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TRIBUTE

ON THE SUDDEN LOSS OF A HUMAN RIGHTS ACTIVIST: A TRIBUTE TO DR. JONATHAN MANN'S USE OF INTERNATIONAL HUMAN RIGHTS LAW IN THE GLOBAL BATTLE AGAINST AIDS

MARK E. WOJCIK*

[H]elping to educate people about human rights may ultimately be as important, or even more important, for their health than any specific AIDS educational program. - Jonathan M. Mann¹

Dr. Jonathan M. Mann was the author of numerous books and articles on HIV and human rights. Although he was not a lawyer, his prolific work included many law-related publications and one essay in *The John Marshall Law Review*.² In that essay, Dr. Mann argued that general principles of international human rights law, and specifically those grounded in the *Universal Declaration of Human Rights*³ and its progeny,⁴ should guide

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1. Dr. Jonathan M. Mann, *Human Rights and AIDS: The Future of the Pandemic*, 30 J. MARSHALL L. REV. 195, 204 (1996).

2. *Id.*

3. G.A. Res. 217A(III), U.N. GAOR, 3d Sess., U.N. Doc. A/810 (1948) (unanimously adopted on December 10, 1948 by the United Nations General Assembly).

4. See, e.g., International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16), at 52, U.N. Doc. A/6316 (1966) (entered into force Mar. 23, 1976); International Covenant on Economic, Social, and Cultural Rights, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16), at 49, U.N. Doc. A/6316 (1966) (entered into force Jan. 3, 1976); Convention on the Elimination of All Forms of Discrimination Against Women, *opened for signature* Mar. 1, 1980, 19 I.L.M. 33 (entered into force Sept. 3, 1981); Convention on the Rights of the Child, G.A. Res. 44/25, U.N. GAOR, 44th Sess., Supp. No. 49, at 166, U.N. Doc. A/44/736 (1989); see also U.N. CHARTER, art. 1, ¶ 3 (including among the purposes of the United Nations the desire "[t]o achieve international cooperation in solving

medical personnel, public health policy makers, and governments in their responses to HIV and AIDS. His article reflected a global vision that the only appropriate responses to the HIV and AIDS pandemic would link human rights to public health.

On September 2, 1998, Dr. Mann and his wife were among the passengers killed in a tragic airplane crash off the coast of Nova Scotia, Canada.⁵ They were on their way to an AIDS conference in Geneva. "In the crash of Swissair Flight 111," as one obituary noted, "the world lost a major force in the battle against AIDS and social injustice."⁶ There were no survivors of the crash.

Jonathan Mann received a B.A. degree, *magna cum laude*, from Harvard College in 1969 and a medical degree from Washington University in 1974. He interned at Beth Israel Hospital in Boston, where he impressed other doctors with the strength of his compassion.⁷ From 1975 to 1977, Dr. Mann served in New Mexico as an Epidemic Intelligence Service Officer with the Centers for Disease Control. He remained in New Mexico to work as a state epidemiologist. Observers recalled that he had "great energy and dedication" in attacking outbreaks of unusual diseases in the state, such as botulism.⁸ He would bring this energy and dedication with him when he moved to Africa.

When Dr. Mann was living in Kinshasa, Zaire, he began work that would try to shake the world from its denial of heterosexual transmission of AIDS.⁹ He also tried to alert the world of risks in mother-to-child transmission of the disease.¹⁰ He created "Project SIDA," an international AIDS research project involving the U.S. Centers for Disease Control, the National Institutes of Health, the Institute of Tropical Medicine, and the Ministry of Health of the Republic of Zaire. He directed the program from 1984 until 1986, when he joined the World Health Organization (WHO).

international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion . . .").

5. See, e.g., Peter Wehrwein, *Jonathan Mann and Mary Lou Clements-Mann Killed in Airplane Crash*, 352 LANCET 9131 (1998); *AIDS Expert and U.N. Officials are Among 229 Killed in Air Disaster*, IRISH TIMES, Sept. 4, 1998, at 1.

6. *Obituaries*, 317 BRITISH MED. J. 754, 754 (1998).

7. See, e.g., Rebecca Voelker, *Tragic Loss of Leaders in AIDS and Public Health*, 280 J. AM. MED. ASS'N 1037, 1037 (1998).

8. See *id.*

9. Many public health officials denied the existence of heterosexual transmission of HIV because the initial reports about the disease in the United States were connected to gay men. See, e.g., *Kaposi's Sarcoma and Pneumocystis Pneumonia Among Homosexual Men—New York City and California*, 30 MORBIDITY & MORTALITY WEEKLY REP. 305 (1981).

10. See Voelker, *supra* note 7, at 1037 (noting also that Dr. Mann "was adamant about shaking people out of their denial about this epidemic").

At WHO, Dr. Mann founded the United Nations' Special Programme on AIDS. This program recognized that international cooperation was essential to combat the disease: "Assurance of global collaboration is of the highest priority, for AIDS cannot be stopped in any country until it is stopped in all countries."¹¹ The program, which was later renamed as the Global Programme on AIDS, also developed evidence that the only effective responses to HIV were those that respected the human rights of persons affected by the disease. This stance influenced subsequent declarations on AIDS by focusing not only on the need for international cooperation, but on the protection of human rights as a fundamental public health strategy.¹² Mann's advocacy for the protection of human rights as a key to public health also came in severe contrast to the positions of some governments and public health officials who argued that the only effective response to AIDS was to imprison¹³ or deport¹⁴ persons with the virus.

Complacency about the threat of AIDS was a source of severe discouragement to Dr. Mann. He fought desperately to expand the World Health Organization's activities in the fight against AIDS, but he was thwarted by the leadership of the World Health Organization who did not consider the disease to be a priority as compared to other diseases. Mann's frustration with the WHO bureaucracy led to his resignation in protest in 1990.¹⁵ When he

11. WORLD HEALTH ORGANIZATION SPECIAL PROGRAMME ON AIDS, PROGRESS REPORT NUMBER 1, WHO/SPA/GEN/87.2 (Apr. 1987), *reprinted in* MICHAEL L. CLOSEN ET AL., AIDS: CASES AND MATERIALS 922 (1989).

12. *See, e.g., London Declaration on AIDS Prevention* (Jan. 28, 1988), *reprinted in* MICHAEL L. CLOSEN ET AL., AIDS: CASES AND MATERIALS 924-26 (1989) ("We emphasize the need in AIDS prevention programmes to protect human rights and human dignity. Discrimination against, and stigmatization of, HIV-infected people and people with AIDS and population groups undermine public health and must be avoided."); United Nations General Assembly Resolution 46/203, A/46/727 (Dec. 20, 1991), *reprinted in* ARTHUR S. LEONARD ET. AL., AIDS LAW AND POLICY 522, 522-23 (1995) ("The General Assembly . . . URGES Member States and, where appropriate, intergovernmental organizations, to protect the human rights and dignity of HIV-infected people, people with AIDS and members of particular population groups, and to avoid discriminatory action against and stigmatization of them in the provision of services, employment and travel . . .").

13. *See, e.g.,* Michael L. Clozen & Mark E. Wojcik, *Living With HIV and Without Discrimination*, in AMERICAN BAR ASSOCIATION SECTION OF INTERNATIONAL LAW AND PRACTICE, INTERNATIONAL LAW AND AIDS: INTERNATIONAL RESPONSES, CURRENT ISSUES, AND FUTURE DIRECTIONS 151, 153 (Lawrence Gostin & Lane Porter, eds., 1992); Mark E. Wojcik, *Inside Cuba's Sidorios*, *Outlines* (Jan. 1993), *reprinted in* ARTHUR S. LEONARD ET. AL., AIDS LAW AND POLICY 548, 548-51 (1995).

14. *See, e.g.,* 136 CONG. REC. S5738 (daily ed. May 7, 1990) (statement of U.S. Senator Jesse Helms that he "intend[s] to do everything [he] can to see that the AIDS immigration prohibition remains in place").

15. *See, e.g., WHO's Director of AIDS Program to Leave Position*, WALL. ST. J., Mar. 19, 1990, at B7; *Official Quits U.N. Job in Dispute Over Global*

resigned, the entire staff of the Global Programme on AIDS formed a human corridor and applauded him as he walked through it, an emotional tribute to his vision and advocacy.¹⁶

His resignation stunned the AIDS community and marked a personal transition in his life. Dr. Mann went from being a U.N. bureaucrat to becoming a global AIDS activist. AIDS was a disease that required more of a response than the World Health Organization was willing to give. Dr. Mann joined the Harvard faculty where he was quickly recognized as a leading scholar and human rights advocate. He became the François-Xavier Bagnoud Professor of Health and Human Rights at the Harvard School of Public Health. His courses were among the most popular at Harvard and he was repeatedly elected as an outstanding teacher of the year.¹⁷

Dr. Mann also used his base at Harvard to found the Global AIDS Policy Coalition, an international think tank that created *AIDS in the World*,¹⁸ an important work documenting responses to HIV from around the globe. The emphasis on human rights in that book—which mirrored the emphasis on human rights in Dr. Mann's personal philosophy and advocacy—helped to document social, economic, political, and scientific responses to the HIV pandemic within a human rights framework.¹⁹

In December of 1996 Dr. Mann married Mary Lou Clements, a noted vaccine expert.²⁰ The help of his new wife allowed Mann to focus more of his work on a possible HIV vaccine. It also produced another job change: he left Harvard for Philadelphia in late 1997 to be closer to his wife²¹ and to become Dean of the new School of Public Health at Allegheny University of the Health Sciences.²²

Dr. Mann spent much of his career in educating others about the linkage of health and human rights. Because he recognized that his own students at Harvard would become fighters on the front line, he started giving students copies of the *Universal*

Campaign on AIDS, N.Y. TIMES, Mar. 17, 1990, at A1.

16. See Voelker, *supra* note 6, at 754; Daniel Tarantola, *Obituary: Jonathan Mann and Mary Lou Clements-Mann*, INDEP. (LONDON), Sept. 5, 1998, at 6.

17. *Obituaries*, 317 BRIT. MED. J. 754, 754 (1998).

18. Dr. Mann was the lead editor of the book. THE GLOBAL AIDS POLICY COALITION, *AIDS IN THE WORLD* (Jonathan M. Mann, Daniel J.M. Tarantola, & Thomas W. Netter, eds., 1992).

19. See Mark E. Wojcik, *Book Review: AIDS in the World*, 16 HOUS. J. INT'L L. 713 (1994).

20. Dr. Clements-Mann was a professor at the John Hopkins School of Hygiene and Public Health and principal investigator for the U.S. National Institutes of Health. Wehrwein, *supra* note 5, at 9131. She had worked in India with the WHO campaign to eradicate smallpox and had conducted research on several influenza vaccines. See *id.*

21. See Voelker, *supra* note 7, at 1037.

22. See Mia Geiger, *Harvard Professor Lands at Allegheny*, PHILADELPHIA BUS. J., Dec. 12, 1997, at B2.

Declaration on Human Rights at the same moment as they received their diplomas. Dr. Mann explained this practice in his article in *The John Marshall Law Review*:

Once we acknowledge that the goal of public health, beyond HIV/AIDS, is to “ensure the conditions in which people can be healthy,” and recognize the enormous burden of evidence which tells us that societal factors are the dominant determinants of health status, we realize that, ultimately, to work for public health is to work for societal transformation. Linking human rights with health offers us a coherent vision of how to add the critical societal dimension to our public health work which, all too often, has stopped at the threshold of real societal issues.

For this reason, since 1990, all graduates of the Harvard School of Public Health receive two scrolls at Commencement. The first is the degree they have earned. The second is a copy of the *Universal Declaration of Human Rights*, their common birthright. The Dean reminds graduates that the *Universal Declaration of Human Rights* is as vital to their future in public health as the Hippocratic Oath, or similar document would be to a medical doctor. In this way, we symbolize the inherent, rich, complex, difficult and ultimately indispensable linkage between society and health, for which we in public health have a special role and responsibility.

I believe it is for this reason that after fifteen years of struggle against a global pandemic, despite the burden of death and illness, those working on HIV/AIDS can carry forward a message of hope and confidence. Not only a confidence in our ability to continue learning and understanding, but a confidence in our belief about the value of human rights and human dignity. This gives us hope and confidence in each other, in ourselves, and ultimately, in our world and its future.²³

In tribute to Dr. Mann and his unfinished work, the text of the *Universal Declaration on Human Rights* is included in this issue of *The John Marshall Law Review*. The 50th anniversary of the *Declaration* will have passed by the time of publication of this issue, but, as Dr. Mann taught us, the principles for which the *Declaration* stands are timeless.

23. Mann, *supra* note 1, at 204 (footnote omitted) (emphasis added).

APPENDIX

UNIVERSAL DECLARATION OF HUMAN RIGHTS²⁴

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among

24. G.A. Res. 217A(III), U.N. GAOR, 3d Sess., U.N. Doc. A/810 (1948) (unanimously adopted on December 10, 1948 by the United Nations General Assembly).

the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

1. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.

2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

2. Everyone has the right to equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social

security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious

groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

