

## **Human Rights of HIV-affected Women and the Declaration of Commitment on HIV/AIDS: the Case of Georgia**

*All human beings are born free and equal in dignity and rights.  
Article 1, The Universal Declaration of Human Rights*

*All of us must recognize AIDS as our problem. All of us must make it our priority.  
Kofi Annan, UN Secretary General, 25 June, 2001*

*Why cannot I have the operation? Why cannot I?  
HIV-affected Georgian woman*

We are all born equal in dignity and rights – at least this is what we believe in. How come our “equality” remains mainly on the paper? How come some people enjoy all the benefits of modern life and the latest achievements of the science, while others are obliged to live in hunger, poverty, homelessness, discrimination, and to be exposed to inadequate health care? Are the changes a human body (and sometimes mentality) undergoes during the life to be blamed? If yes, why? If no, what or who is to be blamed then?

Twenty years have passed since the world first heard of Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome (HIV/AIDS), which cause an incurable deterioration of health. During this period the epidemics has spread to every corner of the world. According to the statistics, it has killed almost 22 million people (UN, 2001). More than 36 million people worldwide are living with HIV/AIDS, and every day, another 15,000 acquire the virus (UN, 2001). There is no other disease so dangerous nowadays for human immune system as HIV. There is no other disease so frequently discussed and referred to by the international organizations at their congregations and in their documents nowadays as HIV.

It is common knowledge that people affected by HIV are widely exposed to discrimination. Special attention should be given to women living with HIV, because along with girls, women are the most vulnerable group to be stricken by HIV. This problem was underlined at the United Nation General Assembly’s Special Session on HIV/AIDS, which took place from June 25 to June 27 2001 in New York. There, after three days discussion, heads of states and representatives of governments from 189 Member States unanimously adopted the Declaration of Commitment on HIV/AIDS named “Global Crisis – Global Action”. The Declaration outlined new measures and targets to combat the spread of the pandemic and to decrease its impact on societies.

As a member state, the Republic of Georgia is obliged to follow the recommendations and proposals of the Declaration. However, Georgia still remains a state where a whole branch of

different kinds of the violation of women's human rights can be found. Moreover, no effective monitoring systems for the promotion and protection of human rights of women living with HIV/AIDS have been established by 2003 (as the Declaration required) in Georgia.

In this paper I would like to examine the Declaration of Commitment on HIV/AIDS from the point of women's human rights, and then show what are the principal obstacles in Georgia towards the implementation of enjoyment of Women's Human Rights in general and Declaration of Commitment on HIV/AIDS in particular.

### **Facts and figures**

Due to specificity of the HIV epidemic in Georgia, which means dissemination of the disease mainly within the group of drug addicted people, number of women affected is relatively low, seven times lower than of men's. However, slow but steady increase of the number of affected women in the last few years has being observed. Official number of women living with HIV/AIDS is 74 while three years ago there were only 79 people living with AIDS, both male and female. Besides, World Health Organization claims the number of affected women to be at least 180 (WHO, 2002). Most women were affected by heterosexual contacts with their spouses.

It is shameful but real that human rights of people affected by HIV are violated everywhere, and Georgia is no exception. Because of the specificity of Georgian social environment, discrimination disproportionately affects women and girls who are socially, culturally, biologically and economically more vulnerable. The discrimination in relation to health services, education, work and family life is not something unheard of in Georgia, where spread of disease is relatively low, however preconditions to its spread are dangerous and have been alarmingly increasing over last few years.

Here are a few accounts from the lives of women living with HIV/AIDS in Georgia<sup>1</sup>:

1) Young woman, 28 years old, infected by her husband.

“The fact that my husband and I are HIV infected came to our knowledge during my pregnancy in 2002. The fetus was already too big and I could not undergo an abortion. My doctor made all efforts to help me to maintain a healthy fetus: conducted antiretroviral therapy in the pre-delivery period, and explained to me that in order to ensure minimum risk to my child a caesarian section would be necessary. However, prior to the operation we faced the fact that no hospital in the city agreed to accept me for the caesarian section. I cannot describe how the

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<sup>1</sup> These are excerpts from unstructured interviews conducted by the Georgian AIDS & Clinical Immunology Research Center in the beginning of year 2003 and kindly sent upon my request to me recently

whole family of mine felt about that... When you know, that there is a chance and it is out of your ability to grasp this chance... Moreover, these are doctors who oppose you, when the same doctors must devote their whole energy to saving the life! I would cry and reiterate ‘Why cannot I have the operation? Why cannot I?’ I had to deliver my child myself, at home, in a big fear and hopelessness. Fortunately, God saved us, and our child is healthy. I cannot imagine what would I do if my child had been born infected”.

2) Young woman, 22 years old, infected by her husband.

“I was 19, when my now-husband abducted me. Since then, we have been living for 2 years together. He had never informed me about his HIV positive status, though he knew about it. He was drinking and behaving terribly towards me. When he learnt that I did not want to stand more and insisted on a divorce, he told me that I could go anywhere I wanted, but being aware of his status, he was sure I had also gained the virus from him. He was right about this. Now, I can do nothing but to stay with him. I am afraid not only of him, but also the stigma, because he promised to tell everybody about my HIV status if only I sign for divorce”.

### **Official Laws**

Official laws concerning human rights must be assessed at national, regional and international levels.

At a national level, the Constitution of Georgia is to be mentioned first. Article 14 of it provides: “everyone is born free, is equal before the law regardless of race, skin colour, language, sex, religion, political and other beliefs...” It is obvious, that all the rights counted in the Constitution equally concern both women and men. The most important among them are: the right to life (Art. 15), the right to personal development (Art. 16), the right to inviolability of a person’s dignity and prohibition of torture (Art. 17), and the right to inviolability of every individual’s private life and place of personal activity (Art. 20). There is no explicit *right to health* in the Constitution, however there is a statement in the Constitution that it “does not reject other universally recognized rights, freedoms and guarantees of the person and citizen which are not specified in it but arise from the principles of the present Constitution” (Art. 39). Besides, the Georgian legislature contains several national laws concerning health, for instance “Concerning the Rights of Patients” (2000). This is a general law, containing no explicit indication to HIV/AIDS patients (as well as to patients with any other concrete disease). However, the meaning of such laws listed above is exactly their universality and anti-discrimination towards anybody without distinction of gender.

Nevertheless, to target specifically HIV, another law named “Concerning the Prevention of HIV Infection (AIDS)” was worked out and approved by the Parliament of Georgia in as early as March of 1995. It delineated the basic principles of the fight against HIV/AIDS in Georgia, the questions of HIV/AIDS surveillance, HIV infected patients medical supervision, the legal and social rights and obligations of the HIV infected patients and medical workers and etc. (Tsertsvadze, 2001). However, it was the first draft of the law, a mixture of both voluntary and mandatory measures of HIV/AIDS control. In 1999 the experts started to revise the law in order to eliminate or limit all compulsory measures and highlight the importance of HIV/AIDS prevention, education and protection of human rights. Consequently, in 2000 the Parliament passed for (once more) reading the amendments to the law (Parliament of Georgia, 2000) and after careful examination it was adopted by the Parliament.

As for the regional and international levels, Georgia has ratified a significant number of regional and international human rights instruments, including The Convention on the Elimination of All Forms of Discrimination against Women (in 1994), International Covenant on Economic, Social and Cultural Rights (in 1994), and the Beijing Platform of Action (in 1995) which means that these international documents obtained legal power once they were ratified and came into force for the state. Besides, Georgia is a member state of UNAIDS and accepts all the documents created and adopted by this organization without reservation. However, adoption is one and following is completely another issue, which becomes evident after careful examination of Georgia’s compliance with the laws.

### **Official Responses of the Georgian Government to the United Nations Division for the Advancement of Women and the Committee on the Elimination of All Forms of Discrimination Against Women**

Notwithstanding the fact of non-compliance with International conventions, covenants and declarations, Georgia is not trying to avoid its obligations in front of international organizations but to somehow find the solution how to implement the recommendations produced on different international conferences. Since there is no report about implementation of the Declaration of Commitment on HIV/AIDS, let me at first examine, for example, the implementation of resolutions taken at the Forth World conference in Beijing a State Commission on Elaboration State Policy of the Development of Women was created in 1999. Shortly after the creation this Commission produced the Response to the Questionnaire on Implementation of the Beijing Platform for Action, sent to them by the United Nations Division for the Advancement of Women (Beridze, 1999). While this document contains nothing about HIV (like other documents

discussed in this chapter), it contains some interesting facts about women's human rights and the attitude towards them. Georgia, as a country in transition, has a lot of social and political problems. These problems along with the problems of territorial integrity are so sharp that Georgia is not ready to pursue the goals of gender equality and advancement as priority, provides the Response. Moreover, the sectors not covered by the national action plan – among them education and training of women and violence against women – are considered to be well enough regulated by Georgian legislature and practice, at the present moment not to be emerging as problems which demand emergency measures. At the same time, despite the fact that women are greatly respected (in the traditional way) in Georgia (which can clearly be seen in historical masterpieces, arts, and literature), traditionally men play the dominant role in Georgian society. And in spite of having no discriminative statement in Georgian legislation towards women, the asymmetry of women and men social positions on the behalf of men priority is obvious.

Many promising notes can be heard while reading this Response. For instance, around 60 NGOs working on women's problems are seen as positive means to facilitate improve of the situation through charities, labour arrangements, and cultural and educational activities. The government is announced to be seriously interested in gender problems, though “at the present moment budget difficulties do not allow” to establish a department on Women Issues and create gender units within the governmental structures (Beridze, 1999). Women health and family planning is named as the priority of government policy. Moreover, “the Ministry of Health worked out programmes, which are underway” (Beridze, 1999). I do not have exact up to date information about these programs but knowing that the “National Strategic Plan of Action for HIV/AIDS Prevention in Georgia, 2003-2007” granting more than 15 million USD to prevent and combat HIV in Georgia was to start only from January 2004<sup>2</sup> gives me an idea to think about such programs implemented either recently or not yet at all. Otherwise the facts described above would not have taken place (at least this is what I think).

More interesting and more relevant official document, however, is an Initial Report Submitted by Georgia under article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women (the main idea of which is to achieve equality in rights for women and men in every aspect of life) in 1998. Here, after reviewing rights provided by the Constitution and 27 laws enacted in Georgia during 1993-1997 (among them “Prevention of AIDS Act”), the current Georgian legislation is assessed as sufficient to meet the requirements of the Convention (which must mean that there is sufficient legislative ground also for women's human rights in Georgia). Then, assessment of current laws and the overall situation in Georgia

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<sup>2</sup> Since I have been living in Hungary lately, I am not sure whether it has started or not

in connection with each article of the Convention ensues. Let me look at the most interesting articles (from the purpose of this paper) separately.

Article 2 calls for concrete steps through implementing policies, laws, and practices to eliminate discrimination against women and incarnate the principle of equality. As we have already seen above, Georgia has all the necessary legislation to provide enjoyment of women's human rights by its fullness (although it differs in practice, but theoretically this is true).

Article 3 urges action in all - civil, political, economic, social, and cultural – fields in order to advance women's human rights. It is once more about the laws in all spheres, which (theoretically) exist in Georgia.

Article 4 allows affirmative action measures to hasten equality and eliminate discrimination. Here must be noted that as Georgian legislation provides the equality for both men and women, there is no special measures aimed at promoting women specifically (with the exception of introducing quotas in the labour market for the hiring of non-competitive persons, who are mostly women).

Article 5 recognizes the role of tradition and culture, and calls for the elimination of sex role stereotyping. In Georgian history women have traditionally been considered as taking care of their families and guardians of social values. However, whenever it was necessary, they played important roles as politicians and even warriors. Nevertheless, men have traditionally been dominant in Georgian society. Especially important is the fact that there are no special educational programmes conducted in the society aimed at overcoming negative stereotypes of the woman's role in the family and society, since it is generally accepted that problems of this kind do not exist in and are not typical for the country. This all is stated in this Report. However, what is not there is the deeply rooted Georgian tradition of abduction, in another words, "bride kidnapping", which has had grave consequences for so many women and has ruined so many lives in Georgia. Indeed, the story of the 22 years old woman conveyed above implies (and I guess it can be clearly seen in between the lines) unhappy life of a woman, without love towards her husband, which is essential in grounding of a normal family and enjoying the life.

Article 6 requires repression of trafficking in women and exploitation of prostitutes. This would be a key issue for reducing women's exposure to and vulnerability for HIV/AIDS. Under existing legislature, prostitution is not considered a criminal offence and unfortunately, it has increased among minors due to sharp deterioration in Georgia's social and economic conditions since 1991. Sex tourism has become widespread in recent years, and many female citizens have been arrested in foreign countries (Turkey and Greece mainly) for prostitution.

Article 7 calls for an end to discrimination against women in political and public life. Since women are barely introduced in decision-making process, there is a great demand for

women's human rights advocates, and women's NGOs are considered to play the major role here.

Article 10 obligates equal access to all fields of education and the elimination of stereotyped concepts of the roles of men and women at all levels and in all forms of education. As Georgia has relatively (in comparison with other Caucasian countries, for example) high level of education and easy access to at least primary level for both female and male population, this issue is not to be discussed here.

Article 12 requires steps to eliminate discrimination from the field of health care, including access to family planning. Here the Report contains the most interesting for my purpose information about the issues concerning HIV (though it must not be forgotten that this document was produced 6 years ago and the number of infected people has dramatically increased since then). The document states that Georgia is considered to be a high-risk state from the point of view of the spread of HIV. For this, one of Georgia's most serious problems – drug abuse – is very important to be assessed. According to the document, there are around 4000 drug addicts, including 91 women, registered officially by the drug-abuse institution. However, a number of researchers do not agree with this number claiming it to be higher (and I personally support their opinion). By the way, in recent years there has been a trend towards involving women in the spread of the production and contraband of narcotics, which is also stated in the Report.

Article 16 calls for steps to ensure equality in marriage and family relations. And even though Article 36 of the Constitution states that “Marriage is a voluntary union founded on the equality of rights and the free will of the spouses”, I can hardly imagine “free will” in traditional Georgian families, which (still) prohibit their daughters from coming back to their families after being abducted. Many woman have been forced to marry their abductors, thus giving themselves to long lasting sorrow and sometimes even increased risk to be forcefully affected by HIV as we saw in the story of the 22 years old woman above. As for equality in marriage, Georgia is a traditional country with a long patriarchal history, where the main obstacle for women is a traditional approach towards them. This encompasses consideration about family as the most significant social unit, where the women's “decision-making” includes care for the home, for the children and for the husband, while the major decisions are the sole responsibility of the men<sup>3</sup>.

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<sup>3</sup> Fortunately, this last tends to improve in the last few years, though most probably more in the central than in the rural areas.

## **Progress Towards Implementation and the Principle Obstacles for the Implementation of the Declaration in Georgia**

In order to make an assessment of the various national indicators, Joint United Nations Programme on HIV/AIDS (UNAIDS) examined national reports about the progress towards implementation of the Declaration of Commitment in the countries submitted to UNAIDS upon the request of the UN Secretary-General to the 189 Member States. Out of these States, 103 submitted national reports. Georgia was not among them<sup>4</sup>.

While I do not want to produce any substitute for it, like some kind of “theoretical report”, I will try to answer the questionnaire briefly from the point of facts known to me and partly already to the reader as well. In doing so, main obstacles for the implementation of the Declaration in Georgia will be also named and analyzed.

Thus, let me start assessing *Progress in Implementing Declaration of Commitment* from the pure theoretical view of Georgia’s current situation. I will follow the scheme by which the UNAIDS companion report about the progress in implementing Declaration for separate regions (UNAIDS, 2002) was produced based on the country reports.

As for assessing *leadership*, Georgia does not demonstrate noteworthy leadership in the fight against HIV/AIDS. The disease is not given sufficient priority as a political issue in Georgia, and this inhibits the development of a valuable response to the growing HIV/AIDS threat. Yet a new campaign had to be initiated from January 2004<sup>5</sup> and this gives me a new hope about increasing leadership in the issue concerning HIV/AIDS. However, bearing in mind the most recent news in Georgia’s political life, “velvet revolution” and changing of our President, I have not been too optimistically looking at the starting of this new action plan from January 2004.

Thus, I may name the first obstacle for the implementation of the Declaration in Georgia – political upheavals in the country. When the whole attention and priority is given to the political issues, not much is left to be devoted to other issues, and women’s human rights is one of the most neglected issues in otherwise already complicated situation. Similar opinion was expressed in the response to the questionnaire on implementation of the Beijing Platform for action (Beridze, 1999), which stated that “as a country in transition Georgia has a lot of social, political problems, the problem of territorial integrity so we are not ready to pursue the goals of gender

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<sup>4</sup> Another problem – why is there no record about the current situation concerning HIV/AIDS in Georgia on [www.unaids.org](http://www.unaids.org), when one clicks on the country’s name? Is there any difference between three Caucasian Republics (Georgia, Armenia, Azerbaijan), that makes records of the latter two (as well as all other countries listed there) accessible for broader public while clicking on “Georgia” provides the simple reply “undefined”?

<sup>5</sup> While in Hungary, I haven’t had chances to follow these issues which may/may not are going on in my country



equality and advancement as priority”. I do not agree about this point with the author, as “gender equality and advancement as priority” may be very serious means to prevent spread of such perilous infection as HIV is for humanity.

As goes for *resources*, thanks for UNAIDS Georgia receives 15 million USD for the next three years to be spent on the fight against the epidemic (UNAIDS, 2003). This is another tremendous obstacle towards implementation of the Declaration in Georgia – having no funds not only to initiate campaign to advocate women’s human rights but merely to provide necessary and vital antiretroviral therapy for people living with AIDS.

The next major problem is *prevention* of the disease. This implies raising awareness about HIV/AIDS among young people as well as drug abusers. Since abortion remains the main method of contraception, and condoms are not appreciated and sometimes not even easily accessible (because of their price) for the youth, here lies another obstacle towards implementation of the Declaration in Georgia – lack of education and awareness among youth and drug abusers as well as among women.

As for *care, support and treatment* goes, Georgian AIDS & Clinical Immunology Research Center has been able to offer to people from high-risk groups nothing but free consultation and to people living with HIV/AIDS – merely symptomatic treatment, which are more than mockery for the people concerned. The Action plan seems to be the remedy for this issue. However, prolongation of the program and financing after 2007 will have enormous importance for the success of the whole plan in Georgia, which requires not only material sources but also considerable time to develop fully. Thus, lack of resources after 2007 may become one more obstacle for the implementation of the Declaration in Georgia, though let us hope it never happens again.

As far as *human rights* are concerned, this is the most vulnerable and painful part of the current situation in Georgia. National and International laws connected with human rights issues were viewed and discussed above, however bringing official and unofficial facts about Georgian reality show clear gap between official and unofficial situation in concern of women’s human rights in Georgia. Furthermore, no specific legislation exists to prohibit discrimination against women. As for women, they either do not know about their rights, or can not realize they (these rights) are violated, or even they are aware of the violations but lack knowledge of how to challenge the violators. And even when they know about the existing laws, traditions and customs restrict women from exercising this right. Besides, they simply do not view enforcing mechanism (court) as trustworthy instrument to achieve justice.

These all are especially surprising when one juxtaposes high standard of women’s education in Georgia with the lack of understanding of their legal rights. Strategies to empower

women through public awareness of their existing legal rights and mechanisms to support legal access of women to pursue these rights are very important to eradicate all these old-fashioned traditional practices and abuse of women's human rights.

This is one major problem for women along with bride kidnapping (abduction, still widely practiced in Georgia, especially in the rural regions but generally acceptable for society in the capital too), divorce, domestic violence, and trafficking in persons.

Two main obstacles for implementing the Declaration in Georgia are specifically important for the country in terms of women's human rights. These are trafficking in persons and domestic violence. These are the main obstacles for women's full social and personal realization as well.

Trafficking in persons is an acute problem in Georgia, calling for special attention. Georgia is classified by US Department of State's 2002 Annual Report on Trafficking in Persons as a Tier 2 country Having no legislation (not a single word to frame trafficking as a separate offense in the criminal code), few programs and limited (if any) official data makes fighting against it extremely difficult. Besides, according to the common knowledge, one must consider this problem through local social lenses, which means that it is intensified by patriarchal social attitudes that discourage open discussion on the issue.

According to the one (and the only) NGO "Women in the Future" running a hotline to collect data about the victims of trafficking, total number of the victims reach 300, 2/3 of whom are women (USAID, 2003). However, I have enough evidence to consider this data depicts only very few cases<sup>6</sup>. Trafficking makes women especially vulnerable not only towards different violations of their human rights, but also towards HIV/AIDS, as it opens door to uncontrollable exposure of their bodies to male partners from foreign countries, which may infect women, who otherwise would have no touch with the epidemic.

Another significant obstacle for women's full enjoyment of their human rights is domestic violence in Georgia. This is actually considered to be the most serious problem for women in Georgia, as it is entangled with archaic social understanding and values and thus becomes very difficult even to assess, saying nothing about the remedies. Having no legislative document (the same as for trafficking) prohibiting domestic violence, it is extremely troublesome to name and

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<sup>6</sup> I was fortunate to spend 2 months in Europe two years ago. I visited several states and was surprised to run into so many Georgian refugees while travelling from one place to another, and these were unintentional meetings with them. I wonder how many people could I trace if I had been interested to do so. My experiences were recently published as an article in a Georgian newspaper "MOTHERLAND" in US, named "European Odyssey of Georgian Refugees". Moreover, my aunt is herself a victim of trafficking, if we consider notion of trafficking broader enough to encompass all in need who went abroad to serve as a cheap labor and are still satisfied, being able to send money to their families back in Georgia. From my aunt's mails I've learnt about a huge Georgian community in that small city in Greece, where she has been living since last spring. So what about other places around the globe? Searching for a job has taken Georgian poor/middle class people everywhere, as near as Turkey and as far as New Zealand and Australia.

fight against domestic violence. The attempt to this latter is undermined by widespread social understanding of family life being private and thus tabooed for further discussion.

Even when named, victims of domestic violence would rather conceal the truth than make it public, because they fear that the court can provide no valuable mechanism to protect them from a recurrence of the case. Besides the law, there are no specific shelters for the victims and their future after making the “private” issue public is vague and obscure. Thus, they would rather prefer to stay unseen and unheard of, which leaves them further vulnerable to the violence they face in their lives.

As far as *mitigation of social and economic impact* is concerned, strict anonymous counseling is available for victims of the epidemic. Threat to be identified in the society and shadow of stigma, however, would be another obstacles for women to enjoy their full human rights and to access the counseling facilities freely and without any reservation.

As goes for *research and development*, due to lack in finances there is scarce and insufficient precondition in Georgia for them. Lack of funding has been a great obstacle for scientific research and development in the area of HIV/AIDS, though I hope something positive will be done in this sphere starting from 2004.

## **Conclusion**

The Declaration of Commitment on HIV/AIDS named “Global Crisis – Global Action”, which was adopted at UN General Assembly Special Session on HIV/AIDS in 2001, called for the “promotion and protection of women’s full enjoyment of all human rights and reduction of their vulnerability to HIV/AIDS through the elimination of all forms of discrimination, as well as all forms of violence against women and girls, including harmful traditional and customary practices, abuse, rape and other forms of sexual violence, battering and trafficking in women and girls” (Declaration, 2001). It demanded by 2003 to “establish or strengthen effective monitoring systems, where appropriate, for the promotion and protection of human rights of people living with HIV/AIDS”.

However, deriving from the specificity of the HIV situation in Georgia, the process of transition to a market-oriented economy and the features of the Georgian society, there are numerous obstacles, which prevent the implementation of the Declaration in Georgia. They encompass negative economic, social, cultural, political, financial and legal factors which are all hampering awareness, education, prevention, care, treatment and support efforts. Accordingly, brutal violations of women’s human rights are observed in the country. I call for immediate reaction from the Government, NGOs, and different branches of UN organization in Georgia, as well as from Human Rights advocates, to draw the attention to the HIV infected women’s human

rights issue. In my opinion, this problem is actual as long as there is still one woman left discriminated against, feeling her life is lost because of her HIV positive status. These women have enough to suffer and they do not need more to add. Giving them the ability to enjoy their human rights is fundamental issue towards prevention and eradication of this incurable disease named HIV.

For the last words I want to refer to the journalist who recorded the interview from that infected woman. He said: "If we don't care for the people living with HIV/AIDS, how can we oblige them to care for us and not to perpetrate the action, which would infect healthy people?" These words are worth becoming a beacon for our understanding of the surrounding world so that people for whom there are the notions provided by the Universal Declaration of Human Rights would not be discriminated against just because of acquired disease, against which not a single person on the earth is guaranteed.

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