



PANCAP Champions for Change Initiative- Champions for Change: Ending AIDS by 2030

The Right Honourable Sir Dennis Byron,
President of the Caribbean Court of Justice

The PANCAP Champions for Change IV Re-Launch

The Guyana Marriott Hotel, Georgetown, Guyana
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The Pan Caribbean Partnership Against HIV and AIDS, PANCAP, was established by a Declaration of CARICOM Heads of Government on 14 February 2001 in response to the threat of HIV to sustainable human development. PANCAP is a Caribbean regional partnership of governments, regional civil society organisations, regional institutions and organisations, bilateral and multilateral agencies and contributing donor partners.

Keynote Address

By

The Right Honourable Sir Dennis Byron, President of the Caribbean Court of Justice,

on the occasion of

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Protocols.

Introduction

I am grateful for the honour of addressing you today on the re-launch of the “Champions for Change” initiative which has been spearheaded by the Pan Caribbean Partnership Against HIV/AIDS (PANCAP). Today’s formal recommitment to collective and decisive action to end AIDS in our Region by 2030, is timely and significant in fighting what the late Nelson Mandela, classified as “a war against humanity”¹.

It cannot be denied that HIV/AIDS is a chronic problem and a major public health threat in the Caribbean. Our communities have been ravaged by its impacts and our future threatened.

What is worse, the gains that were made over the last decade have virtually been undone. The UNAIDS Prevention Gap 2016 Report reveals that:

“In the Caribbean, new HIV infections among adults rose by 9% between 2010 and 2015, reversing gains made in the previous decade. In 2015, the annual number of

¹ ‘Mandela calls for end to Aids stigma’ (BBC, 12 July 2002) <<http://news.bbc.co.uk/1/hi/health/2123957.stm>> accessed 6 September 2017.

new HIV infections in the Caribbean was estimated at 9,000. Despite its small population size, the Caribbean has the second-highest HIV prevalence globally after sub-Saharan Africa.”²

All of this is against the background that it is possible to end the epidemic! The United Nations Children’s Fund (UNICEF), has noted “The face of HIV/AIDS has dramatically changed in the last 15 years. An HIV diagnosis is no longer a death sentence: early detection, together with treatment and care, can ensure long, healthy lives and prevent transmission of the virus to others.”³

Several factors have contributed to the Caribbean’s regression in addressing the epidemic. Apart from some communities having been left behind in one way or the other, the prevalence and pervasiveness of stigma and discrimination are among the *foremost* barriers to HIV prevention, treatment, care and support.⁴ If we are to achieve the vision to end AIDS by 2030, we must have “all hands on deck” and must attack the epidemic from every possible angle, using every available strategy and resource.

What is therefore required is an all-encompassing strategy in which all sectors, including the justice sector, is engaged. This will be the focus of my address this morning as I share with you on the topic of Judicial Attitudes and HIV/AIDS: Positioning the judiciary to effectively contribute to ending AIDS by 2030.

I recall the words of the late Jonathan Mann, former Director of the World Health Organization’s (WHO) Global Programme on AIDS, who, in identifying the 3 phases of the HIV

² Avert, ‘HIV and AIDS in Latin America The Regional Overview’ <<https://www.avert.org/professionals/hiv-around-world/latinamerica/overview>> accessed 10 September 2017 citing the Joint United Nations Programme on HIV/AIDS (UNAIDS), ‘Prevention Gap Report’ <http://www.unaids.org/sites/default/files/media_asset/2016-prevention-gap-report_en.pdf> (citations omitted).

³ UNICEF Data, ‘Can we eliminate AIDS by 2030?’ (13 July 2016) <<https://blogs.unicef.org/evidence-for-action/can-eliminate-aids-2030/>> accessed 10 September 2017.

⁴ Joint United Nations Program on HIV/AIDS (UNAIDS), ‘Guidance Note: Reduction of HIV-related stigma and discrimination’ (2014) <http://www.unaids.org/sites/default/files/media_asset/2014unaidsguidancenote_stigma_en.pdf> accessed 10 September 2017 (emphasis added).

epidemic (the epidemic of HIV; the epidemic of AIDS; and the epidemic of stigma, discrimination and denial), observed that “the third phase is ‘as central to the global AIDS challenge as the disease itself’”⁵. He described this phase as an epidemic “‘... of social, cultural, economic and political reaction to AIDS, [which] is also worldwide’” and which “would be intensified by ‘[f]ear and ignorance’”.⁶

The detrimental impact of stigma and discrimination was candidly highlighted by the late Nelson Mandela who stated that, “Stigma, discrimination and ostracism are the real killers”⁷.

This was expanded upon in the 2010 PANCAP Regional Policy on HIV Related Stigma and Discrimination which notes that, “HIV stigma and discrimination undermines prevention efforts and access to treatment, care and support as people are afraid to get tested and know their status for fear of disclosure and the consequences resulting from even the suspicion of an HIV positive status.”⁸ A practical example of how this manifests was recounted in Sir Clare Roberts’ contribution to one of the leading compendiums of HIV and Human Rights in the Caribbean that: an HIV-positive man in Jamaica reportedly indicated that, “With HIV, because it’s seen as a gay thing, there’s a lot of shame. If someone finds out they are positive, they’re afraid that everyone will assume they are gay, so it’s best to keep it to yourself”⁹.

⁵ PANCAP, ‘Regional Policy on HIV Related Stigma and Discrimination’ (2010) p 8 citing Jonathan Mann, Statement at an informal briefing on AIDS Paper read at 42nd session of the United Nations General Assembly (20 Oct 1987, New York) p 1.

⁶ Gerry Kearns, ‘HIV, AIDS and the global imaginary’ in Clare Herrick and David Reubi (eds), *Global Health and Geographic Imaginaries* (Routledge 2017) p 15 citing Jonathan Mann, Statement at an informal briefing on AIDS Paper read at 42nd session of the United Nations General Assembly (20 Oct 1987, New York) pp 1, 3.

⁷ PANCAP, ‘Regional Policy on HIV Related Stigma and Discrimination’ (2010), p 8.

⁸ PANCAP (n 7) 11.

⁹ Clare K. Roberts, ‘HIV, AIDS and Human Rights in the Caribbean’ in George Alleyne and Rose-Marie Belle Antoine (eds), *HIV & Human Rights: Legal and Policy Perspectives on HIV and Human Rights in the Caribbean* (University of the West Indies Press, 2013) 105 citing S Cole, ‘Closet of the Caribbean’, *Positive Nation* April 2006.

Situational Analysis: Context for the relaunch of the ‘Champions for Change (IV)’

initiative

Today’s re-launch is positioned within a unique convergence of events. It comes after the programme’s hiatus since 2008; follows the “groundbreaking vision” for zero new HIV infections, zero discrimination, zero AIDS-related deaths¹⁰ and the UNAIDS treatment targets that by 2020, 90% of all people living with HIV will know their HIV status: 90% of all people with diagnosed HIV infection will receive sustained antiretroviral therapy: and 90% of all people receiving antiretroviral therapy will have viral suppression.

It also comes on the heels of significant advancements within the Region. The first is the significant progress made towards achieving the 90-90-90 targets. The 2017 Global AIDS Update^{11,12}, reports that in 2016, 64% of people living with HIV in the Caribbean knew their status; 81% of people living with HIV who knew their status were on treatment; and 67% of people on treatment were virally suppressed. 2016 also saw a continued increase in the number of persons accessing antiretroviral therapy and the concomitant reduction in AIDS-related deaths to an estimated 9,400.¹³ In 2015, Cuba made regional and global history when it was validated by the World Health Organization (WHO) as the first country in the world to have successfully eliminated mother-to-child transmission of HIV.¹⁴ Mention must also be made of PANCAP’s

¹⁰ Joint United Nations Programme on HIV/AIDS (UNAIDS), ‘Getting to Zero: 2011 – 2015 Strategy’ (2010) http://www.unaids.org/sites/default/files/sub_landing/files/JC2034_UNAIDS_Strategy_en.pdf accessed 8 September 2017.

¹¹ Joint United Nations Programme on HIV/AIDS (UNAIDS), Global AIDS Update: ‘Ending AIDS – Progress Towards the 90-90-90 (2017), p

¹² . See also PANCAP, ‘Director’s Message – Reaction to UNAIDS Report July 2017’ <<https://pancap.org/pancap-releases/directors-messagereaction-to-un aids-report-july-2017/>> accessed 8 September 2017.

¹³ UNAIDS (n 4) 141.

¹⁴ World Health Organization (WHO), ‘WHO validates elimination of mother-to-child transmission of HIV and syphilis in Cuba’, 30 June 2015 <<http://www.who.int/mediacentre/news/releases/2015/mtct-hiv-cuba/en/>> accessed 8 September 2017.

“Justice For All” (JFA) initiative, which focused on creating a facilitating environment to reduce HIV-related stigma and discrimination in the Caribbean and led to the development of a comprehensive Roadmap. This Roadmap was a follow up to the 2011 United Nations (UN) High Level Meeting Political Declaration and is complementary to the UNAIDS 90-90-90 goals.

There was also PANCAP’s development of the Regional Policy on HIV Related Stigma and Discrimination in 2010 and the 2012 CARICOM Model Anti-Discrimination Bill, which proposes a comprehensive, harmonized legislative response to discrimination in various settings and on various bases, including a person’s HIV status. Among our achievements, we must also recognize the great work done by regional stalwarts such as Sir George Alleyne and Professor Rose-Marie Belle Antoine not least among these being their scholarly and editorial contributions to the seminal compilation ‘HIV & Human Rights: Legal and Policy Perspectives on HIV and Human Rights in the Caribbean’ which gives a comprehensive and extensive view of the Region’s legal and policy-based response to AIDS. This work provides the context as well as a critical assessment of that response.

There has also been action at the national level targeted towards bringing countries into compliance with their international and regional obligations and commitments. In most cases, however, the legislative response to anti-discrimination has been confined to the workplace. For example, this year, Trinidad and Tobago launched its revised National Work Policy on HIV & AIDS. Despite these advancements, however, we remain crippled by fear, stigma and discrimination. This was recently acknowledged by Cesar Núñez, Director of the UNAIDS Regional Support Team for Latin America and the Caribbean, during an address to the Caribbean

Cytometry & Analytical Society (CCAS) last month when he noted that, "...Our reality is that the potential impact of game-changing scientific advances is being undermined by ignorance, fear, shame, prejudice and exclusion".¹⁵

But what are we to do? The challenge issued by CCAS Chairman, Professor Clive Landis, is appropriate even to us here:

"...we have a choice. We either change our message...Or, we just accept the status quo where fear and stigma rule our hearts and minds, preventing persons from wanting to know their status and blocking them from having the confidence to access the available care".¹⁶

Judicial Attitudes and HIV/AIDS: Positioning the judiciary to effectively contribute to ending AIDS by 2030

HIV/AIDS affects every aspect of the human condition and, as such, it requires an informed, rational and just response if we are to be successful in ending the epidemic. This premise is relevant to the judiciary in the discharge of its duties as guardian of the due administration of justice and protector of human rights. The Hon. Justice Michael Kirby pointed out that the judiciary's response to HIV/AIDS extends beyond a strict, rudimentary exercise of the judicial function as the epidemic, "is fundamentally about human beings, fellow citizens...It is not about the law, as such. ."¹⁷

¹⁵ 'HIV/AIDS fight still hampered by ignorance and fear', *Barbados Today* < <https://www.barbadostoday.bb/2017/08/28/hivaid-fight-stillhampered-by-ignorance-and-fear/> > accessed 29 August 2017.

¹⁶ Ibid.

¹⁷ The Hon Justice Michael Kirby, 'Courts and Justice in the Era of AIDS' (1999), pp 6 – 7.

Issues relating to HIV and AIDS, including those concerning HIV-related stigma and discrimination, have repeatedly engaged the courts. The modes of engagement have been varied and include challenges to decisions refusing employment to persons living with HIV/AIDS on the basis of their HIV status and even complaints about discriminatory treatment by, for example, officers of the court in the conduct of their duties. A recent example of the latter occurred in Jamaica. In February of this year, it is reported that a Parish Judge was given cause to inquire into complaints of discriminatory treatment made by a 22-year-old homosexual who was living with AIDS. The man, who had been brought to answer drug-related charges, complained to the court that police personnel had withheld his medication from him and that when he informed the officers that he needed to take his medication, he was told that they did not “like homosexual (sic)”. According to the report, the man was infected with the HIV virus as a child after being assaulted.¹⁸

This account highlights four things: first, HIV/AIDS is assumed to be synonymous with homosexuality; second, homosexuals remain targets of stigma and discriminatory treatment; third, the stigma and discrimination can have an adverse impact on the health of persons living with HIV even in cases where they are responsibly managing their illness by taking the necessary medication; and fourth, there is a responsibility on judicial officers to be vigilant as we go about our duties inside and outside of the courtroom. Judicial officers must exhibit and reinforce anti-discriminatory attitudes and practices that will supplement and underscore the efforts being made to end the epidemic. Judicial officers must manage what goes on in the court room, to ensure that persons who are susceptible to discriminatory treatment are treated fairly by all players in the judicial process including court staff, counsel, police officers, witnesses and so on.

¹⁸ Racquel Porter, ‘AIDS-infected homosexual accuses police of discrimination’ *Jamaica Observer* (Kingston 14 February 2017) <http://www.jamaicaobserver.com/news/AIDS-infected-homosexual-accuses-police-of-discrimination_89626> accessed 8 September 2017.

Just in case the rationale for doing that is not apparent, it is important to recall the observation of Professor Matthew Weait that, “law is, and must be seen as, an important structural determinant of health”.¹⁹ The significance of the role of law in the response to HIV/AIDS cannot be overstated.²⁰ I must reiterate that “law” ought not to be constrained to legislation, international sources of law or the common law but, by necessity, it must also extend to the actors within the legal system.

How then should judicial officers proceed in positioning themselves to effectively participate in the response to HIV/AIDS?

Judicial Attitudes to Knowledge and Capacity Building

It is incumbent upon judicial officers to equip themselves with the requisite knowledge about HIV/AIDS. Not merely knowledge of the law relating to HIV/AIDS, human rights, antidiscriminatory laws and the like, but also knowledge concerning the disease itself and issues which affect and promote the spread of the disease such as, for example, gender inequality. Judicial officers must adopt a proactive stance to acquiring and updating this knowledge – we must obtain the relevant tools and materials. This is not a novel concept - one only has to look at the 1992 HIV Outline published by the Judicial Commission of New South Wales.²¹ But such an endeavor need not be carried out alone – assistance is available. For example, the 2010 HIV and AIDS Reference Materials for the Judiciary in Zambia²² was developed with the assistance of international donor

¹⁹ Matthew Weait, ‘Unsafe Law: Public Health, Human Rights and the Legal Response to HIV’, Senate House (18 June 2013), p 5.

²⁰ See also The Hon Justice Michael Kirby, ‘Courts and Justice in the Era of AIDS’ (1999).

²¹ Judicial Commission of New South Wales, ‘HIV Outline: Source Material for Judicial Officers in New South Wales’ (1992).

²² Support to the HIV/AIDS Response in Zambia (SHARe) project, ‘HIV and AIDS Reference Materials for the Judiciary in Zambia’ (SHARe, Abt Associates Inc 2010).

parties. Likewise, UNAIDS spearheaded the development of ‘Judging the epidemic: A judicial handbook on HIV, human rights and the law’.²³

The Caribbean is no exception. The Judicial Reform and Institutional Strengthening (JURIST) project, which is being executed by the Caribbean Court of Justice (CCJ), is in the process of implementing several projects which are key to supplementing the thrust towards ending AIDS by 2030. Although not directly addressing HIV/AIDS, the project’s initiatives concerning gender inequality and the management of sexual offence cases, offer significant infrastructural and capacity-building support to the cause. As President of the CCJ, it is my view, that as an apex Court our reach should extend beyond the precincts of the Court and our adjudicatory functions. As a Caribbean institution, we must engage in activities which improve access to and the quality of justice for all and instill confidence in the fairness of the judicial system and the administration of justice. We contribute to this through our involvement with the JURIST project.

The JURIST project has developed a robust gender programme which includes the drafting of Gender Equality Protocols for Judicial Officers, Gender Sensitization Training and a Gender Equality Accountability Tool. The Protocols are designed to assist magistrates and judges to adjudicate with a gender lens. Jamaica, Barbados, Guyana, Belize and Trinidad and Tobago have been selected for implementation. The protocols for both Barbados and Trinidad and Tobago have already been handed over to their respective Chief Justices.

The Gender Sensitization Training aspect of the programme has been designed for judicial officers and court personnel to foster an enabling environment for the Protocols to “take root”. The training modules place specific emphasis on: addressing judicial bias, preconceptions and the negative

²³ Joint United Nations Programme on HIV/AIDS (UNAIDS), ‘Judging the epidemic: A judicial handbook on HIV, human rights and the law’ (2013).

impact of stereotypes; addressing specific challenges deriving from multiple and intersectional discrimination; the role of international and regional human rights instruments; and examining domestic legislation on gender based violence, custody, maintenance, human trafficking and the ways they can be applied to promote gender equality. The third leg of the programme allows courts to monitor and assess their performance in the implementation of the protocols. Continued monitoring and performance assessment are crucial in instilling confidence in the systems implemented.

I should mention that several rounds of gender sensitization training have already taken place at the CCJ.

As for the management of sexual offences, JURIST has developed Model Sexual Offences Guidelines which embody internationally accepted best practices for the management of sexual offence cases and offer a rights-based approach to the treatment of complainants and vulnerable witnesses. The Guidelines, which will be launched later this month, at the CAJO conference in Curaçao, will be distributed throughout the CARICOM judiciaries. This initiative also carries a training component and will also see the piloting of a Model Sexual Offences Court. There will also be extensive public education drives which will focus on topics such as consent, given the disparity in our communities between what persons deem to be consent and what the law accepts as such.

In dealing with attitudes towards knowledge and capacity building, the propositions made in PANCAP's Model Anti-Discrimination Bill for the establishment of a dedicated AntiDiscrimination Commission and Tribunal must be appreciated as they indicate a positive

attitude towards capacity building. The establishment of a dedicated grievance resolution system means that complaints will not be hampered by existing case backlogs within the current judicial systems across the region, which unfortunately still cause inordinate delay.

Judicial Attitudes to Adjudication

The just management and adjudication of court cases which touch and concern issues relating to HIV/AIDS rests on a sound understanding of the subject-matter and related issues as well as on sound evidence. It also requires a pragmatic approach to the resolution of disputes before it. In doing so, “prejudice is replaced by knowledge; and stereotyping by the judicial commitment to equal justice under the law...”²⁴. In order to ensure that the judicial process is properly positioned to effectively contribute to ending AIDS by 2030, there must be a focus on human rights. The Office of the United Nations High Commissioner for Human Rights, for example, has stated that, “[t]he full realization of all human rights and fundamental freedoms for all is an essential element in the global response to the HIV epidemic, including in areas of prevention, treatment, care and support”.²⁵ The importance of a human rights oriented approach was highlighted ahead of last year’s UN High Level Meeting which saw the development of the Political Declaration on HIV and AIDS. In a statement preceding the meeting, a group of independent experts warned that, “the AIDS epidemic is still driven by human rights violations around the world, including discrimination, violence, punitive laws, policies and practices”.²⁶ However, even as we embrace the human rights-based approach, we must heed the admonitions given by several of our regional scholars including Professor Rose-Marie Belle Antoine, that, we

²⁴ The Hon Justice Michael Kirby, ‘Courts and Justice in the Era of AIDS’ (1999), pp 25 and 30.

²⁵ United Nations High Commissioner for Human Rights, ‘HIV/AIDS and Human Rights’ <<http://www.ohchr.org/EN/Issues/HIV/Pages/HIVIndex.aspx>> accessed 10 September 2017.

²⁶ Office of the High Commissioner for Human Rights, ‘AIDS epidemic still being driven by human rights violations – UN experts warn’ (3 June 2016) <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20055&LangID=E>> accessed 10 September 2017.

must remain cognizant of the “inadequacies of the legal infrastructure in which we operate” and ought not to be lulled into a false sense of security “about our constitutions instead of [thinking] critically about them”.²⁷

Much progress has been made regionally and internationally by way of the development of jurisprudence in the quest for the full realization of human rights.

In the 2000 decision of the Constitutional Court of South Africa,²⁸ a man living with HIV sought an order that state-owned South African Airways (SAA) employ him as a cabin attendant after the Airline had refused to hire him under a policy prohibiting the employment of persons living with HIV as cabin attendants. The Constitutional Court ruled that SAA had engaged in unfair discrimination contrary to the right to equality guaranteed by the Constitution and ordered SAA to employ the appellant. The Court commented that each instance of discrimination represented a fresh instance of stigmatization²⁹ and that persons with HIV “must not be condemned to ‘economic death’ by the denial of equal opportunity in employment”.³⁰

Courts, around the world, have played a crucial role in securing adequate, regular and affordable universal treatment for HIV/AIDS. In Venezuela, in a 1999 judgment^{31,32}, the Court ruled in favor of the almost 170 applicants living with HIV who contended that the relevant Ministry, by failing to supply prescribed antiretroviral drugs through the public health care system for persons not covered by the employment-linked national “social-security” scheme, had not

²⁷ Professor Rose-Marie Belle Antoine, ‘Pragmatic Approaches to HIV and Human Rights’ in George Alleyne and Rose-Marie Belle Antoine (eds), *HIV & Human Rights: Legal and Policy Perspectives on HIV and Human Rights in the Caribbean* (University of the West Indies Press, 2013) 73.

²⁸ *Hoffman v South African Airways* (Case CCT 17/00) [2000] ZACC 17.

²⁹ *Ibid* at [28].

³⁰ *Hoffman* (n 36) at [38].

³¹ *Cruz del Valle Bermudez et al. v. Ministerio de Sanidad y Asistencia Social*, Supreme Court of Venezuela, Decision No. 916, Court File No.

³² .789 (1999).

satisfied its constitutional obligations³³ to them and other people living with HIV. The judgment took a holistic approach to the remedy sought and went beyond simply ordering the supply of medication: the Ministry was also ordered to seek the necessary budget allocation to comply with its legal obligations imposed by the judgment.

In another case, the court, finding in favour of 29 persons living with HIV who had complained of failure to supply prescribed antiretroviral medication regularly,³⁴ observed that the right to health was not merely a state objective but was a fundamental social right and that persons were entitled to the benefits of science and technology and to social security.

A similar dispute in El Salvador engaged the Inter-American Commission on Human Rights³⁵ where the complaints included failure to provide free antiretroviral drugs and allowing discriminatory treatment on account of HIV status. The Commission found that El Salvador had breached the petitioner's right to equal protection of law by the conduct of authorities including forcing him to use a drinking glass labelled with a row of 3 Xs to denote it belonged to an HIV patient and affirmed that the principle of non-discrimination must be strictly applied. The rulings ultimately prompted the Supreme Court to order the State to comply. And, notably, the Legislative Assembly also moved to enact legislation to address several of the Commission's concerns.³⁶

As regards the availability of affordable treatment, the Central Intellectual Property and International Trade Court of Thailand found in favour of the two plaintiffs who sought access to a lower-cost generic version of a particular antiretroviral medication. The specific order was for

³³ Grounded in the rights to health, life and benefit from science and technology.

³⁴ *López et al. v. Instituto Venezolano de los Seguros Sociales*, Supreme Court of Venezuela, Judgment No. 487-060401 (2001)

³⁵ *Jorge Odir Miranda Cortez v. El Salvador*, Report No. 27/09, Case 12.249, March 20, 2009; OEA/Ser.L/V/II., Doc. 51, corr. 1, 30 December 2009.

³⁶ See Summary of the Decision and Reasoning in *Jorge Odir Miranda Cortez v. El Salvador* <<http://www.globalhealthrights.org/healthtopics/health-care-and-health-services/jorge-odir-miranda-cortez-v-el-salvador/>> accessed 11 September 2017.

the multinational pharmaceutical company's patent claim to the relevant drug to be invalidated, at least in part, so as to permit the production and distribution of generic forms of the drug in Thailand.

Courts in the Caribbean have also been called upon to address issues concerning human rights and AIDS. A recent example comes from Belize where the claimant, a homosexual man, successfully challenged the constitutionality of a section of the Criminal Code which criminalized anal sex between two consenting adult males in private.³⁷ Ultimately, the court held that the impugned law breached the claimant's constitutional right to the recognition of human dignity, privacy and equality before the law and equal protection of the law without discrimination.

The CCJ was engaged in its Original Jurisdiction to determine whether Belize and Trinidad and Tobago had infringed the claimant's rights to free movement under the Revised Treaty of Chaguaramas (RTC) and the 2007 Decision of the Conference of Heads of Government of CARICOM³⁸ The claimant, a Jamaican homosexual and noted LGBTI rights activist, contended that, although he had never been denied entry to either country, their respective Immigration Acts classified homosexuals as "prohibited immigrants", or prohibited the entry of "homosexuals or persons living on the earnings of...homosexuals" who were not citizens. Each country maintained that the claimant was entitled to hassle-free entry into its territory and to remain there for up to six months. The CCJ held that the state's policy in admitting entry to CARICOM nationals who are homosexuals was not a matter of discretion but was a legal requirement under the RTC and domestic law.

³⁷ Ibid at [73].

³⁸ *Tomlinson v The State of Belize; Tomlinson v The State of Trinidad and Tobago* [2016] CCJ 1 (OJ).

Challenge

I wish to end my address by first congratulating those of you who have been selected as “Champions”. Your commitment to leveraging your individual and collective influence will play a key role in helping our Region, and the world, end this epidemic. We can no longer sit back contently in our “rocking-chairs” of indecision and indecisiveness or intention and inertia and observe the undoing of all the advancements we have made. While we must celebrate those achievements, this is a time for A-C-T-I-O-N!

I leave you with the words of Dr. Poonam Khetrpal Singh, WHO Regional Director for South-East Asia, which are equally relevant to us here today:

“Efforts over the next [few] years will decide whether we will end AIDS by 2030 or face resurgence. In over four decades of the epidemic, science, social mobilization, political commitment and coordinated response among key stakeholders have made it possible to end AIDS. History shall not be kind to us if we become complacent now.”³⁹

Thank you.

³⁹ Dr Poonam Khetrpal Singh, ‘Renew resolve to end AIDS’ < <http://www.searo.who.int/mediacentre/releases/2015/world-aids-day-2015/en/>> accessed 11 September 2017.