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**Abstract:** This article provides a critical review of Ethics and AIDS in Africa: The Challenge to Our Thinking, a collection of essays edited by Anton van Niekerk and Loretta M Kopelman (David Philip Publishers, Cape Town, 2005). The article particularly discusses ethical issues raised by the African AIDS epidemic that receive little or no treatment in the collection.

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## Review of:

Anton A van Niekerk and Loretta M Kopelman (Editors), *Ethics and AIDS in Africa: The Challenge to Our Thinking* (Cape Town: David Philip, 2005), 239 pages, ISBN: 0-86486-673-9

This book considers various ethical issues concerning AIDS in Africa. It is a South African publication, with a predominantly South African flavour. South Africa provides an apt viewpoint for such an ethical review: it is at the centre of the pandemic; it is a place where many individuals and groups are doing heroic work to understand and combat the disease; but it is also a country whose government's response to this national crisis has been staggeringly irresponsible. Fifteen academics, from a range of disciplines, contribute to this volume. The editors write a helpful introductory overview plus a number of the articles which make up the thirteen chapters of the book. Most of the book's chapters have been published previously.

The issues considered include the following. Epidemiologically, what can be known and predicted about the epidemic? How is it linked to economic, political, social and cultural factors? What responsibility should the rest of the world take, both for the factors that hasten the African epidemic and for its alleviation? Ought we to hope for medication to be provided on a general scale? In this matter, what are the moral responsibilities of pharmaceutical companies, on the one hand, and governments, on the other? In the quest for treatments or a vaccine for Africa, should research be subject to the same ethical requirements as those imposed in Western countries?

Access to medication is one of the most acute concerns, and it attracts some of the best discussions in the book. In poverty-stricken Africa, many countries simply cannot afford drugs at the prices pharmaceutical companies would charge. What, then, are the responsibilities of these companies? And what are governments entitled to do, given that they could unilaterally gain access to drugs by dishonouring patents or by requiring licences to be issued to other companies to produce the drugs more cheaply? David Resnik provides a beautifully clear and helpful discussion of this issue. He argues that pharmaceutical companies do have the ethical responsibility to develop drugs for Africa and to ensure that they can be distributed affordably. But he also argues that developing nations ought to support the pharmaceutical companies' efforts, and that this is best done by upholding the companies' intellectual property rights while engaging in various kinds of mutually beneficial co-operation. The overriding of intellectual property rights should occur, he argues, only as a last resort.

Resnik's case is based upon pragmatic, or consequentialist grounds. But consequentialist considerations are also appealed to in support of a contrary conclusion: Udo Schüklenk and Richard Ashcroft argue boldly for compulsory licensing of drugs. They are sceptical that public-private

partnerships will meet the AIDS emergency; and they dismiss Prof Resnik's (and others') concern that compulsory licensing will deter pharmaceutical companies from investing in the research and development required to produce effective and affordable drugs to meet the needs of developing countries.

With regard to the South African situation in particular, Nicoli Nattrass provides a very interesting, detailed argument as to why a general provision of highly effective anti-retroviral therapies is already feasible in straightforward economic respects. She concludes that the government's resistance to a programme of provision of these drugs has been politically, not economically, driven.

Vaccine trials raise a cluster of urgent ethical issues which are discussed by Keymanthri Moodley. There are well known concerns about whether genuine informed consent can be expected from potential research subjects in poorer African communities, and about whether these communities will benefit from the products of the research for which their members have been the subjects. And there are complicated questions concerning the risk/benefit ratio for participation in a vaccine trial. I am afraid that Prof Moodley's discussion is not clear enough for me to grasp exactly what these questions are, nor how her answers to them support her apparent conclusion that a specifically African interpretation of research guidelines will be required if trials are to proceed. This unclarity is unfortunate: the issues here are important, and laypersons like me, on research ethics committees and elsewhere, will need to understand them in order to play our part in resolving them.

Melissa Stobie, Ann Strode and Cathy Slack offer a particular examination – a South African ethico-legal examination – of the use of children as subjects in vaccine trials. And Anton van Niekerk considers the problem of whether we are entitled to perform randomised placebo-controlled trials of treatment regimes when there is already an established effective treatment but this treatment is too expensive for developing countries.

Another of Prof van Niekerk's articles is very properly concerned with some of what seem to me to be the most important issues in the field of ethics and AIDS. He surveys a range of the complex connections between the epidemic and its social background – poverty, illiteracy, political goings-on, etc. Some of these connections are easy to grasp; for instance, certain kinds of preventive education programmes would be completely inappropriate for illiterate communities. But other connections are more complicated, and, as I shall say again shortly, it seems to me that we require a far more extensive and probing analysis than Prof van Niekerk is able to provide in this article.

All of these articles, and others in the book, are useful. I am not always convinced of the conclusions proposed by the contributors. Nor do they always offer much advance in the discussion of their topics. Many of these topics will be well known to professionals in the field and to readers of this

journal. But the articles at least provide helpful *reviews* of the issues they address; and it is useful to have this range of discussions collected between the covers of one volume. Those who find it useful will include professionals in and students of the various disciplines connected with AIDS, and the general reader.

There is a good deal that the book does *not* address. The editors claim that it “is the first comprehensive volume about the *ethical* dimensions and problems associated with the pandemic” (page x). Perhaps they mean by this merely that each contribution to the book has something to do with ethics. But if they mean that the book provides a *comprehensive study* of the ethical dimensions of the pandemic, then their claim is grossly overblown. For there are large and serious issues that are only cursorily touched upon, if touched upon at all, in the book. Three matters readily come to mind.

Apart from discussions of the provision of medication and questions of global justice, there is virtually no attention to our duties of *care* for AIDS sufferers, and for those affected by their illness. The public hospitals of Africa are utterly unable to cope with these responsibilities. The burdens of care are falling very largely upon family members, particularly children and the elderly. How ought we to be helping? How should we care for the carers? And how should we support them when they are left bereft, and without the support of social welfare, when their loved ones die?

Secondly, it seems to me that this whole field of discussion would profit from a systematic examination of government responsibilities. In the face of the AIDS crisis, the South African government’s denial and inaction have seemed to many observers to be simply incomprehensible. Some explanatory possibilities are hinted at in this book, and some proper critical remarks are made. But in the courteous and cautious manner of South African academics, their criticisms of government are fairly constrained. On the whole, the contributors to this volume apparently prefer to get on with the business of providing what they can practically and professionally offer: they submit very careful, judicious analyses of AIDS statistics, they argue for particular policy recommendations, and so on. They know that they tread on tricky ground, for – not least because of the South African president’s own pronouncements – the issues are politically and racially sensitive. But these sensitivities stifle debate; they allow governments to proceed unexamined by open critical discussion and in defiance of professional wisdom, leaving the epidemic to exact its toll. Ethicists could make a real contribution by providing an extensive, thorough, robust and straight-talking examination of government responsibilities – and failures.

And thirdly, there is what seems to me to be *the* ethical question concerning AIDS. Ethics is concerned with what we do - with the rightness or wrongness of our behaviour. And AIDS, as far as its mode of transmission is concerned, is a quintessentially *behavioural* disease. Yet this book says very little about the behaviour by which the pandemic is propagated; much less does it subject that behaviour to any searching ethical analysis.

If HIV were transmitted as other viruses are – if it were breathed in the air, so to speak – then the mere mode of its transmission would be a morally innocuous matter. But it is not. It is, in the main, transmitted sexually. And rather a lot can be said about the ethics of sex. Only someone who holds a ridiculously low view of the relational significance of sex can think that sex bears no moral import. A realistically high view of sex allows us to recognise that healthy sex – healthy both relationally and physically – belongs to relationships of committed and devoted care. And it allows us to evaluate sex that falls short of this moral norm. When I regard someone – a person, of priceless dignity – as the mere object of my lusts, I degrade her. When she is willing to be regarded in this way, she degrades herself. Nor is sexual excess an indication of manhood. Weakness, not virility, is displayed by a lack of self-control; true manhood and true womanhood display themselves in love. Nor does supposed love guarantee the rightness of intimacy: if this love does not issue in respect for and a commitment to the good of the other, it is a pretence, a cheat. Love without commitment, love ‘for now’, is not love at all. And so on. And if we all lived according to this norm – if we preserved our sexual behaviour for faithful, closed relationships – there would be no AIDS epidemic.

But of course none of this can be said. It would be indescribably frightful for a health professional to say it – or a politician, or a social scientist, or an academic ethicist. For like the rest of us, academic ethicists are silenced by fashion. And while their mouths are shut, a very different view of sex is proclaimed from every cultural loudspeaker. And millions die.

There is a pandemic only because the behaviour of some of us departs from the moral norm I have referred to. In saying this, I take it for granted, of course, that many of those who are infected have never behaved improperly. And I take it as obvious that their faithful behaviour plus mother-to-child transmissions cannot account for the actual increases in HIV prevalence rates.

But it will be replied – if indeed such embarrassingly unfashionable moralising receives any reply – that it is futile to call for changes in sexual behaviour; we should rather concern ourselves with the social conditions that produce this behaviour. Indeed, in one of his otherwise very valuable contributions to this volume, Alan Whiteside says: “We need to understand that behaviours are determined by the social, economic, political and cultural milieu in which people live and operate” (page 13). There are various things wrong with this remark. First, taken literally, it is surely nonsense. Our behaviours are not *determined* by the conditions in which we live: we make significant choices, for which we are responsible. Secondly, in the context of discussion of behaviour in Africa, a remark like this runs the risk, it seems to me, of promoting a new kind of racism: Africans are regarded, not as possessing full personhood, not as responsible moral agents, but as the mere, and therefore sub-human, products of their context.

However, Prof Whiteside and others are surely right to stress the complex interplay between sexual behaviour and its social, economic, political and cultural backdrop. But an ethical concern for sexual behaviour need not preclude a concern about its contextual conditions; indeed, quite the reverse. Here is much matter for ethical analysis. We need to enquire as to precisely how these influences operate. How, exactly, do they make it all too easy to engage in bad sexual behaviour, and how ought we to oppose them? And what are our responsibilities to those persons caught in the grip of these vicious conditions, including those who are victims as well as perpetrators of wrongs?

Even so, it would be naïve to suppose that a mere alteration of the contextual factors would be followed by an alteration in behaviour – unless there is an accompanying change in personal attitudes and beliefs and commitments of the will. A recent case may illustrate the point. One of the powerful evils of the old South Africa was its institution of migrant labour: workers were separated by great distances and for long periods from their spouses and families. I am told that a few years ago a large South

African mining firm, seeking to face its moral responsibilities, developed a scheme to build decent homes for its workers, so that their wives and families could join them and live near the mines. The firm consulted the workers about the scheme. A majority of the miners voted *against* the scheme. It emerged that they had established liaisons and sexual practices in the mine vicinity, and they did not want these interfered with by their wives.

Is it all too hard? Does sexual behaviour simply defy alteration? Godfrey Tangwa, in his contribution to this volume, observes that “it is not easy for people to suddenly change their behaviour, attitudes, customs or sexual habits” (page 187). No doubt this is true. Change is difficult, and it is most unlikely to occur suddenly. But older people – including older African folk – tell me that sexual practices *have* changed; from which it obviously follows that they *can* change. And Uganda may demonstrate the possibility. (The turnaround in the Ugandan epidemic is described by Profs Whiteside, at pages 4 and 17, and van Niekerk, at page 57.) But in any case the difficulty of change is no excuse for a complicit acquiescence. And here again there is plenty of scope for ethical work. *Why is it* so hard to effect change? What are the evils that impede change – *change for life*? And how ought we to oppose them?

But there are yet darker features of the behaviour that propagates the African epidemic. Even someone who holds the fashionable low view of sex can – though with doubtful consistency – recognise the evils inherent in rape and the sexual abuse of the young. When I sexually invade someone – when she withholds her consent, or gives a consent that is inadequately free or inadequately mature – I commit an appalling violation. And there are kinds of exploitative sex that differ from rape only as a matter of degree. One does not need to be a feminist to recognise the evidence that many African women are deeply vulnerable in their sexual relationships: they do not possess the freedom to ensure that their dignity is respected and their health protected. Prof van

Niekerk very rightly points this out. But he could say much more – not least about the behaviour of the men who exploit these vulnerable women.

One aspect of this seems to me particularly sinister. As at least the South African statistics compiled in this book indicate, there is a very marked disparity between the HIV prevalence and AIDS mortality rates for very young women, on the one hand, and for very young men, on the other: the rates are much higher for these women than for these men. From this it is surely correct to infer that very many girls – often very young girls – are being infected by much older men. It would be preposterous to claim that these girls enjoy the freedom and maturity to engage in genuinely consensual sex. The behaviour of the men who infect these girls is outrageous. Alas, it is not the only indication that things have gone horribly wrong on a terrible scale: the incidence of rape in South Africa is unspeakably monstrous.

Do these observations stigmatize African men? Well, such behaviour *ought* to be stigmatized, to say the least. In a decent society, at every level of society, it would be condemned. And in a grown-up society, the *behaviour* can be condemned without whole population groups or races being stigmatized, and without offensive stereotypes being permitted to take hold of our thinking.

In pointing out these issues of the gravest and most urgent moral concern, one does not need to harbour the slightest sympathy for the view that AIDS is some kind of punishment – a view which greatly exercises Loretta Kopelman, in her contribution to this volume. Nor is it a matter of self-righteous judgement. None of us is entitled to cast the first stone. The AIDS funeral bells toll for us all. And Africans will certainly not be impressed by moral lectures from the so-called developed world. But it is surely a responsibility of the African academic ethicist, of all people, to *expose and name* those evils, to help us to see how they are woven into the complex fabric of life, and to explore how we might tackle them in morally responsible ways – if indeed we can muster the courage and resolve to face them at all. But on these matters this book is largely silent.\*

\* End-note

Editors of this journal, and anonymous reviewers of my article, have criticised the article in various ways, and have asked me to respond. I list the criticisms and respond to them in what follows.

1) It has been maintained that some of my language – in the passages quoted, and as emphasised, below - is inappropriately emotive. But as I explain in each case, the language is carefully, and I believe correctly, chosen:

a) “Only someone who holds a *ridiculously* low view of the relational significance of sex can think that sex bears no moral import.”

That sex carries no moral significance is presupposed by some of the things fashionably said about it. But it takes only a moment’s thought for anyone to realise that this is an impossible view. Morality concerns what matters – for good or ill. Now human relations certainly matter (for good and ill). And sex is the *most intimate* of human relations; so it matters if anything does. Hence the view that it bears no moral import, that it doesn’t matter at all, is completely untenable: it really does invite ridicule.

b) “It would be *preposterous* to claim that these girls enjoy the freedom and maturity to engage in genuinely consensual sex. The behaviour of the men who infect these girls is *outrageous*.”

In this passage I am discussing the sexual abuse of children. My uses of the words “preposterous” and “outrageous” are, I believe, strictly accurate. I am astonished that my critics believe otherwise.

2) I have been criticised for advancing my view of the ethics of sex as if it were more than merely one view amongst others. It is in fact (according to my critic) a peculiarly Kantian view, as is shown by the sentence: “When I regard someone – a person, of priceless dignity – as the mere object of my lusts, I degrade her.”

I could hardly have stressed more heavily that the view to whose mast I am nailing my colours is by no means fashionable in academic and some other circles. Nevertheless, it is certainly not an uncommon view. It is true that the sentence fastened upon by my critic makes a claim that would be made by Kantians. But they are not the only ones who would make it. It is a claim that would receive support from any moral outlook that believes in human rights. And it is part of a view about sex that is maintained by much traditional and common-sense morality – including a good deal of traditional and common-sense morality in Africa. Of course there are ethical theories that would reject what I have said. One of these is utilitarianism. But this is not the only respect in which utilitarianism departs from other theories and from common-sense morality.



I am asserting my view with some vigour because, I claim, this view is *in effect* suppressed. And if I *could* be right then what is at stake is whether we are even *recognising* issues of huge moral importance.

3) I have been criticised for focussing upon sexual behaviour, and the need for it to be changed, while disregarding “safe sex” as a “viable solution” to the HIV problem.

I take it as obvious that condom usage can and should play an important role in the prevention of infection. However, the required use *would* represent a very significant change in sexual behaviour. And, as is stressed by various contributors to this volume – Prof van Niekerk (pages 62, 66), Prof Tangwa (pages 182, 186-7), Prof Kopelman (page 215) – there are huge obstacles in the way of this change. Indeed, Prof van Niekerk describes condoms as “a kind of technology hardly reconcilable with African sexual practices” (page 66). Hence it would be idle to pretend that condom usage represents anything remotely resembling a straightforward solution to the HIV problem.

But secondly, the criticism in any case misses the main point I am making about sexual behaviour. Sex is of course a matter of massive moral significance insofar as it can be the means of fatal infection. But my point is that it is not only in *this* respect that sex is morally significant: it is morally significant – for good or ill – whether or not it transmits infection. And it is an unavoidable fact that the AIDS pandemic is *dependent upon* sexual activity that in itself invites deep moral challenge. There is a pandemic only because we do not preserve our sexual activity for faithful, closed relationships. (The “only because” in that sentence is a logical “only because”; it does the same work as “only if”.) The challengeable sexual activity is a *necessary condition* of the pandemic. Hence a comprehensive analysis of the ethical aspects of the pandemic will surely address the ethics of the activity upon which the pandemic depends.

The reader will scarcely need to hear the standard warning that the views expressed in my article do not necessarily represent the views of the editors of, or the reviewers for, this journal.

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