

Endnotes

Chapter 1

- 1 While HIV infection rates may be stabilising in sub-Saharan Africa, home to 70 per cent of those infected with the virus, mainly because relatively few high-risk individuals remain uninfected, the epidemic is still growing in other parts of the world. Russia saw nearly a 50 per cent increase in HIV infections in 2001, and the number of cases in Eastern Europe and Central Asia has risen by more than one-third (UNAIDS/WHO, 2000, 2001). Concerns have also been voiced over complacency in the West (with the numbers among some groups of young men in the United States now reported to be infected with HIV rising rapidly) and in Asia.
- 2 WHO, 2001; Kaul, Grunberg & Stern, 1999
- 3 Mahbub-ul-Haq Human Development Centre, 2001.
- 4 Indeed, HIV prevalence rates among adults in some of the sub-Saharan African countries are extremely high, as, for example, in Botswana with 38.8 per cent and South Africa with 20 per cent (UNAIDS/WHO, 2002).
- 5 It has been pointed out that figures pertaining to the magnitude of HIV/AIDS are, at best, estimates and not exact calculations. There is one main point to be made about data. The extent of HIV/AIDS in India is not really known and there are only reports from a number of surveillance centres. The true prevalence and incidence figures could be different. An estimate of the US National Intelligence Committee projects a very high number in the near future. However, it is a controversial issue.
- 6 NACO (India), 2000
- 7 UNAIDS/WHO, 2002
- 8 World Bank, 2002a
- 9 Purohit, 2001; Gertler and Hammer, 1997; Jain et al., 2000

- 10 Human poverty is more than income poverty. It is the denial of choices and opportunities for living an acceptable life (UNDP Human Development Report, 1997)
- 11 WHO, 2000
- 12 UNDP, 2001b
- 13 Bloom and Mahal, 1997; Bonnel, 2000; MacFarlan and Sgherri, 2001; Over, 1992
- 14 Barnett and Blaikie, 1992; Bharat, 1999; Bloom and Mahal, 1995; Mahal, 1996; Pyne, 1998, Barks-Ruggles, 2001

Chapter 2

- 1 Collins and Rau, 2000
- 2 UNDP, 2002
- 3 UNICEF, 2001
- 4 A study by Pitayanon et al. 1997 in Thailand finds that "the economic impact of an adult AIDS death is sizeable and significant despite all the coping strategies employed. The least able to cope were the poorest and least educated households engaged in agricultural work. The economic impact of an adult AIDS death was more severe than the impact of death from other causes. This is largely because AIDS infects a specific population, mainly those already disadvantaged and less able to cope with the resulting adversity".
- 5 Bloom and Mahal, 1996; p.39
- 6 Bloom and Mahal, 1996 and Bloom and Glied, 1993
- 7 Dhaliwal, 2002
- 8 *Middle East Times*, 4 January 2001
- 9 Hodges-Aeberhard, 2000
- 10 Dhaliwal, 2002; Hodges-Aeberhard, 2000
- 11 *Middle East Times*, 4 January 2001
- 12 Bharat, 1999; Verma et al., 2002
- 13 Bloom et al., 1997, p.197
- 14 Varma, 1997
- 15 Mahal, 1996
- 16 See <http://www.aidsnet.ch>

- 17 Bandhu, 2002
- 18 UNAIDS/WHO, 2002
- 19 Tallis, 1998
- 20 The analyses, while very similar to an earlier work by Bloom et al. (1996), mark a significant leap forward, in terms of the larger number of countries for which data are available, the increased length of the time period over which the impacts of the epidemic can be assessed, and the availability of better estimates of HIV prevalence and AIDS cases.
- 21 Unfortunately, lack of good sentinel surveillance data for HIV proved a hindrance in obtaining AIDS case estimates for Nepal.
- 22 The Hausman specification tests (see Technical Note B) reject the null hypothesis of no reverse effect running from life expectancy to HIV/AIDS.
- 23 Our results are unchanged even if we exclude the sub-Saharan African countries from our sample.
- 24 Indeed, the same results hold even if the adult literacy rate variable is replaced by primary and/or secondary enrolment rates, or by mean years of schooling in the population aged 15 years and above.
- 25 Stillwaggon, 2002
- 26 Bloom et al., 1997
- 27 Rao et al., 2001
- 28 Bloom, Mahal, Sevilla and River Path Associates, 2001
- 29 Recent research in Cambodia, the country with the most advanced epidemic in Asia, demonstrates the poorest segments of society have much less knowledge of how AIDS is transmitted and prevented. People from this class are more likely to have sex at a younger age and use condoms less frequently. A study in Brazil showed that three-quarters of people newly diagnosed with HIV in the early 1980s had a university or secondary education, but by the early 1990s this share had fallen to one-third.
- 30 Bharat, 1999
- 31 World Bank, 2000
- 32 UNFPA, 2000
- 33 UNDP, 2000
- 34 Lawyers' Collective, 2000
- 35 UNIFEM, 2001
- 36 The Behavioural Surveillance System (BSS) conducted by NACO of India reveals that the poorest awareness was among rural women in some states such as Bihar (20.6 per cent) and Uttar Pradesh (29.4 per cent). (BSS survey, NACO, 2001)
- 37 Zierler et al., 2000 find evidence from the state of Massachusetts in the United States that economic deprivation has a strong positive association with the incidence of AIDS.
- 38 Bloom et al., 1997
- 39 CPA media, 2001, p.1.
- 40 Jeffreys, 2001; Kukis, 2001; World Health Organization, 2001a
- 41 Phongpaichit, 1982; Micaller, 2002
- 42 MAP 2001, p.23
- 43 Wilson, 1999, p.1; Bryan, Fisher and Benziger, 2001
- 44 Wawer et al., 1996
- 45 Ford and Koetsawang, 1991
- 46 National AIDS/STD Program, Bangladesh, 2001
- 47 Bloom et al, 1997; National AIDS/STD Program, Bangladesh, 2001, Pakistan AIDS Prevention Society 2001; UNDP, 2001; World Bank, 2000
- 48 Singh, 2001
- 49 MAP, 2001, p.27
- 50 The research of Estebanez, Fitch and Najera (1993, pp.406-7) lends further support to this conclusion by noting the failure of methods focusing on isolation and imprisonment in order to control syphilis in the early twentieth century.
- 51 Mahal, 1995; Canadian HIV/AIDS Legal Network, 2002
- 52 Philipson and Posner, 1995, p.837
- 53 Bloom et al., 1997; Over, 2001
- 54 Gini co-efficient is an indicator of income inequality reflecting the distribution of income throughout the population. If income is distributed equally across the population, the co-efficient is equal to zero and if a few individuals predominantly hold the wealth, the co-efficient is close to one.
- 55 For more details, see Technical Note B
- 56 Bloom et al., 1997
- 57 Bloom et al., 1997
- 58 Guinness and Alban, 2000, p.10
- 59 Shepard, 1998, p.247
- 60 Barnett et al., 2001
- 61 Bloom et al., 1997
- 62 Bloom, Mahal and River Path Associates, 2002
- 63 Guinness and Alban 2000, and references cited therein
- 64 Barnett and Blaikie, 1992; Guinness and Alban, 2000, pp.7-8
- 65 Kwaramba, 1997
- 66 Bloom, Mahal and River Path Associates 2002
- 67 Bloom, Mahal and River Path Associates 2002, p.7
- 68 Bloom and Mahal, 1996 and references cited therein; Giraud, 1993
- 69 Kanjilal and Forsythe, 1997
- 70 Bollinger, Stover and Kibirige, 1999
- 71 Mahal, 2002
- 72 Bloom et al., 1997
- 73 World Bank, 1993
- 74 Kaplan and O' Keefe, 1993; Over and Piot, 1993

- 75 Bloom et al., 2001; Over, 1998
- 76 At the micro-level there is some evidence, mostly from sub-Saharan Africa, to support the assertion that the poor and the less educated are at greater risk from HIV infection (Bloom et al., 2001). However, Over (1992) also presented evidence of greater HIV prevalence among the economically better off in small samples of individuals. But there is evidence that this may change over time. A study in rural Uganda, on the other hand, found that in a cohort of nearly 20,000 adults aged 15-59 years followed over three and a half years, HIV-associated mortality was highest among the better educated. This section is likely to be hit hardest during the early stages of the epidemic, but infection rates are now falling quickest among them (Bloom et al., 1998). This has important implications for South Asia as well, especially as most countries have relatively low average education levels.
- 77 Bloom and Mahal, 1996; Bloom et al., 1997; Bloom et al., 2001
- 78 Bloom et al. 1997
- 18 Shrestha et al., 1998
- 19 Numerous studies have documented trafficking in women and children in South Asia. Nepal Human Development Report, 1998; UNHCR, 1994; Wadhwa, 1998
- 20 Amarasinghe, 2002
- 21 UNAIDS, 2000b
- 22 Nahar, Tunon, Barkat-e-Khuda, 2000
- 23 Ramachandran, 1999
- 24 Shadpour, 1999
- 25 Yakandawala and Ranathunga, 1999
- 26 Valley Research Group, 1999
- 27 UNDP, 2001a
- 28 Sen, 2000
- 29 MHHDC, 1999
- 30 Subramanian, 1992; Dreze, 2000
- 31 International Save the Children, 2002
- 32 Fitzpatrick, 1994.
- 33 Dreze, 2000
- 34 Goswami and Dutta, 1999; Manchanda, 2001; Chenoy, 2002; Butalia, 2002
- 35 Dhar, 2002
- 36 Huntington, 2001; Sanghera, n.d.
- 37 UNIFEM, 2000
- 38 Rahman, 2001
- 39 'National Policies' are usually required to be approved by the legislative bodies of countries and adopted as 'legislation', prior to their implementation

Chapter 3

- 1 UNAIDS/WHO, 2002
- 2 UNAIDS/WHO, 2002
- 3 UNAIDS/WHO, 2002
- 4 World Bank, 2002
- 5 UNAIDS/WHO, 2002
- 6 of longer duration
- 7 It should be noted that while the Sentinel Surveillance data provide model-based estimates for HIV prevalence, the data on HIV prevalence are not derived from exact calculations. It has also been pointed out that the reported AIDS cases may be a poor guide to the severity of the epidemic, as in many cases the death of an HIV positive person may have actually been attributed to an opportunistic infection such as TB.
- 8 NACO, 2000
- 9 World Bank, 2002b
- 10 UNAIDS, 1998.
- 11 World Bank, 2002b
- 12 World Bank, 2002b
- 13 Reid and Costigan, 2002; World Bank 2002a
- 14 World Bank, 2002b
- 15 World Bank, 2002a
- 16 The study was conducted to determine the relationship between injecting drug use, HIV and Hepatitis C among male injecting drug users in Lahore, Nai Zindagi was commissioned by UNDCP and UNAIDS in January 1999 for a baseline study. Data was collected from 200 male IDUs in Lahore.
- 17 UNDCP/UNAIDS, 1999
- 40 Khanna, Nadkarni and Bhutani, 1998
- 41 Bloem et al., 1999
- 42 Information provided by Ms. Sitara, UNDP, Afghanistan based in Islamabad. E-mail dated 21 August 2001.
- 43 UNAIDS/WHO, 2002
- 44 Articles 27, 28, 32 and 43, Constitution of the People's Republic of Bangladesh
- 45 www.youandaids.org/SouthAsia/sa_bhutan.asp#
- 46 www.youandaids.org/SouthAsia/sa_bhutan.asp#
- 47 Articles 14, 15, 21, The Constitution of India
- 48 'State' refers to government, municipal bodies, state controlled bodies & corporations & bodies created by statute
- 49 MX v ZY, AIR 1997 Bom 406
- 50 NHRC, 2001
- 51 Statement by Dr. Ali Akbar Sayyari, Deputy Minister for Health & Medical Education, Islamic Republic of Iran at the UNGASS in HIV/AIDS, June 2001
- 52 Article 11(2), Part 3, The Constitution of the Kingdom of Nepal
- 53 Article 11(3), Part 3, The Constitution of the Kingdom of Nepal
- 54 Article 12(5), Part 3, The Constitution of the Kingdom of Nepal
- 55 Article 22, Part 3, The Constitution of the Kingdom of Nepal

- 56 Pradhan, 1998
 57 Malla, 2001
 58 World Bank 2002b
 59 Articles 25, 26 and 27, Part II, Constitution of the Islamic Republic of Pakistan
 60 World Bank 2002b
 61 World Bank 2002b
 62 Ordinance no. XL of 1981
 63 Article 25(1) (a) Chapter III, The Constitution of the Republic of Sri Lanka
 64 Article 11(2) Chapter III, The Constitution of the Republic of Sri Lanka
 65 A doctor who acquired HIV from a blood transfusion in a semi-government hospital was told to find another job. (Samath, 1997)
 66 Samath, 2001
 67 www.youandaids.org
 68 World Bank, 2002b
 69 Statement by Ali-Akbar Sayyari, Islamic Republic of Iran at the Special Session of the United Nations General Assembly on HIV/AIDS, 25 June 2001
 70 Government of Pakistan, Ministry of Health and UNAIDS, 2000 World Bank, 2001
 71 World Bank, 2002b
 72 UNAIDS, 2002
 73 World Bank, 2002a citing 1998-99 National Sero-surveillance data
 74 Some of the information is adapted from Roque and Gubhaju, 2001
 75 Iran News, July 24, 2001
 76 Trang, 1999
 77 *Iran News*, October 20, 2001
 78 Agence France-Presse, 2000
 79 Maldives Human Development Report, 2000
- 6 The Goa Public Health (Amendment) Act, 1985 of the Indian state of Goa put anyone testing positive for HIV under mandatory isolation. This was later amended to make such isolation discretionary.
 7 The Indian government has now adopted an integrationist model in its National Aids Prevention and Control Policy.
 8 Sabatier, 1988
 9 Kirby, 2000
 10 Justice Michael Kirby of the High Court of Australia at the plenary session on "Partnerships Across Borders Against HIV/AIDS", 4th International Congress on AIDS in Asia and the Pacific, Manila, Philippines, 28 October 1997
 11 Crandall and Moriarty, 1995
 12 Bharat, 1999; Gilmore and Somerville, 1994
 13 CHANGE & ICRW, 2002
 14 Goffman, 1963, defines stigma as a 'significantly discrediting' attribute.
 15 UNDP & Sahara, 2002
 16 Mr. X V. Hospital Z, [1998] 8 SCC 296
 17 Resolution 49/1999
 18 According to MHHDC 2002, Maternal Mortality Ratio (per 100,000 live births) 1985-1999 weighted average is 492 for South Asia (excluding Afghanistan and Iran)
 19 According to the Pakistan-based Lawyers for Human Rights and Legal Aid (LHRLA), every year hundreds of women, of all ages and in all parts of the country, are reported killed in the name of honour. During the first eight months of 2002, 549 women became the victims of barbaric custom of Karo Kari (literally black man, black woman) in Pakistan and all the cases received wide publicity. Research by LHRLA showed that the real number of such killings is far greater than the number reported in the national print media. Honour killings are no longer only reported from remote rural areas but also though less frequently from towns and cities. The modes of killing vary, with people being hacked to pieces in Sindh, often in view of and with the implicit or explicit sanction of the community. In the province of Punjab, such killings occur in an urban setting and appear based more on individual decisions. The killings are usually carried out by shooting and are not always carried out in public.

Chapter 4

- 1 Some examples are the United Nations Declaration of Commitment, June 2001 and the Government of India's National AIDS Prevention and Control Policy
 2 25 November 2000
 3 Albertyn, 2000
 4 U.S Committee for UN Population Fund, 2002 (http://www.uscommittee.org/issue5_0.html)
 5 Australia, for instance, saw a great decrease in HIV/AIDS incidence when it introduced a legal regime that protected the rights of those most at risk – sex workers, injecting drug users – and integrated PLWHA and vulnerable groups by empowering them with information, access to services, decriminalisation, harm reduction etc.
- 20 The text in this and the subsequent section draws heavily from Rivers and Aggleton, 1999
 21 Petchesky & Judd, 1998
 22 Chinnock, 1996
 23 McKenna, 1996
 24 Silva et al., 1997
 25 Bandhu, 2002

- 26 ILO, 2000
- 27 FAO, 1995
- 28 UNDP, 2001a
- 29 USAID Bangladesh, 2003
- 30 CATW, 2002
- 31 STOP, 2002
- 32 World Bank, 2002b
- 33 UNAIDS. It must be noted that the figures quoted here are from 1995 because no authenticated data are available for Afghanistan since 1995.
- 34 Simkhada, 2002
- 35 ODI, 1999
- 36 Law made by judges through their decisions in the absence of statutes, which then become precedents and binding law
- 37 Articles 27, 28, 32 and 43, Constitution of the People's Republic of Bangladesh
- 38 Article 22, Part 3, The Constitution of the Kingdom of Nepal
- 39 Al-Suood, 1995
- 40 Reid and Costigan, 2002
- 41 Article 1, Law on Combating Drugs, 1991.
- 42 Taking depended drug users off drugs without decreasing doses slowly resulting in severe withdrawal symptoms
- 43 UNDCP, 1999b
- 44 Dr. Bayram Yeganeh, Director, Iran National AIDS Prevention Committee (www.aegis.com/news/ips/2001/IP010303.html)
- 45 Human Rights Watch, 2002
- 46 Lawyers Collective HIV/AIDS Unit, an Indian NGO, has itself filed approximately 80 such cases in the last four years in various Indian courts.
- 47 *Hindustan Times*, November 13, 2002
- 48 Johari, V. and Divan, V., 2001
- 49 Khanna, A. and Salvi, S., 2001
- 50 Shreedhar and Colaco, 1996
- 51 Glick, 1993; Jayasuriya, 1995.
- 52 Healthcare workers are at risk of occupational exposure to HIV. Exposures occur through needle-sticks or cuts from other sharp instruments (percutaneous exposures) contaminated with an infected patient's blood or through contact of the eye, nose, or mouth (mucous membrane) or skin with a patient's blood.
- 53 www.regentsparkclinic.com/Post_Exposure_Prophylaxis_HIV.php
- 54 Grover, 1993
- 55 Goonesekere, 1998
- 56 HAART suppresses viral replication to virtually undetectable levels in blood tests. HAART also leads to the gradual replacement of CD4 lymphocytes. Therapy is usually begun when the patient is diagnosed with clinical AIDS, irrespective of CD4 cell count, or has a CD4 cell count below 200 cells/mm³, or is diagnosed with WHO Stages II or III HIV disease with a total lymphocyte count below 1200/mm³. Thus, only a certain proportion of a country's population of people living with HIV will require ARVs at any given time. ARVs work in different ways. Some inhibit the viral replication process. Others prevent the entry of HIV into CD4 lymphocytes. HIV replicates itself with the help of two enzymes known as reverse transcriptase and protease. The first class of Anti-retroviral drugs work by inhibiting one or other of these viral enzymes and are, therefore, known as reverse transcriptase and protease inhibitors. Certain other ARVs belonging to the second category intervene relatively early in the infection process. These drugs, known as fusion inhibitors, work by blocking the fusion of HIV with the CD4 T lymphocyte, thus preventing the entry of the virus into the T cell.
- 57 UNAIDS/WHO, 2002
- 58 Dr Joep Lange, President, International AIDS Society, at the launch of the International HIV Treatment Access Coalition in Geneva, December 2002
- 59 Marseille et al., 2002
- 60 Parallel importation of drugs allows individuals or bodies to import generic drugs to the country in spite of branded drugs of the same generic being sold in the country by agents of the main producer. The parallel drug importation allows the customer the choice of a wide range of generic drugs at a lower price
- 61 UNDP, 2001
- 62 Pharmaceutical Research and Manufacturers of America estimates R&D costs at \$500-800 million
- 63 The types of intellectual property protected under TRIPS include copyrights, trademarks, geographical indications, industrial designs, integrated circuits, patents and trade secrets.
- 64 Fink, 2000; Watal, 2000
- 65 Correa, 2002
- 66 Compulsory licenses are licenses issued by an administrative authority on predetermined terms that allow non-patent holders to produce a patented product.
- 67 "Members may provide limited exceptions to the exclusive rights conferred by a patent provided such exceptions do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties". TRIPS Agreement, Article 30.
- 68 Love 2002, Correa 2002 etc.
- 69 Office of the UN High Commissioner for Human Rights, 2002. (CESCR-Covenant

- on Economic, Social and Cultural Rights, CCPR-Covenant on Civil and Political Rights, CERD-Convention on the Elimination of Racial Discrimination, CEDAW-Convention on the Elimination of All forms of Discrimination Against Women, CAT-Convention Against Torture and other Cruel, Inhuman or Degrading Treatment of Punishment, CRC-Convention on the Rights of the Child.
- 70 The Central Asian Declaration on HIV/AIDS, 18 May 2001. The European Union Programme for Action: Accelerated Action on HIV/AIDS, malaria and tuberculosis in the context of poverty reduction, 14 May 2001; The Abuja Declaration and Framework for Action for the fight against HIV/AIDS, tuberculosis and other related infectious diseases in Africa, 27 April 2001; The regional call for action to fight HIV/AIDS in Asia and the Pacific, 25 April 2001; The Pan-Caribbean Partnership against HIV/AIDS, 14 February 2001; The Declaration of the Tenth Ibero-American Summit of heads of State, 18 November 2000; The United Nations Millennium Declaration, 8 September 2000; The political declaration and further actions and initiatives to implement the commitments made at the World Summit for Social Development, 1 July 2000; The political declaration and further action and initiatives to implement the Beijing Declaration and Platform for Action, 10 June 2000; The Baltic Sea Declaration on HIV/AIDS Prevention, 4 May 2000; Key actions for the further implementation of the Programme of Action of the International Conference on Population and Development, 2 July 1999; The International Covenant on Civil and Political Rights; and the United Nations Universal Declaration on Human Rights.
- 71 While a Handbook for Legislators was distributed in 1999, the dissemination of the Guidelines has been criticised for being inadequate and government responses have been termed disappointing. A mechanism for measuring the implementation of the Guidelines has been proposed.
- 72 Extract from 6th International Congress on AIDS in Asia and the Pacific, 2001, Regional Workshop on "HIVAIDS and Human Rights: The Role of National Human Rights Institutions in the Asia and Pacific"
- 73 Commission on Human Rights resolution 2000/61 and Economic and Social Council Decision 2000/220.
- 74 UN General Assembly Resolution 53/144 (A/RES/53/144), 8 March 1999.
- 75 Lawyers, activists and organisations working to defend human rights around the world
- 76 IDHRB, 1999
- 77 Extract from the 6th International Congress on AIDS in Asia and the Pacific, 2001, "Regional Workshop on HIV/AIDS and Human Rights: The Role of National Human Rights Institutions in the Asia and Pacific".
- 78 Report of the National Conference on Human Rights and HIV/AIDS, New Delhi, 24-25 November 2000.
This Conference was organised by NHRC, in Partnership with NACO, Lawyer's Collective, UNICEF and UNAIDS. The objective of the conference was to initiate the process of developing a rights-based response to the HIV/AIDS epidemic within India, to be taken forward by various State Human Rights Commission, police departments, representatives from the health-sector and State AIDS Control Societies in close collaboration with civil societies.
For further information please refer to: ([http://nhrc.nic.in / report_hiv_aids.htm](http://nhrc.nic.in/report_hiv_aids.htm))
- 79 UNAIDS/IPU, 1999
- 80 UNAIDS/IPU, 1999

Chapter 5

- 1 South Asia high level conference on 'Accelerating the momentum in the fight against HIV/AIDS' 3-4 February 2003, UNAIDS&UNICEF
- 2 Mahal, 2002
- 3 Misra, Mahal and Shah, 2000; Philipson and Posner, 1993; Kremer, 1998
- 4 This issue was also the theme for World AIDS Day 2002
- 5 Aggleton, 2000
- 6 UNAIDS, 2002a
- 7 UNAIDS, 2002a
- 8 These recommendations are drawn almost entirely from *HIV/AIDS Related Stigma and Discrimination: A Review and Suggested Ways Forward for South Asia*, UNAIDS, 2002a
- 9 UNAIDS, 2002a
- 10 Wong, 2000; Rupachandra, 2001; Ray and Sharma, 1998
- 11 Baden and Wach, 1998
- 12 Ministry of Women's Development, 1987.
- 13 Smith and Cohen, 2000
- 14 Smith and Cohen, 2000
- 15 CPTech, 2001
- 16 S.R. Kulkarni, All India Port and Dock Workers Federation, personal communication.
- 17 Tata Steel, 2002
- 18 Nangia, 1998
- 19 Dhillon, 2002
- 20 Smith and Cohen, 2000
- 21 A good summary of the dimensions of promoting gender equity in Gupta, 2000