



FACT FILE 1

HIV AND HUMAN RIGHTS: OVERVIEW

THE “OTHER” EPIDEMIC

When the AIDS epidemic broke out more than 20 years ago little, if anything, was known about the disease which first hit the gay community in San Francisco in 1981. It quickly became apparent that AIDS was not a “gay disease” and that it was spreading rapidly and sweeping through virtually all parts of the world. From the early years, despite evidence that AIDS could affect women, children and heterosexuals and that HIV could only be transmitted through very limited ways, concerns about the transmission of the virus increased, fuelled by misconceptions and incorrect information disseminated to the public, in particular claims that the virus could be passed on through casual contact. Misrepresentation about HIV as well as inaccurate and alarming reporting in the media quickly resulted in a “social AIDS epidemic”; that of fear and prejudice.

The AIDS epidemic rapidly led to the introduction of punitive and coercive measures such as identifying infected individuals who were then labelled as “carriers” and subjected to isolation and quarantine. The social AIDS epidemic “spread” to those living with HIV and AIDS but also to groups associated with, and/or vulnerable to the disease and who also happened to be those who often lacked a voice in the political and policymaking realm.

The relationship between human rights and HIV, however, has evolved in the last two decades. The international community has denounced the negative impact of the punitive approach to HIV and AIDS adopted by Governments. Yet, HIV-related human rights violations still occur everywhere in the world, impeding prevention efforts, killing millions and exacerbating the impact of the epidemic.

HIV AND HUMAN RIGHTS

HIV and human rights are inextricably linked. The interaction between HIV and human rights is most often illustrated through the impact on the lives of individuals of neglect, denial, and violation of their rights in the context of the epidemic. This applies, although in different ways and degrees, to all population groups infected with, affected by, and vulnerable to HIV. The relationship between HIV and human rights is highlighted in three areas:

- **Increased vulnerability:** Some groups are more vulnerable to HIV because they are unable to realise their rights. For example, people living in poverty often cannot access HIV care and treatment, including antiretroviral.
- **Discrimination and stigma:** The rights of people living with HIV and AIDS are often violated because of their presumed or known HIV status, causing them to suffer both the burden of the disease and the consequential loss of other rights. Stigmatisation and discrimination may impede their access to treatment and affect their employment, housing and other rights. This, in turn, contributes to the vulnerability of others to infection, since HIV-related stigma and discrimination discourages individuals infected with, and affected by HIV from contacting health and social services.
- **Impact an effective response:** Strategies to combat the HIV and AIDS epidemic are hindered in an environment where human rights are not respected. For example, discrimination against vulnerable groups such sex workers increases their vulnerability to HIV if they cannot access services to prevent, diagnose, and treat sexually transmitted infections, particularly if they are afraid to come forward because of the stigma associated with their occupation.

HIV and Public Health

Public health interests do not conflict human rights. On the contrary, it has been recognised that when human rights are protected, fewer people are infected with HIV and people living with and/or affected by HIV and AIDS cope better.

Yet, using the “public health argument”, from the beginning of the epidemic, Governments have adopted a punitive approach to the fight against HIV and AIDS, violating the rights of people living with HIV and AIDS.

Prior to the AIDS epidemic, the link between health policies and human rights was rarely drawn. Indeed, public health, which traditionally has employed measures that can be coercive, compulsory, and restrictive, has often been considered as one of the legitimate grounds for restricting human rights.

Although the restrictions on rights that have occurred in the context of public health have generally had as their first concern the protection of the public, it is also true that the measures taken have often been excessive because of States’ failure to consider other valid alternatives. It is the case of the measures introduced in the context of HIV and AIDS with public authorities imposing coercive measures, such as identifying infected individuals who were then labelled as carriers and subjected to isolation and quarantine.

Numerous countries have adopted policies and/or legislation blatantly in breach of international human rights law, but at the time, argued by governments to be justified on grounds of public health.

It took years for scientists to discover more evidence about the transmission of HIV, and by the time they had identified the main routes of transmission, fears of contagion were deeply embedded and scapegoats had been identified. Furthermore, HIV quickly became associated with certain population groups such as gay men and commercial sex workers, already stigmatised and marginalised within society and who were easy targets for coercive and restrictive measures.

The United Nations and the World Health Organisation, as well as human rights organisation throughout the world denounced human rights abuses and argued that coercive and restrictive measures were not justified on grounds of public health, stating instead that when human rights are protected, fewer people are infected with HIV and people living with and/or affected by HIV and AIDS cope better.

Despite calls for a human rights based approach to HIV, the lack of respect for human rights still fuels the spread and exacerbates the impact of HIV and AIDS, whilst at the same time, HIV and AIDS undermine progress in the realisation of human rights.