden, Norway, and Denmark.<sup>8</sup> Its Board of Directors represents twenty-two governments worldwide and representatives from UNAIDS cosponsors and nongovernmental organizations.<sup>9</sup> Each individual country is also invited to participate in Theme Groups to further their efforts to implement effective programs.<sup>10</sup> Currently, there are 134 Theme Groups, which include 155 countries.<sup>11</sup> With a staff of 139 individuals, UNAIDS has played an integral part in setting up programs for the prevention of the spread of HIV and AIDS.<sup>12</sup> In its efforts to raise awareness and prevention, UNAIDS holds an annual AIDS conference in various locations worldwide. In July 2002, UNAIDS held the 14th International AIDS Conference ("the Conference") at the Fira de Barcelona Conference Center in Barcelona, Spain.<sup>13</sup>

The Conference, attended by over 17,000 people<sup>14</sup> from 124 countries,<sup>15</sup> began with the reporting of some grim statistics about the epidemic and its impact on people worldwide. The U.N. reported that the HIV virus could potentially claim up to 65 million more victims by the year 2020.<sup>16</sup> This number is three times the number of victims lost to the disease in the last twenty years since the epidemic began.<sup>17</sup> However, it was also reported that with edu-

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.* The Board also consists of eight of the Representatives of UNAIDS cosponsors and five representatives of nongovernmental agencies, which include those living with the virus and other non-profit organizations researching the disease and implement programs to prevent the spread of the disease. *Id.*

<sup>10</sup> *Id.* Each Theme Group is assigned a United Nations advisor. This advisor is referred to as a Country Programme Advisor (CPA) and serves as a support to provide information and direction to the Theme Groups. *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> See AIDS 2002 Conference, *Welcome to the AIDS 2002 Conference Website: AIDS 2002 Today*, at [www.aids2002.com/home.asp](http://www.aids2002.com/home.asp) (last visited May 15, 2003).

<sup>14</sup> Liz Kresse, *Highlights from the 2002 International AIDS Conference in Barcelona*, U.S. Mayor Articles, Aug. 5, 2002, at [http://www.usmayors.org/uscm/us\\_mayor\\_newspaper/documents/08\\_05\\_02/AIDS\\_Barcelona.asp](http://www.usmayors.org/uscm/us_mayor_newspaper/documents/08_05_02/AIDS_Barcelona.asp) (on file with the New York Law School Journal of Human Rights).

<sup>15</sup> *Id.*

<sup>16</sup> Ben Barber, *AIDS Deaths Expected To Exceed UN Figure*, THE WASHINGTON TIMES, July 4, 2002, at A15, available at <http://asp.washtimes.com/print/article.asp?action=print&ArticleID=20020704-33855832>.

<sup>17</sup> *Id.*

cational programs and condom distribution programs, over twenty-nine million new infections could be prevented by the year 2010.<sup>18</sup>

Although these statistics were both distressing and hopeful, the Conference continued with a positive outlook and a message that established the worldwide need to be proactive in fighting the disease. Some of the major topics covered during the Conference included: the spread of HIV among gay and bisexual men; heterosexual women at risk for contracting the disease; adolescents at risk; the debate over criminal prosecution of those who transmit the virus; the rising cost of care of those infected; and education.

A study conducted by Duncan MacKeller from the Federal Centers for Disease Control in Atlanta was the focus of the Conference's opening day. Statistics released revealed that although testing is readily available in several countries including the United States, many people—particularly gay men—were unaware they were infected and could be unknowingly spreading the disease to others.<sup>19</sup> The study focused on 5,719 gay men interviewed in nightclubs and bars in Baltimore, Dallas, Los Angeles, Miami, New York, and Seattle.<sup>20</sup> Of the 573 men tested after an initial interview, it was revealed that 77% were found to be infected. Most of these men, however, were not aware that they had contracted the virus. Many characterized themselves to be at low-risk for contracting the disease because they had not engaged in high-risk sexual behavior.<sup>21</sup> Of the men tested, the study also revealed that the infection among black males was substantially higher than that of any other group.<sup>22</sup> Of the data collected in 2000, results indicated that the black population had the highest percentage of infection at 43% of all individuals infected.<sup>23</sup> Phil Wilson, Executive Director of the African-American AIDS Policy and Training Institute in Los Angeles, revealed that “[t]he study shows that the very men who are at the greatest risk of HIV infection are those who are least likely to think

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<sup>18</sup> Press Release, UNAIDS/WHO, *Scaling Up Interventions Could Prevent 29 Million New HIV Infections Among Adults By 2010* (July 3, 2002), available at [http://www.unaids.org/whatsnew/press/eng/pressarc02/Lancet\\_org040702.html](http://www.unaids.org/whatsnew/press/eng/pressarc02/Lancet_org040702.html).

<sup>19</sup> Lawrence K. Altman, *AIDS Study Finds Many Unaware They Have the Virus*, N.Y. TIMES, July 8, 2002, at A1, available at <http://query.nytimes.com/gst/abstract.html?res=F20813FF3D540C7B8CDDAE0894DA404482>.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

they are at risk.”<sup>24</sup> In addition, Mr. Wilson stated, “[t]he reality is also that many African-Americans are not within the health care system.”<sup>25</sup>

While the study released by the Centers for Disease Control focused on gay males with an emphasis on black gay males who are unaware they are infected, many women and youths are also unaware that they carry the deadly disease. The spread of the virus among heterosexual women, who now account for slightly over 50% of those infected worldwide,<sup>26</sup> is particularly troubling primarily because their environment may predispose them to contracting the disease. In regions such as the Middle East and Africa, where heterosexual sex is the main form of transmission, women are twice as likely to contract the disease.<sup>27</sup> Many of these women are more likely to marry older men who are infected with the virus in their quest to gain financial security. In turn, women in these situations are less likely to be in a position to practice safe sex or end relationships with the men who put them at risk.<sup>28</sup> In addition, young women are less likely to be educated on the prevention of the spread of the disease in these regions.<sup>29</sup> The reports released at the Conference indicate that increasing awareness for the prevention of HIV and AIDS may be one of the greatest challenges.<sup>30</sup>

In three reports released at the Conference, findings indicate that the culturally influenced behaviors discussed above contributed significantly to the spread of HIV among heterosexual women.<sup>31</sup> In a survey of 160 women in Bangladesh, 25% said that they had not learned anything about sex prior to the time they were married and were often physically forced to have sex with their partners after marriage.<sup>32</sup> A study in India published by the International Center for Research revealed that women in that country also

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<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> BBC News, *HIV Hits Women Hardest* (Nov. 26, 2002), available at <http://news.bbc.co.uk/2/hi/health/2516273.stm>.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> The Henry J. Kaiser Family Foundation, *Global Challenges: Cultural, Sexual, Gender Roles Contribute to Spread of HIV, Studies Find* (July 9, 2002), available at [www.kaisernetwork.org/daily\\_orgreports/rep\\_orgindex.cfm?DR\\_orgID=12202](http://www.kaisernetwork.org/daily_orgreports/rep_orgindex.cfm?DR_orgID=12202).

<sup>32</sup> *Id.*

suffered from the same ignorance and were similarly situated as Bangladeshi women. When physical force is a factor, women are unable to protect themselves from contracting the disease with the use of a condom.<sup>33</sup>

Although women in the regions specified above are deprived of the education needed to prevent contracting the disease, women who have access to education often ignore the warnings. A survey conducted in California by the Centers for Disease Control reported that most women were aware of the risk of transmission of HIV, yet most chose not to use condoms because they wanted to "feel close to their partners."<sup>34</sup> Similarly, emotional and social influences are also factors in the spread of the disease among adolescents worldwide.

According to a study released at the Conference, it was found that youths are especially at risk for contracting the disease because of their emotional and biological development.<sup>35</sup> Most adolescents are eager to explore and experiment with new things such as drugs and alcohol which impair their judgment in an already confusing time.<sup>36</sup> This experimentation, coupled with messages received from advertisements, television, and movies glamorizing promiscuous sexual behavior without consequence, often leads to risk-creating sexual behavior.<sup>37</sup>

This finding is enforced by another report released at the Conference regarding the impact of the epidemic on young people. The report revealed that approximately one-third of those infected with the HIV virus worldwide in 2001 were between the ages of 15 and 24. Of those infected, most of these young people did not believe they were in a high risk category for contracting the disease and were unaware they were infected, as is true of most high-risk groups.<sup>38</sup>

While efforts to identify high-risk groups have been successful and awareness among those groups for preventing the disease has increased, the question still remains whether infected individuals

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<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Center for AIDS Prevention Studies, *What are Adolescents' HIV Prevention Needs?*, available at <http://www.caps.ucsf.edu/adolrev.html> (updated Apr. 1999).

<sup>37</sup> *Id.*

<sup>38</sup> The Henry J. Kaiser Family Foundation, *supra* note 31.

who transmit the virus should be punished through criminal prosecution. Although the laws in many jurisdictions are unclear on the issue of whether criminal prosecution of those who transmit the virus can and should be pursued, the topic has been widely debated and was also a focal point at the Conference.<sup>39</sup>

Amid the debate, the report "Criminal Law, Public Health and HIV Transmission" (released at the Conference by UNAIDS) stated that the use of criminal prosecution of those who transmit the virus as a deterrent should not be pursued.<sup>40</sup> The report advocated that instead, countries should use public health law to their advantage to reduce transmission.<sup>41</sup> Public health laws may be more flexible than criminal laws, which will allow public health officials to intervene only when necessary.<sup>42</sup> Factors that may make intervention necessary and underlie risk-creating behavior include the presence of addiction to a controlled substance, poverty, and the exhibition of violent behavior.<sup>43</sup> Implementing public health laws rather than criminal prosecution would, in turn, protect individual liberties as well as the health of the general public.<sup>44</sup> Although criminal prosecution for those who transmit the virus may potentially act as a deterrent for unsafe sexual behavior, Marika Fahlen, Director of Social Mobilization and Information at UNAIDS, cautioned that such action must be measured carefully so as to avoid stigmatization and discrimination.<sup>45</sup>

The report warns that aside from the risk of stigmatization and discrimination, there can be other negative results of criminal prosecution for the transmission of the disease which could be greater than the benefit of such actions.<sup>46</sup> Of primary concern is the negative public health message that could be sent and the false hope conveyed that one is protected in some way from contracting the

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<sup>39</sup> Lisa Speissegger et al., *Criminal Transmission and Exposure* (Mar. 15, 2001), Health Policy Tracking Service, at <http://www.stateserv.hpts.org/HPTS2001/issueb2001.nsf/970e745f9e50ddca852564f0007b3abd/5dd4e9352d4ac05c852568a0007211b8?OpenDocument>.

<sup>40</sup> Press Release, UNAIDS, Avoid Using Criminal Law for HIV, Says New UNAIDS Report (July 10, 2002), available at [http://www.unaids.org/whatsnew/press/eng/pressarc02/Criminallaw\\_org100702.html](http://www.unaids.org/whatsnew/press/eng/pressarc02/Criminallaw_org100702.html).

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

virus because of potential criminal prosecution of an infected partner.<sup>47</sup> Aside from the false sense of security criminal prosecution may present for those who are not presently infected with the virus, those who are infected may not seek the help they need from counselors or other health care workers because of the fear that they will be criminally charged with transmission of the virus.<sup>48</sup>

While there was no clear resolution to whether or not criminal prosecution of those who transmit the virus should be pursued, it is clear that more needs to be done to fight the deadly disease. Therefore, another focal point of the Conference was the issue of where money was best spent to fight the epidemic. Several speakers, including UNAIDS Director Peter Piot, urged politicians worldwide to focus their energy on fighting the virus through greater financial contributions to treat the disease and implement educational programs.<sup>49</sup>

In a study performed by Michael Saag of the University of Alabama, results from data collected indicated that the average cost of treatment and care for a person suffering from AIDS in the United States is approximately \$34,000 per year.<sup>50</sup> Care for a HIV positive patient averaged out around \$14,000 per year.<sup>51</sup> Most of the cost involved is attributed to the excessive cost of medications used to treat the virus, which can run between \$11,000 and \$24,000 per year depending on how sick or well the patient is.<sup>52</sup>

Piot acknowledged that there had been a 600% increase in funds raised to fight the virus since 1998. However, he added that those funds were not directed in the places where they are most needed—particularly to nations in the low- and middle-income range.<sup>53</sup> Although many of these nations are working with limited

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<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> The Henry I. Kaiser Family Foundation, *Daily HIV/AIDS Report: International AIDS Conference: XIV International AIDS Conference Opens Amid Calls for Increased Commitment from Political Leaders* (July 8, 2002), at [www.kaisernetwork.org/daily\\_orgreports/rep\\_orgindex.cfm?DR\\_orgID=12164](http://www.kaisernetwork.org/daily_orgreports/rep_orgindex.cfm?DR_orgID=12164).

<sup>50</sup> The Henry I. Kaiser Family Foundation, *Daily HIV/AIDS Report: Drug Access: Annual U.S. Health Care Costs Per AIDS Patient Average \$34,000, Analysis Says* (July 11, 2002), at [www.kaisernetwork.org/daily\\_orgreports/rep\\_orgindex.cfm?DR\\_orgID=12268](http://www.kaisernetwork.org/daily_orgreports/rep_orgindex.cfm?DR_orgID=12268).

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> The Henry I. Kaiser Family Foundation, *Daily HIV/AIDS Report: International AIDS Conference*, *supra* note 49.



funds, it was also reported during the Conference that there is some progress being made to raise awareness of the virus and its prevention.

Although South Africa suffers the largest rate of infection worldwide and has limited funds for combating the disease, the South African government has made efforts to reach those most at risk for contracting the disease. At the Conference, the South African government announced its plans to continue its national HIV prevention program targeted at youths. The program, named "LoveLife", is an aggressive educational campaign in which prevention messages are conveyed through several mediums, such as television ads, websites, billboards, and cars colored with informational messages.<sup>54</sup> South Africa reported that teens are getting the message. In a survey released at the Conference, 62% knew of the program and 75% said they were aware of the risks involved in practicing unsafe sex.<sup>55</sup> Dr. David Harrison, the director of LoveLife, said that "[t]here is early evidence that LoveLife is on track and could change the course of the epidemic in five years."<sup>56</sup>

The Conference closed with former United States President William Clinton and former South African President Nelson Mandela speaking jointly to urge other world leaders and members of the corporate sector to join together to fight HIV and AIDS.<sup>57</sup> The focus of Clinton's speech was to urge America to provide aid to under-developed countries for treatment and prevention programs.<sup>58</sup> He also made a plea to other world leaders to unite in support of lowering prices of drugs used to treat the virus.<sup>59</sup> Ending his speech on a positive note, Clinton added that having the disease is not a "badge of shame," as it does not discriminate who it infects, and can affect any group.<sup>60</sup>

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<sup>54</sup> The Henry I. Kaiser Family Foundation, *Daily HIV/AIDS Report: Public Health & Education: LoveLife Campaign Shows Signs of Influencing Sexual Behavior of South Africa Youth* (July 9, 2002), at [www.kaisernetwork.org/daily\\_orgreports/rep\\_orgindex.cfm?DR\\_orgID=12200](http://www.kaisernetwork.org/daily_orgreports/rep_orgindex.cfm?DR_orgID=12200).

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> The Henry I. Kaiser Family Foundation, *Daily HIV/AIDS Report: International AIDS Conference: Clinton, Mandela Call for 'Strong Leadership' Against HIV/AIDS at Closing Ceremonies* (July 15, 2002), at [www.kaisernetwork.org/daily\\_orgreports/rep\\_orgindex.cfm?DR\\_orgID=12306](http://www.kaisernetwork.org/daily_orgreports/rep_orgindex.cfm?DR_orgID=12306).

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

Mandela's speech focused on leadership in combating the disease.<sup>61</sup> He spoke of the need for South Africa to expand its testing to make it more available to those at risk and for those infected to be more eager to reach out, warning that, "[w]hen you keep quiet, you are . . . signing your own death warrant."<sup>62</sup>

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<sup>61</sup> *Id.*

<sup>62</sup> The Henry I. Kaiser Family Foundation, *Daily HIV/AIDS Report: International AIDS Conference*, *supra* note 57.

