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COMPARING AIDS GOVERNANCE: A RESEARCH AGENDA ON RESPONSES TO THE AIDS EPIDEMIC

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Comparing AIDS Governance: A Research Agenda on Responses to the AIDS Epidemic

Abstract

The main argument in this paper is a call for empirical and comparative research to improve our understanding of which form of governance is most effective in reversing the HIV/AIDS pandemic. The notion of 'AIDS Governance' should not, as in much of the current literature, be a postulated ideal but a variable that, potentially, can help explain why some responses are more effective than others. Democratic governments, it is argued, can respond through one of two forms of AIDS Governance. An 'idealistic' response will maximise human rights, accountability and participation since such democratic ideals are understood to increase and ensure the effectiveness of the response. An 'authoritative' response will limit one or more of the democratic ideals with the argument that such limitations will enable the government to respond more effectively in the interest of public health. While AIDS is too complex a problem for any clever governance quick-fix, the suggested research agenda on AIDS Governance has the potential to generate new knowledge of which forms of AIDS Governance are better equipped at tackling different aspects of the response or phases of the epidemic. The paper represents an effort to strengthen the contribution by Political Science in the fight against HIV/AIDS.

Introduction

HIV/AIDS can fame or shame Africa's powerful presidents on the global stage like few other current political issues. Irrespective of other deeds and grand visions, political legacies are increasingly determined by what actions were taken or mistaken in the fight against AIDS. This is somewhat ironic since the trajectory of the epidemic is ultimately determined by the individual choices and behaviours of often the most powerless and destitute of citizens. What, then, should presidents and their governments be doing in the fight against AIDS?

Academic and advocacy literature is dominated by the normatively attractive argument that whatever policy interventions are implemented, these should be framed by democratic values and structured by democratic institutions and processes. Responses to HIV/AIDS that respect human rights, that invite broad participation from civil society, that are transparent for media and civil society scrutiny, and that enable voters to hold politicians accountable would probably empower citizens and contribute to the consolidation of democracy. The problem with this argument, however, is that it has little to show for its success in halting or reversing the epidemic in Africa. This poses some difficult questions: Can we afford to pursue policies that are based on cherished ideals even if they ultimately fail in saving lives? What alternative forms of AIDS governance are available, and would they be more efficient?

There are three broad characteristics of the HIV/AIDS epidemic in many African countries that suggest failures in political efforts to respond effectively to the epidemic. Firstly, the epidemic became generalised in the population. This was because early responses failed to contain the spread of the HI virus. Secondly, the incidence of new HIV transmissions remains high. This reflects the inefficiency of various prevention interventions aimed at promoting abstinence and faithfulness, and the use of condoms. Thirdly, the health of the vast majority of those with symptomatic AIDS quickly deteriorates to the point of death because adequate care and sustainable ARV treatment is available only to a minority of those who are suffering from AIDS.

This is not to suggest that the HIV/AIDS pandemic of today could have been avoided completely if only the governance response had been framed differently; AIDS is too complex a problem for any clever governance quick-fix. But the observations do suggest that whatever the leverage of governance interventions in countering HIV/AIDS in Africa, it has not been used optimally. How can this be explained? I would suggest four broad explanations that need to be considered in answering that question, although their relative importance will differ between countries:

- ***Resource constraints***. African governments are severely constrained in terms of financial, institutional and human resources with which to respond to the epidemic.

- ***Donor dependency***. International donors subject African governments to aid-conditionality, some of which may undermine the effectiveness and legitimacy of the countries' responses to HIV/AIDS.
- ***Poor governance***. Due to general governance problems, African governments do not make optimal use of the resources they do control.
- ***Poor AIDS governance***. The AIDS governance that African governments have pursued may have been mistaken in itself or problematic in how it has come to interact with the resource constraints, donor dependency, and general governance problems referred to above.

The purpose of this paper is to elaborate on the fourth point—that the ineffectiveness of the responses to HIV/AIDS by African governments has something to do with central governance characteristics of those responses. My ambition is to suggest some elements of a comparative research agenda through which we can improve our understanding of the degree to which particular types of 'AIDS governance' impacts on the effectiveness of the government response to HIV/AIDS. My main argument in relation to existing literature on AIDS and governance is methodological: our analytical discussions of 'AIDS governance' should be less normative and more based on solid empirical and comparative research. Only through such research can we speak with authority on which governance 'template' is more likely to be effective in epidemiological terms. This last point is important. Most contributions in the emerging political science literature on the epidemic are either studies of the impact of HIV/AIDS on governance, or studies of the governance response to the epidemic. While the distinction is useful in many regards it is also misleading in that it allows for analyses of governance responses to be mere descriptive accounts that mistakenly inspire authors to formulate far-reaching normative arguments on what should be the governance response to HIV/AIDS. Analyses of AIDS governance should also include impact studies - analyses of causality. They must seek to clarify what impact different governance responses have on the epidemic. Analytically, we should think of AIDS governance as a variable and not as a postulated ideal. Our analyses should frame AIDS governance as an independent variable that potentially can explain some of the differences in degrees of effectiveness of government responses. On the basis of such a systematic and comparative research agenda we will be able to answer

questions such as *which type of AIDS governance is more successful with prevention?* Or *which type is better at sustaining a treatment programme?* Or *which type of governance is more effective at what stage of the epidemic?* This explanatory research agenda on AIDS governance poses a number of key methodological challenges. Not least among these is to define 'governance', and then to suggest what different 'values' our independent variable can take on, i.e. what different types of AIDS governance there are. I shall discuss these in turn in the next section.[1]

AIDS Governance as a Variable

Defining Governance

A basic criterion for this research agenda is to work with a definition of governance that is 'minimal' so as to allow for as large a variation in types of governance responses as possible. The definition used by the most ambitious current comparative project on governance—the *World Governance* Survey—is therefore well suited as a starting point for our discussion: 'Governance refers to the formation and stewardship of the formal and informal rules that regulate the public realm, the arena in which state as well as economic and societal actors interact to make decisions.' (Hyden, Court, and Mease 2004 p. 16). The authors continue to define governance as follows:

> a quality of the political system that … serves as an independent variable, an explanatory factor. In this perspective, governance deals with the constitutive side of how a political system operates rather than its distributive or allocative aspects that are more directly a function of policy. (*Ibid*)

This definition does not prescribe a certain type of political system but will allow us to compare the effectiveness of AIDS governance in both democratic and non-democratic states. Nor does the definition assume any particular substantive outcomes from the political process. Governance is about the

[1] The other main methodological challenge for this research agenda is to define and operationalise 'effectiveness' in relation to government responses to HIV/AIDS.

rules of the political game. Goran Hyden and his colleagues provide further conceptual clarity by relating governance to a number of concepts and activities (see table 1 below). Governance defines the fundamental institutional parameters for the political process. That process will, in turn, generate policies that are administered through a state bureaucracy and implemented at a local management level. In terms of AIDS governance at the level of national government we can say that governance refers to the rules that define who takes what type of decisions in relation to the government's response. For instance, whether or not to launch a national roll-out of ARV treatment is a policy decision. How best to process and audit the necessary financial resources are programmatic administrative issues, and how to optimise the distribution of nurses over a number of community clinics is a project-related management problem. The governance aspect of such a roll-out refers to who had the right to participate in making that decision, the distribution of power between those stake-holders, with what legitimacy they participated, and what constitutional rules and principles they were committed to or constrained by in doing so.

Table 1: Governance and its relations to other concepts and activities

Level	*Activity*	*Concept*
Meta	Politics	Governance
Macro	Policy	Policymaking
Meso	Programme	Public administration
Micro	Project	Management

Source: (Hyden, Court, and Mease 2004 p. 17).

All of the four levels of a response to AIDS can potentially contribute to our understanding of why some responses are more effective than others (together, of course, with a range of other kinds of variables). To what extent the explanation to variations in degrees of effectiveness can be found at the level of politics, policy, programme or project is an empirical question. In trying to establish such causal links we need to test theories that hypothesise not only direct links to the dependent variable but also different interaction effects between two or more of the four independent variables. For instance, rather than arguing that a particular type of AIDS governance has a direct impact on the degree of effectiveness, it would probably be more realistic to

hypothesise that a certain kind of AIDS governance makes certain types of policies more plausible (or even possible) — the direct effect on the dependent variable can thus be found at the policy level.

Types of AIDS Governance

Governments across the world have obviously applied a range of different types of interventions in their responses to HIV/AIDS. Much of this variation is found at the policy level, but, as we shall see further below, we can also identify variation at the level of governance. The three-fold typology that I propose in table 2 below is the most general formulation of variation in AIDS governance. This initial typology needs to be elaborated on further before it can be applied to empirical research—the types need to be operationalised into sets of concrete criteria by which we can distinguish observable differences in governance approaches. As 'ideal-type' formulations, these types of governance should be understood as theoretical tools that help us clarify patterns in a complex reality: actual cases will only approximate these ideal-types. It is important to remember that our interest in types of AIDS governance relates to their effectiveness in terms of stopping and repressing the impact of the HIV/AIDS epidemic, our dependent variable. Which type is normatively more appealing on other grounds is beside the analytical point at this stage.

Table 2: Ideal-types of AIDS governance

Political system	*AIDS Governance*	*Central characteristic*
Democratic	idealistic	A response that seeks to maximise human rights, accountability and participation. Such democratic ideals are understood to increase and ensure the effectiveness of the response.
	authoritative	A response that limits one or more of the democratic ideals with the argument that such limitations will enable the government to respond more effectively in the interest of public health.
Non-democratic	authoritarian	A response that is likely to disregard most or all democratic ideals in order to generate as effective a response as possible in the interest of the State, the Party or the Nation.

The first distinction I suggest is between democratic and non-democratic types of AIDS Governance. This distinction relies on an institutional definition of democracy that defines a political system as democratic on the basis of a particular set of political institutions, processes and fundamental rights. This definition is similar to our definition of governance above as it does not prescribe a certain substantive outcome of the democratic political process; it is the type of definition of democracy that lies at the core of the comparative literature on democratisation in Africa and elsewhere (see for example Bratton and van de Walle 1997; Linz and Stepan 1996).

This initial distinction implies a critique of the notion of 'democratic governance' that dominates both analytical and advocacy literature on development in general (UNDP 2002) and on HIV/AIDS (Hsu 2004). Our analytical framework thus allows a democratic political system to pursue more than one type of AIDS governance. This empirical reality is lost to our analysis if we define as 'democratic' a particular type of AIDS governance which is but a sub-type of governance in a democratic political system.

The types of AIDS governance that I suggest will be contextualised further in the following section. A few comments are however necessary with direct reference to the framework. What I call *idealistic* AIDS governance overlaps completely with what most often is referred to in the literature as 'democratic governance' in response to HIV/AIDS. By calling this type of AIDS governance *idealistic* I do not mean to suggest that it is unrealistic but that it is based on the assumption that in order to be effective a response should maximise the realisation of a number of democratic and human rights *ideals*. The type that negates those ideals in principle is *authoritarian* AIDS governance. As this type originates in a non-democratic political system, neither the political constitution or the general laws, nor the dominant political culture would oppose harsh interventions against individuals. Such interventions would, ultimately, be motivated by the need to protect the authoritarian political myth embodied by the State, the Party or the Nation. The *authoritative* type of AIDS governance represents a nuance of the two opposing types. It is a democratic form of governance since it has been formulated and adopted by a democratic political system, but it is motivated by the argument that a response will be more effective by restricting one or more of the democratic and human rights ideals rather than seeking to maximise them. When such restrictions occur they are regarded as exceptions and are subject to stringent constitutional criteria and control. They gain legitimacy in the body politic by being adopted through a democratic process and through their effectiveness in countering what is perceived to be a severe threat to the general public health.

Discourses on AIDS Governance

The purpose of this section is to contextualise the theoretical suggestions I make above. I will first relate the framework to comparative analyses of national responses to HIV/AIDS and then elaborate further on what arguments have been presented for the two democratic types of AIDS governance. A comparative analysis of the effectiveness of governance types in responding to the epidemic *may* yield the result that *authoritarian* AIDS governance is the most effective of the three. Such a finding should not, however, lead us to advocate non-democratic forms of government. Defeating the epidemic would be a Pyrrhic victory if in doing so we lay to waste the democratic gains of the last two decades.

AIDS Governance in Empirical Analyses

There are a few contributions in the literature that more or less systematically compare how governments have responded to the AIDS epidemic. Given the definitions I use here, most of these contributions compare HIV/AIDS policies, but there are nevertheless some important points of overlap with our governance discussion.

After describing the national responses in eight countries and one continent the central ambition with the volume edited by Misztal and Moss (1990) is to explain why responses took on certain characteristics, not why some forms of governance were more or less effective.[2] This explanatory ambition is understandable since there was very little variation in the epidemic that could be attributed to different forms of AIDS governance.[3] The one governance aspect that features in most chapters, however, is the 'principal dilemma' of balancing the human rights of infected individuals with those of uninfected members of the community at large. In terms of our analytical framework, the way this balance is struck in a democracy is one element of defining responses as either *idealistic* or *authoritative*. The chapter on Africa (Fortin 1990) in this volume does not, unfortunately, elaborate on the African experience of dealing with this dilemma but focuses on the resource constraints that hampered efforts by African governments to respond to the epidemic.

Hyden and Lanegran (1993) discuss one way in which the effectiveness of government responses is undermined by general governance problems. In contrast to the notion of a rational 'policy government' that is the prevailing model of the policy processes in established western democracies, post-

[2] The comparison was based on case-studies of the US, Brazil, France, Belgium, West Germany, Italy, Poland, Australia and Africa.

[3] The destructive power of the global epidemic becomes alarmingly clear when one looks back at epidemiological statistics from the recent past. Misztal and Moss report the following WHO statistics from 1989 on cases of AIDS around the world, per continent: Africa, 21.322 cases based on 46 country reports; Americas, 99.752 cases based on 42 country reports; Asia, 338 cases based on 23 country reports; Europe, 19.196 cases based on 28 country reports; and Oceania, 1.286 cases based on 6 country reports. With only a total of 141.894 reported cases of AIDS in 1989, the global pandemic was still to unfold in the future. (Moss and Misztal 1990 p. 6).

independence politics in Africa is mainly characterised by the distribution of patronage.

This form of governance has far-reaching consequences for the governments' ability and willingness to act forcefully against AIDS since: 'issues such as AIDS, that carry no immediate rewards for individual politicians, are difficult to get on the political agenda and, once there, policymakers do not give them the attention they deserve' (*ibid*: 58). In relation to this general explanation for inaction by East African governments, the Ugandan response under President Museveni appears to be an anomaly. However, the strong action by the government of Uganda is not explained with less patronage politics but

> 'by the fact that [Museveni's] own political supporters are among the worst affected … [To] the extent that the principal political leader take their own initiatives or responded affirmatively to outside pressures, there is a positive correlation between demonstrations of public concern, on the one hand, and how close to home the disease strikes, on the other' (*ibid*: 59-60).

More than any other African president, Uganda's Museveni has been praised at the global level for the way he took leadership over his government's strong response to HIV/AIDS. However, the criticism formulated by Hyden and Lanegran has been elaborated on in more recent accounts.

The monograph edited by Zungu-Dirwayi *et al.* (Zungu-Dirwayi *et al*. 2004) lacks theoretical grounding but offers much relevant empirical information. By comparing HIV/AIDS policies across six countries in Southern Africa[4], they show that all countries (including non-democratic Swaziland) have formulated wide-ranging policies that are in line with global policy prescriptions. However, at the level of governance, the authors point out differences in the degree of stake-holder participation in the policymaking process. Non-governmental organisations were only marginally involved in the policymaking in Swaziland, and no such participation informed the formulation of the HIV/AIDS 'strategic plans' in either Swaziland or South Africa (*ibid*: 35-36). It is also interesting to note that to the extent the countries, on the whole, subscribe to a rights-based approach to HIV/AIDS,

[4] Botswana, Lesotho, Mozambique, South Africa, Swaziland and Zimbabwe.

they differ greatly in the degree to which those principles have been enshrined in law and the courts have developed a jurisprudence around HIV/AIDS. (*Ibid*: 59-63).

In his analysis of donor-driven demands for the introduction of National AIDS Commissions in the early 1990s, James Putzel (2004) argues that the effectiveness of previously state-run responses was undermined by this new organisational template; his analysis exemplifies the suggestion above that donor dependency may help explain the lack of success in fighting the epidemic. One reason for this was that the institutional reforms in both Uganda and Senegal caused considerable in-fighting between government departments, something that in part can be attributed to poor general governance. But Putzel's analysis also discusses aspects of this demand for a particular institutional template that relates specifically to our discussion of AIDS Governance:

> 'There is in the template an implicit assessment of the inability of organizations *within* the state, or public authority, to implement HIV/AIDS programmes and an implicit, virtually ideological belief that NGOs, religious organizations and private sector organizations will be able to do better. Donor agencies promoting the organizational template failed to recognize that in countries like Uganda and Senegal, it was initiative from the state and the political organizations that controlled it, that mobilized and negotiated the involvement of religious organizations and NGOs in the campaign against HIV/AIDS and not the other way around. The model obscured important tensions and trade-offs necessary in the fight against AIDS and confronted by leaders in Uganda and Senegal: between respecting individual rights and ensuring the rights of all to public health; and between promoting the decentralization of resources and authority and ensuring effective deployment of resources and central direction to control a health emergency' (*ibid*: 1138).

The imposition of the organisational template that was advocated by the global donors seems to have caused a shift in AIDS Governance in at least two respects. Firstly, the state had previously dominated the formulation and implementation of an effective response and had invited non-state actors and organisations only in so far as such broadened participation further strengthened the response. The new organisational template reversed this

logic by prescribing broad NGO participation as a key to success. This had implications not only at central level but also in how resources and control were decentralised to actors and organisations across the country. Secondly, the trade-offs between individual and collective rights that shaped effective responses were renegotiated in favour of individual rights as a consequence of this broadened participation. This second point is elaborated on in Putzel's report to DFID that was the basis for his article (Putzel 2003). In early efforts to contain the virus, both Uganda and Senegal enforced compulsory testing of military personnel and commercial sex workers. While such interventions were successful they run counter to many rights-based arguments for how to respond to HIV/AIDS.

Peter Baldwin, finally, has arguably written the most thorough analysis of the political response to HIV/AIDS to date (Baldwin 2005). Although his cases are restricted to the US and Western Europe, the analysis is relevant also to Africa. Baldwin's ambition is to explain why the national responses took on such different characteristics despite the similarity of the threat posed by AIDS. He criticises previous analyses, such as the comparison by Kirp and Bayer (Kirp and Bayer 1992), for suggesting that countries opted for a similar consensus-oriented response. Instead, Baldwin argues, countries came up with widely diverging responses to the central question: 'how to reconcile the individual's claim to autonomy and liberty with the community's concern with safety?' (*ibid*: 3). Countries responded, argues Baldwin, according to the logic of path dependency, i.e. largely depending on how they had responded to previous threats to public health. In analysing these differences, Baldwin refers to the same element of governance as previous authors:

> 'Almost uniformly, the two public health strategies available to Western health authorities were described as some variant of a division into a compulsive, reactionary line and a voluntary, progressive approach, a contain-and-control strategy and one based on cooperation and inclusion' (*ibid*: 38).

The empirical variation we see in our dependent and independent variables on the basis of the literature reviewed here is not conducive to generating explanatory arguments through comparative analyses of AIDS Governance. The fact that Western countries all managed to contain the epidemic despite the fact that they, according to Baldwin, responded with different governance approaches suggests that the type of governance had little to do with that success. To some extent a similar problem applies to Africa where most

countries have failed in their responses to HIV/AIDS while intervening with very similar sets of policies and forms of governance. However, on the basis of descriptive analyses of HIV/AIDS policies we can nevertheless glean some potentially interesting differences in this regard that warrant further analysis. On the basis of Putzel's analysis we can ask *to what extent did the early successes of Senegal and Uganda depend on the type of AIDS governance that framed their policy approaches at that stage, and has the imposition of more idealistic governance templates subsequently reduced the effectiveness of those responses?* And on the basis of the comparison of AIDS policies in Southern Africa we can ask *if the lower degree of stake-holder participation in Swaziland and South Africa resulted in the adoption of policies that civil society participation otherwise would have altered or stopped altogether?*

The one governance dimension that was referred to explicitly in most of the literature relates to the balancing of individual human rights of those infected by HIV with the rights of the majority to be protected from infection. But this is only one of the elements that define the difference between democratic types of AIDS Governance. In order to contextualise the other elements we now turn to reviewing some of the more dominant normative contributions in the literature. They will provide us with further dimensions of AIDS governance that we can include in our analytical framework.

Idealistic AIDS governance

The genealogy of *idealistic* AIDS Governance can arguably be traced back to two distinct discourses—one on human rights and one on the link between democracy and development.

On the basis of the discrimination experienced by people first infected by HIV in the early 1980s, a number of prominent activists and global health advocates formulated a 'human rights approach' to HIV/AIDS. The basic argument was, according to Mark Heywood (2000), that HIV was different from previous public health threats such as cholera, smallpox and tuberculosis in that it is not communicated through casual contact, nor is it easily identifiable. Therefore, rather than enforcing harsh measures, '[its] control depends upon creating a climate of trust and on breaking the stigmas that silence most people it infects' (*ibid*: 13-14). Unless such trust can be created between people infected with HIV on the one hand and the authorities and the

general community on the other, 'stigma and unfair discrimination against people with HIV […] drives the epidemic underground and increases the risk to other people of the very thing they fear—HIV infection' (*ibid*: 13). The logic to this argument presents us with the 'AIDS paradox'. Whereas previous public health threats were contained successfully by protecting the uninfected majority from the infected minority, AIDS is best responded to, according to this argument, by protecting the infected minority from the discrimination of the uninfected majority.

There is considerable overlap in time and geographical space between the global pandemic and the wave of democratisation that swept across Africa, Eastern Europe and parts of Asia in the 1990s. The most tangible change in this political process was of course the many regime transitions in which authoritarian governments were replaced by democratically elected ones. Democracy, we learnt, does not require a process of modernisation over generations as previously had been argued, but can be based in negotiated elite pacts over a certain constellation of political institutions that run parallel to the market economy. This is, essentially, the liberal democratic ideal—its ideologues would soon pronounce on the end of history.

This change in the discourse from a structural to an institutional argument about the preconditions for democracy was soon also reflected in dominant texts on development. The key text that marks this change is the 2002 UNDP Human Development Report that placed the notion of 'democratic governance' at the centre of global development efforts (UNDP 2002). In that report, UNDP infused a strong dose of liberal democratic principles and institutions into a development discourse that previously had been more interested in social structures and substantial political outcomes; democratic governance had inherent values, politics was not just a means to an end.

A central contribution to the literature on governance and HIV/AIDS appears to have taken its cue from this UNDP approach. In a joint UNDP and UNAIDS publication, Lee-Nah Hsu presents an argument for democratic governance in relation to HIV/AIDS (Hsu 2004).[5] A democratic governance response to HIV/AIDS should be based upon three pillars, argues Hsu (*ibid*: 3-4). The first pillar represents participation by and responsiveness towards

[5] Since I have commented on Hsu's argument and research at some length elsewhere (Strand *et al*. 2005) I shall only briefly summarise the argument here.

all stakeholders in a political process that seeks to build consensus. The second pillar is to ensure that human rights are protected by the rule of law, and that power is transparent and can be held accountable. Thirdly, the policy outcome of such governance should seek to maximise the ideals of equality, equity and efficiency. The first two of these three 'pillars' relate to the governance concept as defined in this paper: the response to HIV/AIDS should be decided on through a participatory and inclusive process that is constrained by requirements to ensure that human rights are respected, that the process and the implementation of its results are transparent, and that politicians can be held accountable for their decisions in this regard.

A similar argument for *idealistic* AIDS governance is made by Maite Irurzun-Lopez and Nana Poku (2005). In order to overcome the problems that African states have experienced in fighting HIV/AIDS effectively, African states should pursue *AIDS governance*. In contrast to my use of the concept of AIDS governance above, Irurzun-Lopez and Poku do not frame it as a variable but ascribe to it a certain quality and content in terms of process and outcome:

> 'The principles of AIDS governance are a commitment to pursue long-term AIDS policies, incorporation of a gender approach into AIDS policies, inclusion of a participatory and accountable decision-making processes, promotion of equity in health care, and the development of a human rights-based rationale for treatment' (*ibid*: 219).

The problem with the idealistic argument, as was mentioned above, is not the norms that it favours, but rather that those who are making the argument fail to show that these norms are effective in dealing with the epidemic. This is, to my mind, particularly problematic in relation to the more generally democratic ideals other than human rights—the logic and arguments underpinning the 'AIDS paradox' seem convincing to me. What evidence is there for the argument that a response will be more effective in fighting HIV/AIDS if it encourages broad participation, if it allows people to hold politicians accountable, if it is responsive to public opinion, and if it realises certain political values such as equality?

Authoritative AIDS governance

The arguments for this type of AIDS Governance in Africa in the 21st century are mostly presented in the literature as brief comments in critique of the apparent governance failures to date, and often with reference to one or more countries where similar interventions have been successful, such as Cuba and Thailand. The case for this type of AIDS Governance has not, to the best of my knowledge, been elaborated at length like arguments for *idealistic* AIDS Governance.

We need to remind ourselves that this type of governance is still democratic in that it has been adopted through a democratic process and is bound by the Rule of Law—it is not an *authoritarian* response to HIV/AIDS. This point is central to the argument that we can have (at least) two different types of democratic responses to HIV/AIDS, the *idealistic* and the *authoritative*. Whereas the former gains its legitimacy mainly through its democratic content, the legitimacy of the latter response relies on the process through which it was adopted. This point is made succinctly by James Putzel:

> 'Even if more coercive measures of testing and control may be judged necessary to fighting the epidemic, the legitimacy of such measures would be much more readily established if they were arrived at through democratic processes of decision making, The character of the HIV/AIDS epidemic is such that both individual sexual behaviour change and the transformation of social norms of sexual behaviour lie at the core of prevention and it is difficult, if not impossible, to secure these through coercion. It is this that makes the case for democracy compelling' (Putzel 2003: 40).

One such coercive measure that would be based on a restriction in the individual's rights would be to enforce compulsory HIV testing. The argument that an effective response to the epidemic in Africa requires that all people know their seropositive status and then change their behaviour accordingly is made by Kevin De Cock and his colleagues in an often cited paper (De Cock, Marum, and Mbori-Ngacha 2002). The authors are not insensitive to the potentially problematic implications of such a shift towards *authoritative* AIDS Governance. They argue, however, that the strategic use of new testing technologies as well as a commitment to providing care for

those who are found to be HIV positive would address such concerns to some extent:

> 'Focusing on positive aspects of rights, rather than negative consequences of public health action, and strengthening efforts to prevent discrimination, offer synergy between science-based HIV prevention and increased access to care. […] HIV testing should be sanctioned by law, aimed at a legitimate public health goal, necessary to achieve that goal, no more intrusive or restrictive than necessary, and non-discriminatory in character' (*ibid*: 1847).

The same call for universal testing as one of several possible authoritative measures is made by Tim Allen (2004). One of the determinants of the effectiveness of future HIV/AIDS policies in Africa, argues Allen, is 'the degree that concerns about human rights are set aside', and he continues:

> 'It is certainly true that there are many things that are not known about HIV/AIDS, but it is in fact known how to control it, and not just in rich countries. Enforced testing, enforced use of condoms, segregation of those who are positive, and perhaps enforced compliance with antiretroviral regimes: these are strategies which would have an effect. They also involve what might be regarded as infringements of civil liberties, and it seems likely that they could only be implemented in parts of the world by military force. […] Elsewhere, the human rights of those who are HIV positive are privileged over those who are not. It is very understandable why this is the case, but in public health terms it is potentially counterproductive' (*ibid*: 1127).

The arguments by De Cock and Allen both centre on the need to restrict individual human rights in order to make responses to the epidemic more effective—this is by far the most common argument in favour of *authoritative* AIDS Governance. While this argument runs counter to the rights-based approach to HIV/AIDS that is inherent to *idealistic* AIDS Governance, it does not imply a principled disregard for human rights but rather relies on a more general interpretation of human rights as these are entrenched in international instruments and ratified by national governments. In terms of *authoritative* AIDS Governance, in other words, it is not a matter of whether or not to respect human rights, but a question of how rights should be interpreted in the context of the HIV/AIDS health emergency and how different rights should

be prioritised internally. This central point is elaborated on in an important paper by Jenny Kuper (2004):

> 'The theme of seemingly conflicting rights is repeated throughout the discourse linking HIV/AIDS and human rights law, and is indeed an inherent feature of law itself, in the sense that almost all rules have exceptions, and most obligations have limitations, and rights of one group of people often have to be balanced against rights of others […] International human rights law explicitly allows for exceptions, e.g. on the grounds of public health […]' (*ibid*: 22).

However, continues Kuper, in order for restrictions of rights to be legitimate, such exceptions must meet the following criteria, as defined in international human rights conventions:

- The particular action has to be in accordance with national law;
- It has to be in the interest of a legitimate objective;
- It has to be strictly necessary to achieve this goal;
- It must be the least restrictive alternative, and;
- It must not be imposed in an unreasonable or discriminatory way (*ibid*: 22-23).

It would seem that the analysis by Kuper has identified the precise point at the centre of debates between advocates for *idealistic* and *authoritative* AIDS Governance, so far as the types refer to human rights. Whereas the former theoretical type of governance will deny the need for any such restrictions in line with the logic of the 'AIDS paradox', the latter will argue they are necessary for an effective response. A democratic and constitutional process of making and policing such restrictions will ensure that this element of *authoritative* AIDS Governance never transforms into the un-democratic *authoritarian* type.

Just like the notion of *idealistic* AIDS governance builds on more elements than human rights, so does the *authoritative* type. In other words, a response to HIV/AIDS by a national government can arguably also restrict the ideals of participation and accountability (and perhaps even transparency) on the basis of the argument that by doing so the response will have a greater chance of

reversing the epidemic. I shall introduce this discussion with a paragraph by Alex de Waal that spells out what 'democratic governance' would need to mean in Africa in order to generate an effective response:

> 'Identifying the dilemmas and options, taking the decisions, policy triage and implementing the policies consistently and effectively over a sustained period requires a robust democratic consensus. In fact, a new social contract is required for the era of AIDS. This in turn requires informed public discussion and democratic decision-making. Without this, policies will be imposed and will be seen as such, and will therefore not be properly implemented, and will be liable to reversal when the political climate changes. However, given the extraordinary constraints on the functioning of national institutions, we may have to reinvent democracy itself for the age of AIDS' (De Waal 2004 p. 45).

It is of course not only national institutions that are found wanting in Africa's democracies. Most African countries that are severely affected by the epidemic lack a robust democratic consensus as well as the public discussion and democratic decision-making procedures by which to formulate and entrench such a consensus. What, then, would it imply to 'reinvent democracy for the age of AIDS'? Let me conclude by briefly outlining two arguments in relation to the ideals of participation and accountability respectively.[6]

The argument that broad participation from civil society will generate an effective response against HIV/AIDS makes two critical assumptions. The first of these is that those who participate are sufficiently aware and mobilised to support the necessary policy interventions, also when these interventions may run counter to predominant cultural and/or religious beliefs as well as public opinion on how state resources should be prioritised. While such support should not be uncritical of what the government suggests, NGOs and various traditional and community leaders must be open to being convinced about the need for unpopular interventions. If such a consensus on the need for strong interventions cannot be established, and where community leaders

[6] By using this paragraph by Alex de Waal to introduce a discussion of the political elements of *authoritative* AIDS Governance I do not mean to imply that this was what he had in mind in formulating that paragraph or that he necessarily would agree with the gist of what I propose.

represent sizeable political constituencies on which the government relies for electoral support, such broad participation is more likely to generate ineffective responses. The research that has been done on the Afrobarometer public surveys shows that HIV/AIDS is low on the 'public agenda', also in countries that are most severely affected by AIDS (Mattes 2004; Whiteside *et al*. 2004). This finding alone suggests that an assumption that a higher degree of public participation will generate a more effective response is mistaken and needs to be contextualised or, perhaps, discarded altogether.

Secondly, public participation in political processes is costly. While democratic policy processes need to invite commentary from particular stakeholders and also be open to the general public, every additional such form and instance of participation implies a cost in terms of time, money and other resources—none of which are in abundance in the African countries that are worst hit by the epidemic. The opportunity for participation may need to be circumscribed on this ground as well.

The ideal of political accountability in the response to HIV/AIDS is also based on a problematic assumption that the elected political leader needs the threat of electoral sanctioning in order to make and to keep to a commitment to prioritising resources on the fight against HIV/AIDS. However, as the results from the *Afrobarometer* show us, there are no indications of such a prioritization of HIV/AIDS among the electorates in Southern Africa. It is arguably more likely that the awareness about what early interventions are necessary in order to contain an as yet invincible HIV/AIDS epidemic is limited to political and societal elites. Unless such elites make common cause in creating an awareness of the epidemic and an understanding of what potentially intrusive, costly and morally contentious interventions will become necessary, the argument for accountability is more likely to silence politicians on the question of HIV/AIDS. This point is borne out by Nelson Mandela in a reflection on his term as leader of the African National Congress and President of South Africa. When asked about the reasons for his relative silence on HIV/AIDS in the run-up to the 1994 elections, Mandela confessed to not using the electoral platform to build public awareness about the epidemic and the necessary interventions because he had been told by ANC campaign strategists that such messages were unpopular among the ANC constituency: 'I wanted to win', said Mandela, 'and I stopped talking about AIDS' (BBC 2003). While it is mistaken to assume that accountability will generate a strong response in the early stages of an epidemic, such an assumption may be more relevant as the epidemic matures and the visible

effects of AIDS related illnesses and mortality has started to generate a demand for a general roll-out of antiretroviral treatment.

Political accountability and participation can also be restricted by democratic politicians delegating the power to determine policy to a corps of bureaucratic medical experts. The extent to which this happened differed across the countries analysed by Peter Baldwin:

> 'Those who called for drastic precautions confronted the defence of civil rights by recently mobilized sexual and ethnic minorities. No wonder experts and policy makers sought to shift the issue from the glare and heat of public dispute to the more temperate clime of bureaucracy. ... [Most] legal instruments dealing with AIDS were not laws, debated in Parliament or Congress and open to political grandstanding, but decrees, ministerial orders, and circulars, issued by officials without consultation or input from elected representatives.' (Baldwin 2005: 208-209).

The *authoritative* type of AIDS Governance would thus not only consider restricting the application of a rights-based approach but also the level and form of participation and accountability to ensure a more effective response. Let me now conclude by restating some key points and elaborating somewhat on the framework I proposed above.

Conclusions: Comparing AIDS Governance

My discussion started off with a critique of the normative conception of the type of governance that would be most likely to yield an effective response to the HIV/AIDS epidemic in Africa. My critique of a 'democratic governance' response to HIV/AIDS is based both on the lack of evidence for the effectiveness of such a response in terms of containing and reversing the epidemic, and also on how that argument appears to disregard the 'governance dilemmas' that it generates. The political incentives that the ideals of participation and accountability present to democratically elected politicians may in fact rather generate a set of interventions that are ineffective in the fight against the epidemic. We would be mistaken to assume the opposite. We need, clearly, to better understand how AIDS governance

interacts with democratic politics in Africa. Others, like James Putzel, have made this point before:

> 'There is a tension between the principles of democracy and the respect for individual rights on the one hand and the imperatives of securing public health on the other. While it is fashionable at the beginning of the 21st century to see all things 'democratic' as unquestionably 'good', the experience of fighting HIV/AIDS epidemic […] calls for a more nuanced understanding of the role of democratic organisations and institutions' (Putzel 2003: 39).

My main ambition with suggesting a comparative research agenda on AIDS Governance has been to contribute to the development of such a nuanced understanding of what forms democratic governance can take in fighting the epidemic. By making a distinction between *idealistic* and *authoritative* types of democratic AIDS Governance we transform the notion of 'democratic AIDS governance' from a postulated ideal into a variable that will allow us to design comparative analyses of AIDS governance by democratic governments. Together with the non-democratic *authoritarian* type of AIDS governance we have identified three potential categories of AIDS governance that may capture the empirical variation in our independent variable. In table 3 below I propose how these types can be operationalised in relation to three defining elements of AIDS governance.

While I would argue that these three governance dimensions are most important, one could possibly add 'responsiveness' and 'transparency' in order to capture further nuances in the differences between the three types of AIDS governance.

The framework will allow for systematic descriptions of the variation in the independent variable 'AIDS governance'. We should not necessarily expect a particular country (or 'case') to closely approximate one type of governance on all three governance elements—there will be many empirical nuances in the type of AIDS governance in Africa that we should try to explain, much like Baldwin and others have attempted to do in America and Europe. However, much work remains before we can establish a causal link between AIDS governance and the effectiveness of the response, which is the ultimate aim of this research agenda; it is far from clear how one should define and operationalise 'effectiveness'. It is nevertheless a theoretical and

methodological challenge we need to meet successfully in order for political science to make a substantial contribution to the fight against HIV/AIDS.

Table 3: Operationalisation of types of AIDS Governance

AIDS GOVERNANCE	*OPERATIONALISATION*		
	human rights	*participation*	*accountability*
idealistic	The 'AIDS paradox' defines the policy agenda. Individual rights trump collective rights	Stake-holders and the public have the right to participate in the policy-making process	HIV/AIDS policy is kept in the political arena and is open to electoral accountability
authoritative	Individual and collective rights are balanced according to defined constitutional criteria	Policymaking is controlled by the state. Selected stake-holders are invited to participate	HIV/AIDS policy is delegated expert arena and removed from the electoral agenda
authoritarian	Rights are instrumental and not principled. Collective rights trump individual rights.	Policymaking is controlled by the state. Selected stake-holders may be invited to participate	Politicians and experts are accountable for policy failures to the highest state authority

References

Allen, Tim. 2004. Why don't HIV/AIDS policies work? *Journal of International Development* 16:1123-1127.

Baldwin, Peter. 2005. *Disease and Democracy: The Industrialized World Faces AIDS*. Berkeley: University of California Press.

Bratton, Michael, and Nicolas van de Walle. 1997. *Democratic Experiments in Africa: Regime Transitions in Comparative Perspective*. Cambridge: Cambridge University Press.

De Cock, Kevin M., Elisabeth Marum, and Dorothy Mbori-Ngacha. 2002. A Serostatus-Based Approach to HIV Prevention and Care in Africa. *Lancet* 362:1847-1849.

De Waal, Alex. 2004. The Links Between HIV/AIDS and Democratic Governance in Africa. A Commentary to the report Building Dynamic Democratic Governance and HIV-Resilient Societies. Geneva: UNDP & UNAIDS.

Fortin, Alfred J. 1990. AIDS, Development, and the Limitation of the African State. In *Action on Aids: National Policies in Comparative Perspective*, edited by B. A. Misztal and D. Moss. New York: Greenwood Press.

Heywood, Mark. 2000. HIV and AIDS: From the Perspective of Human Rights and Legal Protection. In *One Step Further: Response to HIV/AIDS*, edited by A. Sisask. Stockholm: Sida.

Hsu, Lee-Nah. 2004. Building Dynamic Democratic Governance and HIV-Resilient Societies. Bangkok: UNDP.

Hyden, Goran, Julius Court, and Kenneth Mease. 2004. *Making Sense of Governance: Empirical Evidence from 16 Developing Countries*. Boulder: Lynne Rienner Publishers.

Hyden, Goran, and Kim Lanegran. 1993. AIDS, Policy and Politics: East Africa in Comparative Perspective. *Policy Studies Review* 12 (1/2):47-65.

Irurzun-Lopez, Maite, and Nana K Poku. 2005. Pursuing African AIDS Governance: Consolidating the Response and Preparing for the Future. In *The African State and the AIDS Crisis*, edited by A. S. Patterson. Aldershot: Ashgate.

Kirp, David L., and Ronald Bayer, eds. 1992. *AIDS in the Industrialised Democracies: Passions, Politics, and Policies*. New Brunswick: Rutger University Press.

Kuper, Jenny. 2004. Law as a Tool: The Challenge of HIV/AIDS. London: Crisis States Research Centre, London School of Economics and Political Science.

Linz, Juan J., and Alfred Stepan. 1996. *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe*. Baltimore: The John Hopkins University Press.

Mattes, Robert. 2004. Public Opinion and HIV/AIDS: Facing Up to the Future? Cape Town: Afrobarometer.

Misztal, Barbara A, and David Moss, eds. 1990. *Action on Aids: National Policies in Comparative Perspective*. New York: Greenwood Press.

Moss, David, and Barbara A Misztal. 1990. Introduction. In *Action on AIDS: National Policies in Comparative Perspective*, edited by B. A. Misztal and D. Moss. New York: Greenwood Press.

Putzel, James. 2003. Institutionalising an Emergency Response: HIV/AIDS and Governance in Uganda and Senegal. London: Department for International Development.

———. 2004. The Global Fight Against AIDS: How Adequate are the National Commissions? *Journal of International Development* 16:1129-1140.

Strand, Per, Khabele Matlosa, Ann Strode, and Kondwani Chirambo. 2005. *HIV/AIDS and Democratic Governance in South Africa: Illustrating the Impact on Electoral Processes*. Cape Town: IDASA.

UNDP. 2002. *Human Development Report: Deepening Democracy in a Fragmented World*. Oxford: Oxford University Press.

Whiteside, Alan, Robert Mattes, Samantha Willan, and Ryann Manning. 2004. What People Really Believe About HIV/AIDS in Southern Africa. In *The Political Economy of AIDS in Africa*, edited by N. K. Poku and A. Whiteside. Aldershot: Ashgate.

Zungu-Dirwayi, Nompumelelo, Olive Shisana, Eric Udjo, Thabang Mosala, and John Seager, eds. 2004. *An Audit of HIV/AIDS Policies in Botswana, Lesotho, Mozambique, South Africa, Swaziland and Zimbabwe*. Cape Town: HSRC Publishers.