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United Nations and HIV/AIDS: The Comic Book Experiment

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☞ AIDS; Books; Health; HIV; Human rights; United Nations

Abstract

On 25 September, 2015, the United Nations, through a resolution passed in the General Assembly, adopted a set of 17 Global Sustainable Development Goals. A core team consisting of PCI Media Impact and Reading with Pictures (both NGOs) in association with the United Nations Children's Fund (UNICEF) have initiated a project called Comics Uniting Nations through which artists from across the world will create comic books educating about the 17 different goals. One of these goals is to promote the "physical and mental well-being" of all. Directly within the purview of this goal fall efforts to combat HIV/AIDS. The United Nations has, once before, undertaken a project to spread awareness about HIV/AIDS through comic books. This article seeks to critically evaluate the hits and misses of that project from the perspective of public health with the aim of providing, both, a critical evaluation of the comic book project and of highlighting some important themes within the HIV/AIDS advocacy that Comics Uniting Nations must address through the new comics.

I. Introduction

"Promoting and protecting human rights in the context of HIV/AIDS is essential to ensure an effective response to the epidemic. This means not only ensuring access to treatment as part of the realization of the right to health, but equally addressing HIV-related stigma and discrimination, paying particular attention to vulnerable population groups, incorporating a gender perspective, and making sure that other related human rights aspects, such as the right to information and the right to participation, are integral components in our response to the epidemic."¹

This was the statement made by Dr. Jim Yong Kim, Director of the World Health Organization ("WHO") HIV/AIDS department in 2004 at the release of the comic book, *HIV and AIDS: Stand Up for Human Rights*.² This comic book was the earliest that the United Nations released as an effort to address the myriad issues surrounding HIV and AIDS. The hope was that these comic books will address various issues implicit within the HIV and AIDS paradigm, apart from just stigma and discrimination, such as: State

* Surabhi Shukla is a DPhil (law) student at the University of Oxford. This paper was first written at UCLA Law in a class called Human Rights and Sexual Politics. The author wants to thank most of all Prof. Lara Stemple, who taught the class, for encouraging this unusual academic inquiry. The paper was edited and expanded at O.P. Jindal Global University where the author taught as an Assistant Professor (law). She has also benefitted immensely by a most illuminating discussion on enforcement mechanisms of international obligations with Prof. Stephen Marks of Harvard University and would like to express her thanks to him. Finally, she would like to thank her parents, Alpana Shukla and Kamalendu Shukla, for giving her unconditional encouragement and support in all her endeavours.

¹ World Health Organization, "FIFA And WHO To Join Forces To Promote A Human Rights Approach to HIV/AIDS" (10 December 2004) World Health Organization, <http://www.who.int/mediacentre/news/releases/2004/pr90/en/> [Accessed 1 August 2018].

² World Health Organisation, *HIV/AIDS: Stand up for human rights* (Geneva: World Health Organisation, 2003).

obligations, socio-economic realities of a majority of patients, gender discrimination and issues faced by marginalised and vulnerable groups including sexuality related issues.³

However, there has been no evaluation of these comic books from a public health perspective. I argue that the comic book experiment of the United Nations, while a novel and creative effort does little more than address the issue of HIV and AIDS from the stigma and discrimination lens. Not only is this true of the earlier comics released in 2003–04 for which an argument can perhaps be made that addressing stigma and discrimination had to be the first points of entry into the HIV/AIDS debate⁴, this exclusive focus was also seen in the last of those set of comics released by the United Nations, *Score the Goals*⁵, a 2010 release. What is needed, then, is to recognise the limitation of these comic books and to expand the venture in the form of more sophisticated releases focusing on issues like gender, sexuality, government accountability and socio-economic realities (among others), surrounding HIV and AIDS (Part III). This will enable readers to get a more nuanced understanding of the disease which will ultimately help in fighting it in a more holistic manner. The release of the *Comics Uniting Nations* comics provides an excellent opportunity to take stock of, and address, these limitations.

I have picked the four comics (Part II) published by the United Nations from 2002–2010 which address the issue of HIV and AIDS. These four comics are: *The Right to Health*⁶, *HIV/AIDS: Stand Up for Human Rights*⁷, *HIV and AIDS: Human Rights for Everyone*⁸ and *Score the Goals*.⁹ No other comics have been published by the United Nations on HIV/AIDS since then and the *Comics Uniting Nations* project, as of 16 June 2018, has not published a comic on HIV/AIDS. For this analysis, I will restrict myself to comic books defined in the following way: publications that consist of multiple pages and panels that tell a story, regardless of whether they are published periodically.¹⁰ Illustrations, comic strips, and information pamphlets with drawings are excluded.

II. The International Law Framework for Health

Before delving specifically into the comic books, it would perhaps be appropriate to lay down the instrumental framework that supports this venture. Although housed in other documents,¹¹ the International Covenant on Economic, Social and Cultural Rights (“ICESCR”) is credited with having the most comprehensive definition of the right to health in the international law regime.¹² The state parties to the covenant affirm, in art.12 their recognition, of the “right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”¹³ Sub-part (2) of this article illustrates a list of non-exhaustive measures the states would take to ensure the “full realization of this right.”¹⁴ These measures are¹⁵:

³ World Health Organization, “FIFA And WHO To Join Forces To Promote A Human Rights Approach to HIV/AIDS” (10 December 2004) World Health Organization, <http://www.who.int/mediacentre/news/releases/2004/pr90/en/> [Accessed 1 August 2018].

⁴ Telephone Interview with Miriam Maluwa, Law and Human Rights Adviser, UNAIDS, (27 October 2011).

⁵ UNAIDS, *Score The Goals* (Geneva: United Nations, 2010).

⁶ World Health Organisation, *The Right to Health*, (Geneva, WHO, 2002), p.9.

⁷ WHO, *HIV/AIDS: Stand up for human rights* (2003).

⁸ United Nation High Commission for Refugees, *HIV and AIDS: Human Rights for Everyone* (Geneva: UNHCR, 2006).

⁹ UNAIDS, *Score The Goals* (2010).

¹⁰ Robert C. Harvey, *The Art of the Comic Book: An Aesthetic History* (Mississippi: University of Mississippi, 1966) p.3.

¹¹ Constitution of the World Health Organization 1946, art.1 and Preamble. The Universal Declaration of Human Rights 1948, art.25(1). See also, Lara Stemple, “Health and Human Rights in Today’s Fight Against HIV/AIDS” 2008, 22 (Suppl 2) AIDS S113, S114. See also, Convention on the Elimination of All Forms of Racial Discrimination 1969, art.5(e)(iv); Convention on the Elimination of Discrimination Against Women 1979, arts 12 and 14; Convention on the Rights of the Child 1989, art.9; Convention on the Rights of Persons with Disabilities 2006, art.25.

¹² Committee for Economic, Social and Cultural Rights, *General Comment No.14*, para.2. See also, Stephen Marks, “The Emergence and Scope of the Human Right to Health,” in José M. Zuniga et.al. (eds.) *Advancing the Human Right to Health* (Oxford: OUP, 2013) pp.3, 7.

¹³ International Covenant on Economic, Social and Cultural Rights 1966, art.12.

¹⁴ International Covenant on Economic, Social and Cultural Rights 1966, art.12 (2).

¹⁵ International Covenant on Economic, Social and Cultural Rights 1966, art.12 (2).

- (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
- (b) The improvement of all aspects of environmental and industrial hygiene;
- (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
- (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

The normative content of this right is provided by the Committee on the Economic, Social and Cultural Rights (CESCR), the monitoring committee of the ICESCR through their *General Comment No.14* published in the year 2000.¹⁶ To be sure, the Committee clarifies, that “[t]he right to health is not to be understood as a right to be healthy. The right to health contains both freedoms and entitlements.”¹⁷ Stephen Marks has succinctly summarised these freedoms and entitlements under two broad headings:

- A. Obligations on the health system; and
- B. Realization of other human rights that contribute to health.¹⁸

A. Obligations on the Health System:

The obligations on the health system are the conditions that the state must create to ensure access to a healthy life to its peoples. Most of these obligations are subject to progressive realization by the states.¹⁹ However, there are certain *core obligations* imposed on all states via *General Comment No.14*. For the purpose of this article, I will focus on how many of the core obligations have been addressed by the comic books and in what manner. These obligations are: 1. non-discrimination; 2. freedom from hunger; 3. access to basic shelter, sanitation and water; 4. essential drugs; 5. equitable distribution; and, 6. a national health plan.²⁰ *These obligations are non-derogable.*²¹

Another set of obligations accompany this list and are to be rated as “comparable”²² to this core as per the General Comment (I treat them as core too because the words “comparable” lend themselves to this simple conclusion). These obligations are: 1. maternal, reproductive and child health; 2. immunization; 3. training of health professionals; and, 4. prevention, treatment and control of infectious diseases.²³ Each of these obligations have to be discharged in accordance with the following principles *1. availability; 2. accessibility; 3. acceptability; and 4. quality of care* (hereinafter “QA”²⁴).

- (1) *The principle of availability* states that not only should “public health and health-care facilities, goods and services, as well as programmes”²⁵ be available within the state but also that the “underlying determinants of health, such as safe and potable drinking water and adequate sanitation facilities, hospitals, clinics and other health-related buildings, trained medical and professional personnel receiving domestically competitive salaries, and essential drugs”, (defined by the WHO Action Programme on Essential Drugs)²⁶ should be made available by the state.²⁷

¹⁶ Marks, “The Emergence and Scope of the Human Right to Health,” in Zuniga et.al. (eds.) *Advancing the Human Right to Health* (2013), p.9

¹⁷ See Marks, “The Emergence and Scope of the Human Right to Health,” in Zuniga et.al. (eds.) *Advancing the Human Right to Health* (2013), p.9.

¹⁸ See Marks, “The Emergence and Scope of the Human Right to Health,” in Zuniga et.al. (eds.) *Advancing the Human Right to Health* (2013), p.9.

¹⁹ See ICESCR, 1966, art.2.1. For the normative content of “progressive realization”, see CESCR, *General Comment No.14*, para. 30–32.

²⁰ See CESCR, *General Comment No.14*, para.43.

²¹ See CESCR, *General Comment No.14*, para.47.

²² See CESCR, *General Comment No.14*, para.44.

²³ See CESCR, *General Comment No.14*, para.44.

²⁴ See CESCR, *General Comment No.14*, para.12.

²⁵ See CESCR, *General Comment No.14*, para.12(a).

²⁶ See CESCR, *General Comment No.14*, para.12(a).

²⁷ Stephen P. Marks, *Setting the context – access to medicine as a fundamental component to the full realization of the right to health*, presentation to the Expert Consultation on Access To Medicines as a Fundamental Component of the Right to Health, pursuant to Human Rights Council Resolution 12/24, 11 October 2010, Room XII, Palais des Nations, Geneva.

- (2) *The principle of accessibility* states that the above mentioned services should be made available to all, especially, the “most vulnerable and marginalised section of the population”²⁸ without discrimination on “the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation and civil, political, social or other status.”²⁹ Both these services and the underlying determinants of health must be within a safe physical reach for all including the vulnerable sections, marginalised groups and disabled persons.³⁰ Additionally, these services, whether publicly or privately owned,³¹ must be economically affordable for all, with the obligation on the states to provide health care and health insurance to those who cannot afford these services.³² Finally, the principle of accessibility entails the right of everyone to enquire about, receive and disseminate health related information without betraying the principle of confidentiality.³³
- (3) *The principle of acceptability* states that, medical services provided must be “respectful of the culture of individuals, minorities, peoples and communities, sensitive to gender and life-cycle requirements, as well as being designed to respect confidentiality and improve the health status of those concerned.”³⁴
- (4) *The principle of quality of care* states that medical services must be scientifically and medically appropriate, the medical professionals must be skilled and the medicines must be unexpired.³⁵ States are obliged to “take the necessary steps to the maximum of its available resources”³⁶ to fulfil their obligations under the ICESCR. How governments are held accountable to these obligations are summarily mentioned later in the article (Part IV).

B. Realization of Other Human Rights that Contribute to Health

As per the CESCR, the right to health is “closely related to and dependent upon the realization of other human rights”³⁷ namely, 1. the right to food (also a core obligation); 2. the right to housing (also a core obligation); 3. the right to work; 4. the right to education; 5. the right to human dignity; 6. the right to life; 7. the right against discrimination (also a core obligation); 8. the right to equality; 9. the right against torture; 10. the right to privacy; 11. the right to access information; 12. the freedom of association; 13. the freedom of assembly; and, 14. the freedom of movement. For the purpose of this article, I will only analyse the comic books against core obligations.

²⁸ See CESCR, *General Comment No.14*, para.12(b).

²⁹ See CESCR, *General Comment No.14*, para.18.

³⁰ See CESCR, *General Comment No.14*, para.12(b).

³¹ See CESCR, *General Comment No.14*, para.12(b).

³² See CESCR, *General Comment No.14*, para.19.

³³ See CESCR, *General Comment No.14*, para.12(b).

³⁴ See CESCR, *General Comment No.14*, para.12(c).

³⁵ See CESCR, *General Comment No.14*, para.12(d).

³⁶ See CESCR, *General Comment No.14*, para.45.

³⁷ See CESCR, *General Comment No.14*, para.3.

II. The Comic Books

A. *Why Comic Books?*

Comics have come a long way from being considered “mindless pap”³⁸ to being considered agents of peace journalism.³⁹ Being easy to understand, they not only influence the way people think and change outlook, but they also employ the “universal language”³⁴⁰ of visual communication.

Miriam Maluwa, at the time the Law and Human Rights Adviser for Joint United Nations Programme on HIV and AIDS (“UNAIDS”), and one of the key members of the team creating the comic book *HIV/AIDS: Stand Up for Human Rights*,⁴¹ recalls how the United Nations’ experiment with comic books started.⁴² Once a Memorandum of Understanding was signed between UNAIDS and the Office of the United Nations High Commissioner of Human Rights (“OHCHR”) to work on HIV and human rights in conjunction, the need was to get these messages across to the populations it sought to serve and to educate.⁴³ Comic books were chosen as that medium for a myriad of reasons: they were non-conventional,⁴⁴ they engaged people positively,⁴⁵ they were easily accessible,⁴⁶ perhaps more exciting to read than articles,⁴⁷ they could be used across borders with little or no alteration⁴⁸ and they appealed to peoples of all cultures, ages and countries,⁴⁹ regardless of their literacy level.⁵⁰ The goal to be achieved from this project was to educate and raise awareness about HIV and AIDS, not only among young people and pre-teens but also, hopefully, among persons of all ages, across all countries.⁵¹ This last point is important to bear in mind especially to evaluate the comics’ performance with respect to sex and sexuality.

³⁸ Ellen Yamshon and Daniel Yamshon, “Comics Media in Conflict Resolution Programmes: Are They Effective in Promoting and Sustaining Peace” (2006) 11 *Harv. Negot.L. Rev.* 421, 430.

³⁹ Yamshon and Yamshon, “Comics Media in Conflict Resolution Programmes: Are They Effective in Promoting and Sustaining Peace” (2006) 11 *Harv. Negot.L. Rev.* 421, 427.

⁴⁰ Yamshon and Yamshon, “Comics Media in Conflict Resolution Programmes: Are They Effective in Promoting and Sustaining Peace” (2006) 11 *Harv. Negot.L. Rev.* 421, 431. See contra, Courtney Sloane Philips, “Do Students Retain More Information Through Real Life Images or Through Clip Art Cartoon Images”, in Deborah A. McAllister & Courtney L. Cutcher (eds.) (2011) 17 *Culminating Experience Action Research Projects* 165, 180. Courtney Sloane argues that when students are not exposed to real life information on a matter cannot relate the cartoon information to the real-life information easily. Also, scholars are of the opinion that comics and cartoons can function as a supplement for teaching but cannot function as a substitute for it. By acting as a supplement, it can help bring out the oft neglected aspects of a particular subject by picture images. See generally, Marjorie R. Pond, “Cartooning Aids” 1947 47(8) *The American Journal of Nursing* 517, 518.

⁴¹ WHO, *HIV/AIDS: Stand up for human rights* (2003).

⁴² Telephone Interview with Miriam Maluwa, Law and Human Rights Adviser, UNAIDS, (27 October 2011).

⁴³ Riikka Elina Rantala ET. AL., “Right to Health through Education: Mental Health and Human Rights” (2010) 1 *Human Rights in Asia Pacific PACIFIC* 188, 192.

⁴⁴ Telephone Interview with Miriam Maluwa, Law and Human Rights Adviser, UNAIDS, (27 October 2011).

⁴⁵ Yamshon and Yamshon, “Comics Media in Conflict Resolution Programmes: Are They Effective in Promoting and Sustaining Peace” (2006) 11 *Harv. Negot.L. Rev.* 421, 424.

⁴⁶ Telephone Interview with Miriam Maluwa, Law and Human Rights Adviser, UNAIDS, (27 October 2011).

⁴⁷ U.N. Secretary-General, “Unlearning Intolerance” Seminar on the Theme Cartooning for Peace: Introductory Remarks by the Secretary-General (16 October 2006).

⁴⁸ Telephone Interview with Miriam Maluwa, Law and Human Rights Adviser, UNAIDS, (27 October 2011). However, in practice, the comic books were altered keeping in mind the country in which they were being distributed. For e.g. in *The Right To Health* Comic at pg.9, one of the characters says that women have the right, as men do, to decide how many children they want within the marriage. This information was modified when the comic was distributed in China which has a one child policy. As told to author in a telephone interview with Helena Nygren- Krug, Health and Human Rights Adviser, WHO, (4 November 2011).

⁴⁹ Telephone Interview with Miriam Maluwa, Law and Human Rights Adviser, UNAIDS, (27 October 2011).

⁵⁰ Rose Marie Beck, “Popular Media for HIV/AIDS Prevention? Comparing Two Comics: Kingo and the Sara Communication Initiative” (2006) 44 (4) *Journal of Modern African Studies* 513, 514. However, Beck argues that this sort of a reasoning not only underestimates the capacity of a comic and makes paternalistic assumptions about the intellectual ability of the targeted populations, it more importantly, in her view, allows comics to transmit stereotypes in the name of simplicity.

⁵¹ Telephone Interview with Miriam Maluwa, Law and Human Rights Adviser, UNAIDS, (27 October 2011) and telephone interview with Helena Nygren- Krug, Health and Human Rights Adviser, WHO, (4 November 2011).

B. The Comics

1. The Right to Health (2002)

The Right to Health is a 2002 publication of the WHO which, on the whole, addresses various facets of health as a human right. The story unfolds in a classroom, located probably in Africa,⁵² where young students have gathered from Asia, America, Europe and Africa.⁵³ What follows is an exchange between these students and a teacher of apparent African origin in which they discuss human rights. Human rights are understood within this comic as, “What can and what cannot be done to you, and what should be done for you.”⁵⁴ The teacher informs the students that the governments are responsible for ensuring that human rights are enjoyed by its residents.⁵⁵ The teacher notes that the governments have undertaken to ensure these rights for its residents through various treaties and covenants such as those on children’s rights, the rights of a woman, and against discrimination.⁵⁶

The conversation turns to discrimination. Upon being asked what discrimination is, one of the students replies that it is being treated in a “bad way.”⁵⁷ The teacher agrees that everyone has a right to be treated with equal respect.⁵⁸ Then one of the students of apparent Chinese origin narrates an incident of discrimination that he witnessed in his village. He narrates that the health worker in his village revealed that one of his neighbours was infected with the HIV/AIDS virus.⁵⁹ When this news became public, the neighbour lost his job and his family was evicted from the village.⁶⁰ Different members of the class have different reactions to this story. The teacher points out that the health worker should have protected the privacy of the patient who should not have been discriminated against because he was living with HIV.⁶¹ Another student joins in saying that no one should be discriminated against on the basis of religion, skin colour etc.⁶² The class then discusses other aspects of possible unequal treatment like sex discrimination. This discussion, premised on the right to privacy and against discrimination, concludes that, “men and women have the same rights all their lives.”⁶³ This includes, the right to education, the right to decide if and whom they will marry, the right to decide if, and how many children they want, and when.⁶⁴

At this juncture, the students interject and inform the class that health “depends on lots of other things ... especially living conditions.”⁶⁵ A student elaborates by way of example, “the water is dirty in my village and so we are often ill.”⁶⁶ The teacher agrees stating that “the right to health also means healthy living conditions.”⁶⁷ Another student questions what the right to health might mean if a person is ill.⁶⁸ The teacher replies that when one is ill, the right to health must include easy access to healthcare⁶⁹, caring and respectful treatment,⁷⁰ the right to information about the illness and the right to be heard by the medical practitioner.⁷¹

⁵² Although, in this comic, like all the others being studied in this Article, the geographical location is undisclosed: probably to give the comic book a more universal appeal.

⁵³ WHO, *The Right to Health*, (2002), p.4.

⁵⁴ WHO, *The Right to Health*, (2002), p.4.

⁵⁵ WHO, *The Right to Health*, (2002), p.5.

⁵⁶ WHO, *The Right to Health*, (2002), p.5.

⁵⁷ WHO, *The Right to Health*, (2002), p.6.

⁵⁸ WHO, *The Right to Health*, (2002), p.6.

⁵⁹ WHO, *The Right to Health*, (2002), p.7.

⁶⁰ WHO, *The Right to Health*, (2002), p.7.

⁶¹ WHO, *The Right to Health*, (2002), p.7.

⁶² WHO, *The Right to Health*, (2002), p.7.

⁶³ WHO, *The Right to Health*, (2002), p.8.

⁶⁴ WHO, *The Right to Health*, (2002), p.8–9.

⁶⁵ WHO, *The Right to Health*, (2002), p.p. 10.

⁶⁶ WHO, *The Right to Health*, (2002), p.10.

⁶⁷ WHO, *The Right to Health*, (2002), p.10.

⁶⁸ WHO, *The Right to Health*, (2002), p.11.

⁶⁹ WHO, *The Right to Health*, (2002), p.11.

⁷⁰ WHO, *The Right to Health*, (2002), p.12.

⁷¹ WHO, *The Right to Health*, (2002), p.12.

Thus, the teacher conveys to the students that the right to health is more than a right to medicine. The right to health is closely and practically associated with the many social entitlements listed above. The governments are responsible, the teacher states, for making healthcare affordable for all, and human rights should form the first priority when a government is deciding how to spend money.⁷² The teacher also states that rich governments have an obligation to help poor governments meet their human rights needs.⁷³ Understanding the right to health as a right contingent upon socio-economic conditions and a right to access health services, the comic book squarely places the responsibility on the government of various nations to make sure that the right to health of its citizens is maintained. The class takes a break.

2. HIV and AIDS: Stand Up for Human Rights (2003)

HIV and AIDS: Stand Up for Human Rights is a 2003 publication (updated in 2010) of the WHO, OHCHR and UNAIDS. The story unfolds on the football field,⁷⁴ once again, in an undisclosed geographical location, where a group of kids from various nationalities including European, Chinese, Indian, African etc. have gathered for a game of football. One of the friends, Freddy, however, is unable to join the game as he has to be home nursing his sick mother who is suffering from HIV/AIDS. After an initial wave of apprehension among the kids, many of whom want to ostracise Freddy and his mother owing to the “terrible”⁷⁵ disease, the focus of the story shifts to educating the kids about HIV/AIDS: how it spreads and how it does not, certain prevention techniques and more specifically, the right of those suffering from HIV/AIDS to be treated in a manner free from discrimination. The protagonist of the story, a young man of apparent European origin, elaborates that one can be infected with the HIV virus through 1. unprotected sex; 2. infected blood; and 3. needle sharing.⁷⁶ He informs us not to take drugs or share needles, to wait to have sex, to not feel compelled to have sex under any kind of peer pressure and to use a condom when we do.⁷⁷

The other players in the field are hearing such information for the first time—they are denied their right to education about HIV in their schools.⁷⁸ They are not taught that HIV does not spread by shaking hands, by hugging or kissing and the footballers now realise that they should not exclude Freddy from the game.⁷⁹ In fact, they race home to Freddy’s to help him and his mother. When they reach Freddy’s house, his mother tells them that when she visited the health centre, no one paid any attention to her and she had to wait for a long time before she was attended to.⁸⁰ When Freddy’s mother finally went up to the doctor he turned her away saying he could do nothing for her.⁸¹ The protagonist of the story points out that Freddy’s mother was being discriminated against. To this she replies that all over the world, people living with HIV/AIDS were being subject to this discriminatory behaviour: some lose their jobs,⁸² if they even get one, and some cannot attend school.⁸³

The newly enlightened children decide that they must change this. One of the players is Alisha, a young girl. When she returns home that evening, she tells her parents everything she learnt about HIV/AIDS that day and that Freddy’s mother was refused help.⁸⁴ Alisha’s father is in charge at the health centre at which Freddy’s mother was refused help. The next day, he confronts the doctor at the health centre. He tells him

⁷² WHO, *The Right to Health*, (2002), p.13.

⁷³ WHO, *The Right to Health*, (2002), p.13.

⁷⁴ In her experience on the field Miriam noticed that football was the one unifying factor among refugees from various countries who played football using coconut shells. This inspired the story to unfold on a football field.

⁷⁵ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.3.

⁷⁶ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.4.

⁷⁷ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.4.

⁷⁸ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.5.

⁷⁹ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.5.

⁸⁰ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.7.

⁸¹ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.7.

⁸² WHO, *HIV/AIDS: Stand up for human rights* (2003), p.8.

⁸³ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.8.

⁸⁴ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.9.

that irrespective of a person's HIV/AIDS status, they should have "equal access to healthcare and treatment."⁸⁵ The doctor understands, and Freddy's mother goes back to the hospital.⁸⁶

The footballers want to do more to spread the word against discrimination of persons living with HIV/AIDS. They make posters informing others not to discriminate and that "people living with HIV are like you and me."⁸⁷ A passer-by who happens to gaze upon these posters informs the youngsters that there is much more that can be done to combat "HIV and discrimination."⁸⁸ Sex discrimination, class discrimination, race discrimination, discrimination against people who are sick and the right to refuse unsafe sex are all matters about which the young footballers and the gathered crowd educate each other.⁸⁹ It is unclear whether the passers-by and the crowd relate these other kinds of discrimination back to HIV/AIDS in any way: vulnerability to the virus, for example. Once again, the comic places the responsibility on governments to protect human rights. The concluding twist reveals that the young protagonist of the story who had educated all his friends on the football field is himself living with HIV/AIDS.⁹⁰ The last page of the comic reiterates how HIV/AIDS is spread and that everyone living with the virus has a right, to respect, to information and against discrimination.⁹¹

3. HIV and AIDS: Human Rights for Everyone (2006)

HIV and AIDS: Human Rights for Everyone is a 2006 publication of the United Nations High Commissioner for Refugees (UNHCR) which focuses on the lives of the Karagli family (a family of apparent African origin) as they flee their village which is under attack from rebel forces.⁹² As they enter a checkpoint in the neighbouring country, an official asks Papa Kargali why they had to flee. While he is narrating the incidents of carnage that took place in his country, an armed official at the checkpoint stops him and says, "Stop. You look like you have AIDS."⁹³ Just then, a UNHCR worker interjects and asserts the 1951 Geneva Refugee Convention according to which refugees cannot be returned to a country where they face persecution. Their HIV positive status cannot be a reason to deny them refugee status.⁹⁴

The next panel shows the Kargali family living in the refugee camp of the neighbouring country. Papa Kargali's illness has now advanced and he is too tired to go to the market to get food for his children.⁹⁵ Additionally, his son is excluded from football because of the father's illness.⁹⁶ His daughter is propositioned for sex by an older man in return for soap and money.⁹⁷

Village elders and advocates point out how this behaviour is wrong. The next day at the market, the villagers refuse to buy products from Papa Kargali's shop saying he has AIDS and accuse all refugees of taking up their land and spreading AIDS in their country.⁹⁸ Once again, advocates point out how refugees face stigma and discrimination just for being refugees. Additionally, the advocate states, refugees are also often falsely accused of spreading AIDS.

Up to this point in the story, it is unclear whether Papa Kargali actually has HIV/AIDS. It is on their daughter's insistence that Papa Kargali and his wife, Desire, decide to get tested.⁹⁹ The health practitioner

⁸⁵ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.10.

⁸⁶ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.10.

⁸⁷ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.11.

⁸⁸ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.12.

⁸⁹ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.12–13.

⁹⁰ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.14.

⁹¹ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.16.

⁹² UNHCR, *HIV and AIDS: Human Rights for Everyone* (2006), p.4.

⁹³ UNHCR, *HIV and AIDS: Human Rights for Everyone* (2006), p.4.

⁹⁴ UNHCR, *HIV and AIDS: Human Rights for Everyone* (2006), p.5.

⁹⁵ UNHCR, *HIV and AIDS: Human Rights for Everyone* (2006), p.6.

⁹⁶ UNHCR, *HIV and AIDS: Human Rights for Everyone* (2006), p.6.

⁹⁷ UNHCR, *HIV and AIDS: Human Rights for Everyone* (2006), p.8.

⁹⁸ UNHCR, *HIV and AIDS: Human Rights for Everyone* (2006), p.8.

⁹⁹ UNHCR, *HIV and AIDS: Human Rights for Everyone* (2006), p.10.

informs them that their results will be kept confidential and not revealed without permission.¹⁰⁰ She also informs them that in case they test positive for HIV, the health centre can provide them with nutritional support, medication and counselling groups.¹⁰¹

Five years later, the story ends with peace returning to the village of the Karagli family, and although Papa Karagli has lost the battle against AIDS, his family, having received their new education in HIV/AIDS, spread the word and bring awareness about the disease as they return to their village¹⁰²

4. Score the Goals (2010)

The final endeavour in this direction is the comic book called *Score the Goals* which is a 2010 publication of the Food and Agriculture Organization of the United Nations (“FAO”), the Stop Tuberculosis Partnership (Stop TB Partnership), UNAIDS, the United Nations Development Programme (“UNDP”), the United Nations Department of Public Information (“DPI”) and the United Nation Office on Sport for Development and Peace (UNOSDP). The story begins when an all-star football ship goes missing at sea. The players find themselves on a desert island and realise that food, water and shelter would be absolutely necessary if they are to survive until help arrives.¹⁰³

Through their survival efforts, the team highlights several millennium development goals like eradication of hunger and poverty; achievement of primary education and gender equality; reduction of child mortality rate; improvement of maternal health; endeavours for environmental sustainability and combating HIV/AIDS (limited to the extent of fighting stigma and discrimination against those affected). The story ends when all the members of the crew learn about these important lessons in how to do one’s bit in achieving them and a rescue team comes and saves the day.

IV. Critical Analysis of the Comic Books

A. Obligations of the Health System

The core obligations on each government system signatory to the ICESCR are highlighted above (Part II A). These obligations are core obligations for the purpose of a right to health, understood generally. In addition, if these obligations have to qualify as the core, in any meaningful way, they have to also form a part of the core of each health issue. The issue in question for the present inquiry is HIV/AIDS and therefore, I will assess how many of these core obligations were mentioned while the UN comics discussed the topic of HIV/AIDS and whether they were discharged in keeping with the QA³ principles. When the core obligation is discussed, I will critically analyse which parts of its contents have been addressed and which were missed so that the future comics may take those misses into account as well. In fleshing out the content of these core obligations, I will rely chiefly on their understanding in General Comment 14 and other international law documents.

1. Core Obligation of Discrimination

(1) Incomplete Discussion of Discrimination The comics tell us that discrimination is “being treated differently ... but in a bad way.”¹⁰⁴ The comics educate about HIV/AIDS¹⁰⁵ and tell us that resources should

¹⁰⁰ UNHCR, *HIV and AIDS: Human Rights for Everyone* (2006), p.9.

¹⁰¹ UNHCR, *HIV and AIDS: Human Rights for Everyone* (2006), p.10.

¹⁰² UNHCR, *HIV and AIDS: Human Rights for Everyone* (2006), p.11–14.

¹⁰³ UNAIDS, *Score The Goals* (2010), p.3.

¹⁰⁴ WHO, *The Right to Health*, (2002), p.6. See also, WHO, *HIV/AIDS: Stand up for human rights* (2003), p.2. This is an illustrative list.

¹⁰⁵ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.4–5, 16.

be *available* and *accessible*¹⁰⁶ to all regardless of their HIV/AIDS status and no one should be discriminated against: fired/not hired¹⁰⁷; excluded from school¹⁰⁸, sports,¹⁰⁹ peer group,¹¹⁰ village or community life owing to this.¹¹¹ One will practically read the comics' general precept about the availability of health services,¹¹² water, food, housing and healthy living conditions¹¹³ to be applicable to persons living with HIV/AIDS without discrimination. *Still, the availability of health programmes and services for HIV/AIDS (or more generally, health) without discrimination is not mentioned as a core government obligation.*¹¹⁴ Instead, in one comic, a private health practitioner/manager of a health centre¹¹⁵ finds out about an act of discrimination against an HIV/AIDS patient and corrects it.¹¹⁶ Only the 2003 comic mentions that "governments have responsibilities to promote and protect human rights."¹¹⁷ However, this responsibility has not been pegged to health or the core obligation to not discriminate with respect to HIV/AIDS status.

While the comic asks governments to prioritise health in their budgets and exhorts rich countries to help poor countries¹¹⁸, *it does not tell us that non-discrimination with respect to HIV/AIDS status (or more generally, health) is an achievable goal even for resource stripped countries.*¹¹⁹ It can be achieved with minimum resources by adoption/repeal of legislation and dissemination of information.¹²⁰ In 2010, the Secretary General analysed responses from various government bodies, UN bodies, and non-governmental organizations from across the world to assess the responses to the disease. The analysis suggested some ways in which immediate action can be taken without severe monetary implications. Some of these suggestions which were least resource heavy included the repeal of repressive sex-related laws which drive certain sexual behaviour underground and increase vulnerability to the virus, and the ability to seek treatment.¹²¹

Finally, in keeping with the principle of accessibility, at least one of the comics tells us that health services must be "easy to reach"¹²², affordable¹²³ and that we should be heard "because it is what is best for you [us] that counts."¹²⁴

(2) Intersections of Discrimination Not Discussed The intersections of HIV/AIDS status (or health, generally) with prohibited grounds of discrimination¹²⁵ such as, "the grounds of race"¹²⁶, colour, sex¹²⁷,

¹⁰⁶ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.16.

¹⁰⁷ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.8.

¹⁰⁸ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.8.

¹⁰⁹ UNHCR, *HIV and AIDS: Human Rights for Everyone* (2006), p.4.

¹¹⁰ UNAIDS, *Score The Goals* (2010), p.14.

¹¹¹ WHO, *The Right to Health*, (2002), p.7.

¹¹² WHO, *HIV/AIDS: Stand up for human rights* (2003), p.7 which does mention this specifically with respect to HIV positive persons.

¹¹³ WHO, *The Right to Health*, (2002), p.10.

¹¹⁴ See the statement of Mr. Dainius Puras, the Special Rapporteur on Health, made to the General Assembly on 25 October 2016 where he has stressed this point. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20806&LangID=E> [Accessed 1 August 2018].

¹¹⁵ Alisha's father's profession is unclear from the comic. While he bears the tag of supervisor, he is carrying a stethoscope. See WHO, *HIV/AIDS: Stand up for human rights* (2003), p.9–10.

¹¹⁶ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.9.

¹¹⁷ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.9.

¹¹⁸ WHO, *The Right to Health*, (2002), p.13. See also, CESCR, *General Comment No.14*, para.18.

¹¹⁹ WHO, *The Right to Health*, (2002), p.13. See also, CESCR, *General Comment No.14*, para.18.

¹²⁰ WHO, *The Right to Health*, (2002), p.13. See also, CESCR, *General Comment No.14*, para.18.

¹²¹ *The Protection of Human Rights in the Context of Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS)* 20 December 2010.

¹²² WHO, *The Right to Health*, (2002), p.11.

¹²³ WHO, *The Right to Health*, (2002), p.13.

¹²⁴ WHO, *The Right to Health*, (2002), p.12.

¹²⁵ See also, CESCR, *General Comment No.14*, para.18.

¹²⁶ For example, WHO, *The Right to Health*, (2002), p.7. See also, WHO, *HIV/AIDS: Stand up for human rights* (2003), p.13 and UNAIDS, *Score The Goals* (2010), p.12. What is needed is a little more than saying that people of different skin colour are equal. A substantive equality lens will require showing how the problem of discrimination is compounded by skin colour.

¹²⁷ For example, WHO, *The Right to Health*, (2002), p.8 and WHO, *HIV/AIDS: Stand up for human rights* (2003), p.12. What is needed is a little more than saying that boys and girls are equal. A substantive equality lens will require showing how the problem of discrimination is compounded by gender and sexual orientation.

language, religion, political or other opinion, national or social origin¹²⁸, property¹²⁹, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation and civil, political, social or other status” are not discussed. These grounds may contribute in determining a person’s susceptibility and bargaining power when it comes to this disease.¹³⁰ *HIV/AIDS: Stand Up for Human Rights* shows that Freddy’s mother is infected with the virus but does not show how her socio-economic condition may have made her more susceptible to the virus. Jonathan Mann had identified very early on in the epidemic that socio-cultural factors will play a big role in tackling the issue. He had identified tabooed sexual activities as one of the obstacles that the society will have to deal with if it wants to comprehensively deal with the disease.¹³¹

The comics missed out on an important segment of “vulnerable communities” such as, the gay community, men who have sex with men (“MSM”)¹³², and the youth in the age range of 15–24¹³³ who are vastly regarded as the most sensitive group. While Miriam says that the reason for doing this was that they did not want to send a very complicated message through a pilot comic, Helen agrees that if the comic was written today, it would certainly be more nuanced and would incorporate the gay community.¹³⁴

The Secretary General’s Report of 2010 on HIV/AIDS has noted after studying government responses that MSM, sex workers, drug users, prisoners etc. have an increased vulnerability to the virus but their needs are still ignored in the response to the HIV/AIDS.¹³⁵ He consequently recommended a better assessment of the needs of these populations. It is worth noting that at the time of writing these comics, *General Comment No. 14* had committed to providing health care to people without discrimination on the basis of sexual orientation¹³⁶ but the United Nations had not made concrete commitments to many vulnerable groups. For example the 2001 Declaration of Commitment on HIV/AIDS did not specify key categories like MSM or persons who use drugs; instead adopted the vague broad concept of “vulnerable groups”.¹³⁷ However, the newer comics should certainly address these populations in light of several studies and the Secretary General’s report.

¹²⁸ The 2006 comic talks about a refugee’s right to be treatment without discrimination irrespective of HIV status and also tries to tackle the myth associated with refugees- that they are carriers of HIV/AIDS. See UNHCR, HIV and UNAIDS, *Score The Goals* (2010), WHO, *HIV/AIDS: Stand up for human rights* (2003), CESCR, *General Comment No. 14*.

¹²⁹ For example, WHO, *HIV/AIDS: Stand up for human rights* (2003), p.13. What is needed is a little more than saying that rich and poor are equal. A substantive equality lens will require showing how the problem of discrimination is compounded by social class/caste.

¹³⁰ The only place in the comics where an intersectionality is shown is when Fatou Kargali considers exchanging sex for money and soap although “it doesn’t feel right.” See UNHCR, *HIV and AIDS: Human Rights for Everyone* (2006), p.6. Perhaps this panel has been made to talk about the right to basic shelter, sanitation and water but the panel misses the opportunity to spell this out or to place the responsibility of this on governments (core obligation). Instead, when Fatou narrates this story to an older woman, she hears the following: “My dear Fatou, you did well to run away as this is not a solution for you or your family. You must finish your school, there are many other ways to earn a little money to help your family and your friends must learn to say no to a man like that.” See UNHCR, *HIV and AIDS: Human Rights for Everyone* (2006), p.7.

¹³¹ See, Stemple, “Health and Human Rights in Today’s Fight Against HIV/AIDS” 2008, 22 (Suppl 2) AIDS S113, S118.

¹³² In many Sub-Saharan African countries, the MSM form at least 20% of the cases of newly infected people. UNAIDS, *Global Report: UNAIDS Report on the Global AIDS Epidemic 2010* 30 (2010). Other Studies suggest that there could be myriad reasons for the lack of work with gay communities: 1. Homophobic stigma, 2. Restrictive foreign aid policies that are not always supportive of gay rights or 3. Lack of skill of scope of many NGOs to articulate gay rights issues when they are intertwined with HIV. Cary Alan Johnson, *Off the Map: How HIV/AIDS Programming is Failing Same Sex Practicing People in Africa* (New York: International Gay and Lesbian Human Rights Commission, 2007), at 3. See also, Hsuan L. Hsu and Martha Lincoln, “Health Media & Global Inequalities” (Spring 2009) *Daedalus* 20, 21.

¹³³ It is believed that youth belonging to this age group account for half the newly infected cases. Open Society Institute, Human Rights and HIV/AIDS: Now More than Ever (July 2009) *Open Society Institute*, https://www.opensocietyfoundations.org/sites/default/files/nmte_20090923_0.pdf [Accessed on 1 August 2018], p.3.

¹³⁴ See fn. 5 and Nygren-Krug, fn. 49. Helena made this particular point with respect to homosexuality, perhaps this statement could also today be extended to other categories of vulnerable groups.

¹³⁵ *The Protection of Human Rights in the Context of Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS)* 20 December 2010, p.14.

¹³⁶ See also, CESCR, *General Comment No. 14*.

¹³⁷ See Stemple, “Health and Human Rights in Today’s Fight Against HIV/AIDS” 2008, 22 (Suppl 2) AIDS S113, S116. However, in June 2011, the Human Rights Council adopted the first ever United Nations resolution on the rights of lesbian gay bisexual and transgender (LGBT) people which will result in the first ever United Nations study on the situation of the LGBT people around the world with a view to rectify the challenges they face. See generally, Press Statement by Hillary Rodham Clinton, *United Nations Human Rights Council Resolution on Sexual Orientation and Gender Identity*, (Washington DC, 17 June 2011).

The *HIV/AIDS: Stand Up for Human Rights* (2003) promotes an abstinence model¹³⁸ when it says “we should wait to have sex”¹³⁹ and in the same page, the comic informs us, by showing us a heterosexual couple in bed, that when we do have sex, we must condom-ise.¹⁴⁰ It also shows that the man in the couple is very receptive to the idea of a condom. This depiction of sex, not only misses out on the entire gay community (which in many sub-Saharan African countries account for twenty percent of the new infections¹⁴¹) in its portrayal of the “assumed naturalness”¹⁴² of heterosexuality, but also fails to address the point that women are usually not in a position to negotiate the use of the condom.¹⁴³ It would have been more helpful or at least educational, if the comic had informed of female condoms which would have helped the woman protect herself from sexually transmitted disease and would have proved to be of great help for women in a weaker negotiable position. Additionally, female condoms are said to create a “pleasurable friction”¹⁴⁴; a fact that could have definitely gone a long way to encourage condom use.

This heterosexist bent is repeated when, in the comic *Right to Health*,¹⁴⁵ marriage is presented as a heterosexual privilege and children are presented as benefits within the marriage paradigm.¹⁴⁶ To be sure, there are positive message as regards sexuality too: Page 12 of HIV/AIDS comic¹⁴⁷ shows that women have the right to say no to unsafe sex and page 16 of the same comic asserts the right against discrimination irrespective of “sexual choices”¹⁴⁸, thus keeps the discussion open for incorporating vulnerable communities like MSM communities.

Finally, with respect to the principles of acceptability and quality of care, at least one of the comics do tell us that doctors must *accept* privacy and safeguard against unwarranted disclosure regardless of HIV status (however, this obligation has been mentioned only with respect of the doctor and not *in rem*)¹⁴⁹ but it does not tell us that a key attribute of this acceptance is that the HIV person’s treatment must be respectful and commensurate with their culture. However, the comic does not mention that persons living with HIV and AIDS have a discrimination free *quality of care* claim in the form of trained medical professionals and unexpired medicines.

2. The Core Obligation of Essential Drugs

The comics must make clear that essential drugs are a human right and it is a core obligation¹⁵⁰ for governments to provide essential drugs to its peoples commensurate with the QA³ principles.¹⁵¹ The place to find a list of essential medicines for the purpose of obligations under the ICESCR is the WHO Essential

¹³⁸ Maybe this is because a large part of the HIV/AIDS budget is dependent on donations and United States, which itself supports and promotes or at least did, at the time of writing this comic, promote this approach abroad. See, Stemple, “Health and Human Rights in Today’s Fight Against HIV/AIDS” 2008, 22 (Suppl 2) AIDS S113, S116.

¹³⁹ UNAIDS, *Score The Goals* (2010), p.4.

¹⁴⁰ UNAIDS, *Score The Goals* (2010), p.4.

¹⁴¹ UNAIDS, *Global Report: UNAIDS Report on the Global AIDS Epidemic 2010* 30 (2010).

¹⁴² Jeffrey Weeks, “Necessary Fictions: Sexual Identity and the politics of diversity”, in *Inverted Moralities: Sexual Values in an Age of Uncertainty* (Columbia University Press, New York, 1995) at 99.

¹⁴³ However, sometimes women don’t want to use condoms for pleasure purposes. Jenny A. Higgins et al. “Rethinking Gender, Heterosexual Men, and Women’s Vulnerability to HIV/AIDS” (2010) 100 (3) *American Journal of Public Health* 435, 438.

¹⁴⁴ Anne Philpott et al., “Promoting Protection and Pleasure: Amplifying the Effectiveness of Barriers Against Sexually Transmitted Infections and Pregnancy” (2006) 368 (9551) *The Lancet* 2028, 2031.

¹⁴⁵ WHO, *The Right to Health*, (2002).

¹⁴⁶ WHO, *The Right to Health*, (2002), p.9.

¹⁴⁷ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.12.

¹⁴⁸ WHO, *HIV/AIDS: Stand up for human rights* (2003), p.16.

¹⁴⁹ See WHO, *HIV/AIDS: Stand up for human rights* (2003), p.10; WHO, *The Right to Health*, (2002), p.7 See UNHCR, *HIV and AIDS: Human Rights for Everyone* (2006), p.10.

¹⁵⁰ See, CESCR, *General Comment No. 14*, para.43. See also, Thomas Pogge, Montreal Statement on the Human Right to Essential Medicines, (2007) 16(1) *Cambridge Quarterly of Healthcare Ethics* at 104–108.

¹⁵¹ Stephen Marks, “Access to Essential Medicines as a Component of the Right to Health”, in *Realizing the Right to Health: Swiss Human Rights Handbook*, Vol.3 p.92. See also, Stephen Marks’ analysis on how the right to and the core obligation to essential medicines must be thought through commensurate with the QA³ principles. He accomplishes this by drawing on the history of the development of the core obligation of water at p.95.

Drug List.¹⁵² The latest version of the list released in 2017 lists the following medicines as essential for HIV/AIDS treatment: Abacavir, Lamivudine, Tenofovir Disoproxil Fumarate +, Zidovudine, Efavirenz, Nevirapine.¹⁵³ There are some other inhibitors mentioned on the list, the use of which countries will have to determine on their own after considering international and national treatment guidelines.

Governments must also update this list in light of the special circumstances of their country. The comics must also mention that this means that the governments must ensure that the production, distribution and pricing of medicines favour the continuous availability and accessibility of essential medicines in each country at affordable prices and within an hour's walk from home.¹⁵⁴ The comics must make very clear that the claims of intellectual property in essential medicines are weaker than the human right of essential medicines¹⁵⁵ and that the state can intervene through trade practices such as parallel importing and compulsory licensing to privilege the core obligation.¹⁵⁶ Finally, the comics must also demonstrate how on the ground access to essential medicines depends on one's social reality.

3. The Core Obligation of Prevention, Treatment and Control of Infectious Diseases

This obligation requires instituting educational programmes on HIV/AIDS and other determinants of good health, such as economic development, gender equity, a safe environment and education. *Score the Goals* deals with this core obligation to some extent when it addresses malaria prevention by using mosquito repellents and mosquito nets, the benefits of moving water over stagnant water, and tuberculosis.¹⁵⁷ *Score the Goals* also busts some myths about the spread of HIV.¹⁵⁸ It tells us that HIV/AIDS does not spread by touching, working alongside an affected person, sharing a meal etc.¹⁵⁹ Once again, this brief mention of prevention and cure of these diseases is done by the star football team but the QA³ principles are not built in.

4. Core Obligations Partially Mentioned

While generally speaking about the right to health, the comics tell us that health depends on *living condition, clean drinking water*¹⁶⁰, *food and housing*,¹⁶¹ *but the comics do not tell us that clean drinking water, food and housing are non-derogable core obligations* of signatories either with respect to the right to health generally or with respect to the HIV issue specifically. Consequentially, there is no discussion about the principles of availability, accessibility, acceptability and quality of care through which these obligations may be borne out.

¹⁵² WHO Model List of Essential Medicines, 20th list (March 2017) at http://www.who.int/medicines/publications/essentialmedicines/20th_EML2017.pdf?ua=1 [Accessed 1 August 2018]

¹⁵³ Committee for Economic, Social and Cultural Rights, *General Comment No.17*, pp.19–21.

¹⁵⁴ WHO Essential Medicines List and the MGD Gap Task Force Millennium Development Goal 8: Delivering on the Global Partnership for Achieving the Millennium Development Goals MGD Gap Task Force Report 2008.

¹⁵⁵ Committee for Economic, Social and Cultural Rights, *General Comment No.17*, 2006.

¹⁵⁶ Montreal Statement on Essential Medicines at Thomas Pogge, "Montreal Statement on the Human Right to Essential Medicines" (2007) 16(1) *Cambridge Quarterly of Healthcare Ethics*, 104.

¹⁵⁷ UNAIDS, *Score The Goals* (2010), p.9, 17.

¹⁵⁸ See also, UNHCR, *HIV and AIDS: Human Rights for Everyone* (2006), p.5.

¹⁵⁹ UNAIDS, *Score The Goals* (2010), p.14–15.

¹⁶⁰ UNAIDS, *Score The Goals* (2010), p.8, 9.

¹⁶¹ WHO, *The Right to Health*, (2002), p.10. See also, UNAIDS, *Score The Goals* (2010), p.2, 3.

5. Core Obligations that are Not Mentioned At All

Some core obligations such as, *equitable distribution, training of health professionals, immunization, maternal and reproductive health*¹⁶² and the requirement of a *national health plan* are *completely omitted* with respect to the issue of HIV (and health in general).

6. No Information about What a Person May Do in the Scenario of Non-Compliance

None of the comics elaborate what a person can do when the state does not meet its health-related obligations. While one does find a mention of the responsibility of the government to protect and promote human rights in some of the comics,¹⁶³ it is unclear what those words mean and how, if at all, one can ensure that one's government discharges its obligation.

(1) Office of the High Commissioner for Human Rights It is beyond the scope of this article to elaborate on enforcement mechanisms within the UN. However, significantly, as Marks asserts, the concept of sovereignty is “less than ever an insurmountable obstacle”¹⁶⁴ and many monitoring systems have now been put in place to fulfil several UN Charter objectives. Summarily, the Office of the High Commissioner for Human Rights (OHCHR) provides oversight to the monitoring of treaty obligations. The commissioner is the “principal human rights official of the United Nations”¹⁶⁵ and this office works to monitor, provide public reports and to provide technical assistance to countries in the fulfilment of their human rights obligations.¹⁶⁶ It carries out these tasks with the help of the bodies described below, all of which work under the general supervision of the OHCHR.

- i. The Public Procedure or the 1235 procedure¹⁶⁷ (which owing to newer mechanisms has been rendered unnecessary) was used to scrutinise all manner of violations by the appointment of a Special Rapporteur.¹⁶⁸
- ii. The 1503 Procedure¹⁶⁹: this procedure involves a closed door examination of a “consistent pattern of gross and reliably attested violations of human rights.”¹⁷⁰ This procedure has now been replaced by a
- iii. confidential complaints procedure to address, “consistent patterns of gross and reliably attested violations of all human rights and all fundamental freedoms occurring in any part of the world and under any circumstance.”¹⁷¹

¹⁶² The comic does mention the right of women to choose if and when they want to marry and how many children they want to have. But, it does not discuss the societal pressures that bear upon this choice and consequences for maternal, reproductive and child rights and health. See WHO, *The Right to Health*, (2002), p.9. In *Score the Goals*, at p.13, the lost at sea all-star football team does mention that the health of the pregnant fan was their “top priority” but the comic misses an opportunity to state what else constitutes maternal health. See UNAIDS, *Score The Goals* (2010), p.13.

¹⁶³ See WHO, *HIV/AIDS: Stand up for human rights* (2003), p.14, 16. WHO, *The Right to Health*, (2002), p.13.

¹⁶⁴ Stephen Marks, “The United Nations and Human Rights”, in Burns H. Weston and Anna Grear (eds.) *Human Rights in the World Community* (University of Pennsylvania Press: 2016), p.326.

¹⁶⁵ Office of the High Commissioner of Human Rights, <http://www.ohchr.org/EN/AboutUs/Pages/WhoWeAre.aspx> [Accessed 1 August 2018].

¹⁶⁶ Marks, “The United Nations and Human Rights”, in Weston and Grear (eds.) *Human Rights in the World Community* (2016), p.319.

¹⁶⁷ Established through the 6 June 1967 Economic and Social Committee Resolution 1235 (XLII) to enable a “study of situations which reveal a consistent pattern of violations of human rights, as exemplified by the policy of apartheid, ... and racial discrimination, ... and report, with recommendations thereon, to the Economic and Social Council” sourced from <http://hrlibrary.umn.edu/procedures/1235.html> [Accessed 1 August 2018]. See Marks, “The United Nations and Human Rights”, in Weston and Grear (eds.) *Human Rights in the World Community* (2016), p.320.

¹⁶⁸ Marks, “The United Nations and Human Rights”, in Weston and Grear (eds.) *Human Rights in the World Community* (2016), p.320.

¹⁶⁹ Called so for Resolution No. 1503 of the Economic and Social Council adopted in 1970. <http://hrlibrary.umn.edu/procedures/1503.html> [Accessed 1 August 2018]

¹⁷⁰ Marks, “The United Nations and Human Rights”, in Weston and Grear (eds.) *Human Rights in the World Community* (2016), p.320.

¹⁷¹ See, UNHCR “Human Rights Council Complaints Procedure” (18 June 2007), UNHCR, <http://www.ohchr.org/EN/HRBodies/HRC/ComplaintProcedure/Pages/HRCComplaintProcedureIndex.aspx> [Accessed 1 August 2018]. For more information, see Marks, “The United Nations and Human Rights”, in Weston and Grear (eds.) *Human Rights in the World Community* (2016), p.320.

(2) Special Procedures of Thematic and Country Rapporteurs of the Human Rights Council Since the 1980s, the Commission on Human Rights has been appointing special rapporteurs who are experts on either thematic problems afflicting the world or country-specific human rights problems. These experts monitor situations of human rights abuse according to their mandate. Marks states that as of 2014 there have been 37 thematic rapporteurs on issues such as housing, child prostitution, involuntary disappearances, food, poverty, racism, independence of judges etc.¹⁷²

(3) Universal Periodic Review of the Human Rights Council Since 2007, the Human Rights Council has been empowered to scrutinise the human rights records of all its member states. The council looks at the reports of governments, of rapporteurs, of other UN bodies, non-governmental organizations, academic and research institutes and regional organizations to draw a list of recommendations for each country.¹⁷³ Governments are then held accountable to these recommendations to which they may respond by addressing the issues at hand or by justifying and explaining their position.¹⁷⁴

(4) Committee on Economic, Social and Cultural Rights This committee is the monitoring body for all countries that have ratified the ICESCR. This is a “body of 18 independent experts that monitors implementation of the International Covenant on Economic, Social and Cultural Rights by its States parties.”¹⁷⁵ The committee hears individual complaints (by those countries signed on to the optional protocol), state on state complaints (this has never been used)¹⁷⁶ and conducts confidential inquiries on human rights abuses on those countries that have recognised the competence of the committee to do so.¹⁷⁷ It also considers shadow reports submitted by non-governmental organizations in addition to State reports and issues a set of recommendations for the state.

V. Conclusion

It would have been worthwhile to see how the comic book experiment fared, despite it lacking focus on the issue of HIV/AIDS from a holistic, socio-political and sexuality angle. However, there has been no formal evaluation of the work, although, Miriam asserts that these comic books have been very successful, chiefly from the number of reprint requests that they received from various schools and Governments.¹⁷⁸ If there is to be any real progress in fighting the disease through the medium of comic books, one needs to be aware of the exact impact each part of the comic has had, which part needs to be modified, which part needs to be explained in more detail etc: in sum, a robust “evidentiary standard common to social science”¹⁷⁹ needs to be set up to make a fair assessment of strengths and weakness and to recognise areas that need work.

This article makes a beginning at that by analysing the comics through a public health perspective. This critique can serve as a ready reference for the next edition of comic books on HIV/AIDS. However, the important point this article attempts to bring home is that the comic book project cannot ignore the general jurisprudence emerging from UN documents, statements, General Comments and other associated

¹⁷² For more information, see Marks, “The United Nations and Human Rights”, in Weston and Grear (eds.) *Human Rights in the World Community* (2016), p.321.

¹⁷³ Marks, “The United Nations and Human Rights”, in Weston and Grear (eds.) *Human Rights in the World Community* (2016), p.321–322.

¹⁷⁴ Marks, “The United Nations and Human Rights”, in Weston and Grear (eds.) *Human Rights in the World Community* (2016), p.322.

¹⁷⁵ <http://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIndex.aspx> [Accessed 1 August 2018]. (COMMITTEE ON SOCIAL ECONOMIC AND CULTURAL RIGHTS).

¹⁷⁶ Marks, “The United Nations and Human Rights”, in Weston and Grear (eds.) *Human Rights in the World Community* (2016), p.323.

¹⁷⁷ <http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/HRTBPetitions.aspx#individualcomm> [Accessed 1 August 2018]. (COMMITTEE ON SOCIAL ECONOMIC AND CULTURAL RIGHTS).

¹⁷⁸ Telephone Interview with Miriam Maluwa, Law and Human Rights Adviser, UNAIDS, (27 October 2011).

¹⁷⁹ Stemple, “Health and Human Rights in Today’s Fight Against HIV/AIDS” 2008, 22 (Suppl 2) AIDS S113, S119.

international law material while making the comics. If it does so, it will inevitably miss out on important areas which require advocacy.

One way to incorporate these suggestions could be that each comic could bring together artists, affected persons (especially the vulnerable sections whose voice is not captured effectively), international law scholars, and in-field human rights defenders to lay out all the issues that need to be discussed with respect to the disease. Then, perhaps, it could be decided that there will be more than one comic on the issue and each comic would pick out one core right to health obligation with respect to HIV/AIDS that it will address, alongside its intersectionalities.

It is also not true that, artistically, it is difficult to show intersectionalities of rights. In a new release called *Night Stars* by *Comics Uniting Nations*, one panel mentions that rural women lack ownership and financing to till their lands.¹⁸⁰ This not only shows that ownership of lands varies by gender, but also that it varies by rural/urban setting. If research has found that access to treatment depends on economic status, then a comic can demonstrate this by drawing two adjacent panels, one in which a HIV/AIDS affected person who is visibly affluent is given treatment, and the other in which a visibly poor person is denied treatment. Similarly, these panels can be adapted to demonstrate difference in access based on other factors that studies may reveal: race, sex, caste, religion, homelessness, gender identity, sexual orientation, imprisonment status so on and so forth.

Most importantly, presently, the comics are not incomprehensible to anyone who cannot read and write. There are big dialogue boxes with a lot of content but the pictures do not tell a story by themselves. Perhaps, the illustrations, if drawn in a more telling way, would be more effective in conveying the message to the intended population.

¹⁸⁰ Timothy P. Lattie and Decheser Media “Global Goals Story” in *Night Stars: Special* (2016).