Why a rights-based approach is essential to the Covid-19 response

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On October 20th 1987, Director of the World Health Organisation's Special Programme on AIDS Dr. Jonathan Mann gave an address before the United Nations General Assembly. In the speech, Mann described the course of the epidemic as a play in three acts. Act one occurs as the virus silently enters the community. Act two begins as individuals succumb to sickness, and health systems are put under increasing pressure. The third act he characterised as the epidemic of social, cultural, economic and political reactions, declaring it to be 'as central to the global AIDS challenge as the disease itself.' Mann's remarks were indeed prescient, and public health and social epidemiology scholarship since then has come to recognise the greatest barriers to addressing an epidemic are not solely, or even mostly, biomedical, but rather have to do with social and structural issues such as stigma, inequality and access to power.

Perhaps Mann's greatest legacy was in shifting the emphasis on health as an issue that was singularly confined to the realm of biomedicine, to an acknowledgement of the inextricable relationship between health and human rights. The International Bill of Human Rights outlines a set of universal, indivisible and inalienable rights that are key to assuring the dignity, health and well-being of all individuals.

As the Covid-19 crisis has unfolded, it has thrown into sharp relief the fundamental nature of social and cultural rights such as the right to the highest attainable standard of health, education, work, social security, adequate food, clothing and housing, and the right to enjoy the benefits of scientific progress and its applications.

In the context of public health, the maintenance of these rights serves not only to preserve the dignity of the individual, but is essential to achieving the goals of any long-term strategy to adequately deal with an on-going pandemic. For example, health and legal scholars have underscored the vital importance of assuring the right to privacy and confidentiality in order to ensure trust between individuals and healthcare providers. It has well been established that lack of privacy and confidentiality may inhibit people from accessing testing, treatment and care. This is of particular significance in the context of an epidemic where stigma and discrimination can create specific barriers to health-seeking behaviours.

Additional barriers are created where stigma is exacerbated by criminalisation of transmission. Such policies can have unintended consequences counterproductive to public health. In the context of HIV for instance, criminalisation of transmission laws are known to increase stigma, discourage disclosure, testing and treatment, and have tended to be applied arbitrarily and vexatiously.

Other scholars have highlighted that rights to security and autonomy encompass the right to informed consent – relevant for participation in research as well as medical intervention. For informed consent to be meaningful, there is a need for a right to information, education and transparency. This is also vital for securing the voluntary cooperation of individuals and wider society, and for empowering communities to implement the types of social and behavioural changes required for an effective public health response.

It is also worth emphasising in a rights-based approach, rights are accompanied by duties, both at the individual and the State level. The codification of rights means the government is duty bound to respect, protect and fulfil rights and have a responsibility to be open, transparent and accountable to their citizens and to the wider international community. Individual citizens are also duty-bound to respect the rights of others, as Article 29 of the Universal Declaration of Human Rights asserts. As the aphorism goes, my right to swing my fists ends where your nose begins. This understanding is key to assuring the values of mutual respect and reciprocity will underpin social actions and thus increase the likelihood of cooperation under adverse conditions.

Consequently, if non-pharmacological policies to deal with Covid-19 are to be effective and legitimised, they should be formulated through a rights-based lens in coordination with wider civil society and with acknowledgement of the diverse needs of specific populations. Existing templates for rights-based approaches exist in health and social care delivery in Ireland in the form of best practice guidelines from CORU and HIQA. At the macro-level, policy and decision-making could be informed by the PANEL principles – namely Participation, Accountability, Non-discrimination and Equality, Empowerment and Legality.

It is unknown at this stage how long this crisis will go on for and it remains to be determined what medium- to long-term policies may need to be implemented to respond to the on-going threat. As we enter into the third act of this epidemic, policy-makers should embrace human rights principles as a means to secure the health and dignity of the nation, and as an opportunity to re-shape the society that will emerge in the wake of Covid-19.