

Awareness About Medico-Legal Aspects of HIV/AIDS

Shamim Riaz Alias Anni, Hiffsa Bibi and Samia Hasnat

Fatima Jinnah Women University, Rawalpindi, Pakistan

ABSTRACT

The purpose of this research is to elucidate the fact that the AIDS/HIV pandemic requires a unique and truly global response. The incidences of AIDS are continuously rising all around the world affecting both the highly developed countries like the US and the developing countries like India and Pakistan. Despite improvements in technology, the modern world is not prepared to cope with this quickly spreading disease the definitive cure for which is not yet known. AIDS is a serious medical issue, which, due to its prevalence and complexity-affects many aspects of our life, resulting in legal issues as well. Moreover, the discrimination against HIV patients makes the situation critical to such an extent that medical care and health facilities are not provided to them properly. The law can prevent these things by acting as a barrier to HIV but unfortunately the legislatures nearly around the world lag in enacting specific laws to prevent AIDS.

INTRODUCTION

Since its identification, HIV/AIDS cases have been continuously rising all around the world. HIV first originated when SIV, a virus closely related to HIV that attacked the immune system of chimpanzees and monkeys, was transferred to humans who had hunted and eaten those animals in the area of Kinshasa, the Democratic Republic of Congo, presumably in 1920. At that time HIV was unknown and did not come to the attention of the public (History.com 2017). The human immunodeficiency virus is a retrovirus that weakens the immune system of the human body. HIV causes AIDS in human beings. More than 40 years ago, in 1980 the first case of HIV was identified in the United States. Today, HIV/AIDS has attained pandemic status. Approximately 37.7 million people were living with HIV across the world in 2020. Out of these, 36 million were adults and 1.7 million were children of 0-14 years and 53% were women and girls and 1.0 million people have died from HIV in 2020 (Doychinov 2021). AIDS is one of the most serious, deadly diseases in human history and the most terrifying public health issue because, since the beginning of the pandemic, 55.9-110 million people have been infected with HIV, and 36.3 million people have died of HIV (Doychinov 2021).

The continuously rising numbers of HIV/AIDS cases pose serious challenges not only to the medical but also to the legal field. The medico-legal issues surrounding this disease are complex and interdisciplinary like HIV Antibody Testing, duty to warn third parties, charting and disclosing HIV antibody testing results, the diminishing stigma attached to HIV (Sahai-Srivastava 2009). Although the medical world has become more aware of how HIV works has been able to develop methods of its spread despite improvement in technology, the world is not able to cope with this deadly disease because of the non-availability of a definitive cure. HIV/AIDS creates legal challenges

as well because the emergence of the HIV epidemic has challenged the ethical values of the medical professionals including the infectious nature of HIV regarding the spread of disease, the social stigma attached to the disease, and its ethical and legal conundrum. AIDS will remain a disease that gives rise to stigmatization and discrimination regardless of how much we give awareness to the people about the nature and consequences of the disease but the law can its role control the disastrous effects of the infection by acting as a barrier to the spread of HIV by imposing sanctions regarding the spread of HIV. Also, the law can prohibit the discrimination faced by HIV patients especially in workplaces, or in hospitals, and treat HIV by effective HIV testing, but the law is often overlooked to deal with the complex moral and ethical issues arising from the HIV / AIDS epidemic and unfortunately, the legislature of the world has lagged in making specific law that could prevent HIV. (Pietrangelo 2020).

1. HIV/AIDS, Stages, Symptoms and Causes

Acquired immunodeficiency syndrome of humans is caused by two lent viruses: human immunodeficiency viruses of type 1 or type 2 (HIV-1 and HIV-2). They can enter the genome, attacking and destroying CD-4 cells. They also attack B cells and cause and cause macrophage dysfunction. This process finally results in acquired immune deficiency (AIDS). (Ellis 2020) HIV infection happens in three stages. Without treatment, it gets worse over time and eventually overpowers your immune system. Symptoms will depend on the stages. The first stage is the acute infection stage. During this stage, some people have no symptoms in the first month or so after contracting the virus, but they often realize HIV causes those symptoms. Early symptoms of HIV can include fever, chills, fatigue, sore throat, body pain, muscle aches, nausea, and upset stomach (Felman 2020). After a month or so, HIV enters the clinical latency stage. Some people don't have any symptoms during this time, while others may have minimal or nonspecific symptoms. These nonspecific systems may include: headaches and other aches and pain, swollen lymph nodes, recurrent fevers, night sweats, fatigue, nausea, vomiting, diarrhea, weight loss, skin rashes, recurrent oral or vaginal yeast infection, pneumonia, and shingles (Pietrangelo 2020). AIDS is the advanced stage of HIV infection. This is usually when your CD4-cell drops below 200 and your immune system is badly damaged. People with AIDS who don't take medication live about 3 years, or less if they get another infection. But HIV can still be treated at this stage. If you start on HIV drugs, stay on them, follow your doctor's advice, and keep healthy habits, you can live a long life (Pathak 2021).

The Human immunodeficiency virus (HIV) pandemic has developed as the single most impressive challenge to public health, Human Rights, and improvement within the modern thousand years. Spreading information and awareness about HIV is one of the key methodologies utilized within the avoidance and control of HIV/AIDS around the world. Lacking information and unsafe practices are major obstacles in avoiding the spread of HIV. Awareness about HIV, its signs and symptoms, about its modes of transmission is necessary because by getting awareness about HIV people will be able to understand how HIV and AIDS are spread and by what ways they can protect themselves (Alhasawi et al 2019).

1.1. Diagnosis and HIV testing

HIV can be most effectively detected with the aid of HIV tests. HIV testing, also called HIV screening, is the only way to know if you have the virus. Several types of tests check your blood or other body fluid to see whether you are infected. Most cannot spot HIV right away, because it takes time for your body to make antibodies or for enough of the virus to grow inside you. Diagnoses are based on:

1. History and essential tests CD-4 cell, diminished TLC/ DLC
2. HIV counteracting agent in serum (agglutination, immunofluorescence, or ELISA) (Brouwer et al. 2000).

1.2. Importance of HIV testing

If you have the virus, finding out quickly means you can start treatment right away so you can feel better and live a long, full life. Studies show that the sooner people start treatment after diagnosis, the more they benefit from ART (Antiretroviral therapy). Treatment with ART reduces the amount of HIV in the blood (called viral load), reduces HIV-related illness, and helps prevent transmission to others. Pregnant women should get tested because early treatment means you probably won't pass it to your baby (Watson 2021).

1.3. Modes of AIDS transmission

HIV is present in certain bodily fluids. The virus is present in the blood, semen, vaginal fluid, milk, and other secretions. Blood and semen are not only the way of transmission of HIV. A person with AIDS transmits HIV through sexual contact, sharing needles and syringes, and the transfusion of blood. An HIV-positive pregnant woman may transmit HIV to her child during pregnancy or at the time of birth. Research shows that HIV cannot be transmitted through skin-to-skin contact, mouth-to-mouth contact (unless open-wound / blood are involved), sharing food, saliva, tears, sweat, sharing a toilet, or through insect bites (Pietrangelo 2020).

1.4. Treatment

There is no definitive cure for HIV/AIDS nor is there a vaccine. However, there are some medications that not only can slow down the progression of the infection but can also slow down the growth of the virus permitting the infected individual to lead a normal life. Antiretroviral therapy (ART) is somewhat considered a cure for HIV/AIDS. Antiretroviral therapy includes a combination of HIV medicines (HIV treatment regime). ART is suggested to everyone infected with HIV. This Therapy does not cure the HIV patient completely but it prevents his/her condition from becoming chronic, at the same time reducing the risk of virus spread. There are several types of HIV/AIDS medicines. Some of them block or change the protein that HIV uses for its duplication within the human body. This hinders HIV from replicating itself, which reduces the amount of HIV within the body (Kasaye and Levy 2009).

2. Legal Point of view about HIV/AIDS

AIDS has become an acute legal issue nowadays. HIV/AIDS cases rising daily. Given the fact that medical options for stopping the disease are limited, the law could also play an important role in controlling its spread. Many legal issues related to HIV and

AIDS arise in the sphere of public health, medical law, and civil rights. Both developed and developing countries are trying to solve these issues attempting to cope with this disease. Many countries particularly from Asia and the United States have introduced several laws to control the spread of HIV/AIDS and to protect the rights of HIV-positive patients since HIV patients face many problems regarding their care, treatment, and discrimination (Klinck 2004).. The United States was the first country to introduce HIV-related laws and since then approximately 75 countries have enacted criminal laws specifically mentioning HIV. Some are discussed below (Wasnik et al. 2018).

2.1. Laws regarding HIV/AIDS in different countries

2.1.1. AIDS related laws in Pakistan

Pakistan has four provinces, and each of them has the authority to make its laws concerning various issues including health. There is no specific legislation regarding HIV in Pakistan on a national level but there are certain provisions of the Pakistan Penal Code regarding the spread of infection and there are various Acts regulating safe blood transfusion (UNDP 2014). At the provincial level, only Sindh has a specific law regarding HIV (The Sindh HIV/AIDS control treatment and protection Act, 2013; HIV Justice Network 2020).

2.1.2. Provisions of Pakistan Penal Code to control the spread of HIV

- In Pakistan Section 269 of the Pakistan Penal Code –Negligent act likely to spread infection of disease dangerous to life states that whoever **unlawfully or negligently does any act** which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease which is dangerous to life” shall be liable for a penalty of imprisonment and /or a fine.
- Section 270 of Pakistan Penal Code – Malignant act likely to spread infection dangerous to life. Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. These laws could be a help to control the spread of HIV (UNDP 2014).

2.1.3. Sindh HIV/AIDS Control treatment and protection Act 2013

- This act provides both responsibilities and protection for HIV patients. According to sections 21, 22 and 24 of this Act, a person who commits any act which results in the transmission or spread of infection shall be punished with fines, imprisonment, or both. Moreover, this Act provides protection to HIV patients concerning HIV testing (**section 14**), protects them from the disclosure of HIV-related information (**section 19**), and protects them against discrimination (**section 8**) (UNDP 2016).

2.1.4. Blood Transfusion Acts

- Blood transfusion without screening is the source of the HIV spread. Thus, to avoid the spread of a virus through blood transfusion there are various Acts like

Balochistan safe blood transfusion Act,2004, N.W.F.P Transfusion of safe blood Act,1999 or Sindh Transfusion of safe blood Act,1998. According to these Acts, blood banks should be registered with blood transfusion authorities and the violation of rules of the Acts will lead to imprisonment and a fine (UNDP 2014).

Moreover, the drafts of the HIV&AIDS prevention and treatment act 2007 and the HIV safety bill are pending in the national assembly of Pakistan. Both support the free HIV testing, control of this disease by adopting effective preventive measures and prohibiting the discrimination against AIDS patients yet the pending of these bills proves that Pakistan is lagging in enacting specific laws against HIV/AIDS due to which the numbers of HIV cases in Pakistan are increasing. Also, the National HIV and AIDS Policy draft 2007 is pending in the national assembly. The policy aims at reducing discrimination, establishing a legislative framework regarding HIV, initiating awareness programs about HIV, strengthening the health system as well as insuring HIV prevention. (UNDP 2014: 24-25)

3. AIDS-related laws in India

Indian law comprises numerous provisions related both specifically to HIV and, generally, to the spread of life-threatening illnesses/infections.

3.1. HIV/AIDS Prevention and Control Act 2017

The HIV/AIDS Prevention and Control Act 2017 were implemented from September 10 onwards, announced the Ministry of health and family welfare on Tuesday. The bill passed in March criminalizes the discrimination against patients suffering Acquired Immune Deficiency Syndrome (AIDS), a condition caused by Human Immunodeficiency Virus (HIV), which attacks and weakens the body's immune system.

The Act makes Anti-Retroviral Treatment (ART) a legal right for all HIV/AIDS patients. The “test and treat” policy has been adopted, which means any person testing positive will be entitled to free treatment from the State and central government. It also makes HIV-related information confidential and makes it necessary to get informed consent for understanding HIV tests, medical treatment, and research (Khaire 2017).

3.2. Section 269 and 270

Under sections 269 and 270 a person who unlawfully or negligently commits an act of dissemination of a life-threatening infection shall be liable to imprisonment for any term of minimum for six months and maximum for two years or to a fine or to both under section 269 of the IPC.

The provision of section 270 extends to cases when a person dies as a result of receiving infected blood from a blood bank and a latter can be sued according to the above-mentioned law. (Waskin et al 2018).

3.3. Article 21: Right to life and liberty

Article 21 of the Constitution of India guarantees the right to life and liberty. It is a basic right for people with HIV to get adequate treatment provided by the government. (Yadav 2021).

4. AIDS-related laws in the United States

- In 26 U.S states, you can be sent to prison if you have not informed your sexual partner that you are HIV positive, even if the virus wasn't transmitted In some states that could mean a life sentence
- N.Y. PUB. Health Law § 2307 (2016), Venereal disease; a person who knows he or she is infected with an infectious venereal disease yet has sexual intercourse with another is guilty of a misdemeanor and may face up to one year in prison and a \$1,000 fine.

5. Legal rights of HIV/AIDS Patients

5.1. Right to treatment

HIV patients have the right to medical treatment. The doctor or the hospital staff cannot refuse the treatment of any person with HIV/AIDS. It is unethical if the medical staff refuses to treat HIV patients and they will be considered guilty if they do. (Osime & Odigie 2006).

5.2. Right to informed consent

HIV patients have the right to get information about their HIV-positive status and to make queries before the treatment. The doctor should not perform any procedure such as HIV testing, discuss the nature of the disease, the results, or the treatment without obtaining the informed and voluntary consent of the patient. (Gupta 2015)

5.3. Right to Confidentiality

HIV patients have the right to confidentiality. The doctor should not disclose any information of the patient without his/her consent unless provided for public interest such as to prevent the spread of infection protecting people from getting HIV. The doctor would be held liable if he/she failed to respect the privacy of the patient. In other words, HIV-positive patients have the right to keep their medical information to themselves. (Gupta 2015) The right to privacy is widely recognized in Human rights law.

5.4. Right against discrimination

The most important thing is the stigma attached to HIV/AIDS and it is a major obstacle in treating HIV/AIDS and taking control over it. Discrimination against HIV patients refers to the prejudice, negative and abusive attitude towards the people infected with HIV. According to the available data 35% of countries, 50% of people report having discriminatory attitudes towards HIV patients. In 2015 70,000 people from 70 countries have been interviewed and around the 50 countries, showed that one in every eight HIV-positive people is being denied health services because of discrimination (Avert 2020). HIV patients face discrimination more generally in workplaces, public places,

Hospitals, etc. All are equal before the law and they should have equal protection of the law without any discrimination. So, the HIV -positive patients have the right to have their dignity respected and protected (Thom 2003). It is widely recognized that all forms of Discrimination against HIV-positive people are prohibited by international Human rights law.

5.5. Basic rights

Everyone has the right to liberty, the right to life, the right to education, the right to work, the freedom of expression, the freedom of movement, the right to social security, and the right to health, etc. All the rights are protected by international Human rights law instruments and each country has its laws regarding such rights. No one shall be deprived of those basic rights to the fact that they are HIV positive.

6. Recommendations

6.1. HIV screening

Screening for HIV is important so that everyone knows their HIV status. It should cover the population as widely as possible, however, within the bounds of human rights, that is only with the consent of the people in question.

- People who learn that they have HIV can receive treatment that might protect or improve their health. Today's treatments can suppress HIV, prevent the progression to AIDS, and lower the risk of transmitting HIV to others.
- Everyone between the ages of 15 and 65 and anyone pregnant should be screened.
- People younger than 15 or older than 65 who are at increased risk should also be screened.
- Clinicians should discuss the results with the patients. (Paltiel et al 2006).

6.2. HIV prevention

- When a person does not have HIV but is at high risk, clinicians offer pre-exposure prophylaxis or PrEP. PrEP is a medication that substantially reduces the risk of acquiring HIV. However, as PrEP is not suitable for everyone, it should be taken under strict medical supervision. After a general assessment of whether a given patient belongs to a group at risk of HIV (through discussing their sexual history and HIV-risk-related behaviors), the doctor may decide whether the patient qualifies for PrEP. Among the behaviors putting people at high risk of contracting HIV the following could be mentioned:
 - having an HIV-positive sexual partner,
 - having sex without a condom with a partner who is at high risk of HIV,
 - sharing drug injection equipment
 - having sex in exchange for money, drugs, or housing,

- having a recent history of a sexually transmitted infection

6.3. What do patients need to know about PrEP?

People need to know about PrEP. PrEP reduces the risk of getting HIV by up to 99% when taken consistently as prescribed. There are several important issues to discuss with the patient while considering PrEP:

- PrEP needs to be taken as prescribed. Otherwise, it's much less effective.
- People who take PrEP need to be tested for HIV regularly to confirm that they are HIV- negative, as PrEP is only for people who do not have HIV.
- It's important for people who take PrEP to continue to use condoms and practice safer sex.
- PrEP can cause side effects such as kidney problems or nausea though the benefits of taking it far outweigh the risks.
- Far too many people continue to get HIV. We have highly effective preventive measures based on compelling evidence, yet too few people benefit from them.
- HIV screening and HIV prevention with PrEP reduce rates of HIV infection and can help toward the goal of ending HIV.
- Clinicians should screen all patients aged 15 to 65, all pregnant women, and anyone at any age who is at increased risk of HIV.
- For those who do not have HIV but are at high risk of getting it, clinicians should offer PrEP. (Arnold et al. 2012).

6.4. Making specific laws regarding HIV

Specific laws should be put into effect to reduce the spread of this fatal disease. Many countries have passed laws controlling the spread of AIDS but still, there is a need for more laws regarding different aspects of HIV like the spread of the infection, the treatment, protection of individual people's rights, protection against discrimination, etc. While enacting such laws preventing HIV one principle should be the priority, namely the protection of human rights and the safeguarding of human dignity.

Following these recommendations should reduce the rate of HIV infection, help people with HIV maintain their health, and, ultimately, save lives.

CONCLUSION

AIDS is a fatal disease for which no definitive cure is known. Although there are some medications to treat HIV-positive patients, these medications are not 100% effective. AIDS is a pervasive and intensive medical and legal issue. In the various legal systems of the world many laws have been made to control the spread of HIV infection but the legislatures around the world lag in enacting specific laws preventing the spread of AIDS due to which the number of HIV cases are rising day by day.

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Author Notes

Shamim Riaz Alias Anni has completed her intermediate in Pre-Medical from Government Girls Post Graduate College Kohat. Now she is studying Law at Fatima Jinnah Women University Rawalpindi. She is from Khyber Pakhtunkhwa province in Pakistan. She is interested in human welfare and she decided to study law in order to use it for the welfare of people, believing that lawyers can speak out when others fear to do so and can stand for the betterment of people and for the rights of individuals. That is why she participated in GIC to highlight the issues faced by AIDS patients and to show that this issue should be solved not only medically but also legally. Her email address is shamimriaz250@gmail.com

Hifsa Bibi has completed her intermediate in pre-engineering. Now she is studying Law in Fatima Jinnah Women University. She is from Rawalpindi. She is interested in social welfare. She participated in many debating competitions. She also participated in GIC to highlight the medical and legal aspects of AIDS. She chose law for the betterment and welfare of society. Her email address is hiffsabibi@gmail.com

Samia Hasnat has completed her intermediate in pre-engineering from Punjab Group of Colleges, Pins Dadan Khan. Now she is studying Law at Fatima Jinnah Women University Rawalpindi. She is from Pins Dadan District Jhelum. She is strongly motivated by the idea of empowering women and other vulnerable groups of society with the aim of contributing towards the growth of humanity. She participated in 6th GIC to raise awareness about medical and legal aspects of HIV/AIDS. Her email address is samiahasnat742@gmail.com.