



## Human Rights and HIV Patients

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Date of Submission: 08-06-2024

Date of Acceptance: 21-06-2024

### ABSTRACT

HIV/AIDS is one of the most dangerous diseases in the world currently existing. There have been demands from different organisations (international and national) which briefly talk about the rights such patients have. They feel that HIV/AIDS patients should have their own Human Rights laws so as to protect them from societal ostracization which prevents them from having proper treatment. In this paper, we have highlighted the factors that lead to HIV transmission. There have been different laws legislated (under the radar of Human Rights) in different countries which have helped in preventing the transmission of the disease. Some communities are more vulnerable to the disease as compared to others which are women and homosexuals. Such group in the first place are fighting for their natural rights against the dominant patriarch society that exists, adding to that when they have to deal with such deadly disease, they are often excluded from the society, even the ones who sympathised with them earlier, now because of the prevailing infection avoid them. India is home to million HIV/AIDS patients because of the taboo associated with it. The main reason for the widespread of HIV/AIDS has been identified to be the lack of use of protection which people now need to be made aware about. Also, the rumours and myths related to the epidemic need to be avoided and only proper education about the disease and social awareness would help us in battling this epidemic.

### I. Introduction

The ever-increasing challenges of dealing with the Human Immunodeficiency Virus, Acquired Immunodeficiency Syndrome(HIV/AIDS) have led us to be standing on the verge of a new era, whose foundations lie on the inextricable relationship between human rights and health.<sup>1</sup>According to the

official website of World Health Organisation the number of HIV-infected patients in 2017 (latest report) were **36.9 million**.<sup>2</sup>The number is ever increasing since then and still there seems to be no action taken for stopping its transmission around the world mainly because, it is believed to be one of the most complex diseases ever with such medical terms being used to describe each and every complexities that no matter how much people are aware of its existence, the common people are seldom aware of its consequences. This is the reason for the popular belief that the epidemics of HIV/AIDS have been equipped for drawing out the best and noticeably the most terrible in individuals: the best, when, in solidarity, individuals combine to battle government, network, and individual denial, and to offer help and care to individuals living with HIV and AIDS; the worst is when individuals are stigmatized and alienated by their friends and family, their families, and their networks, and victimized exclusively just as institutionally.<sup>3</sup>Amid all the negativity being present there are communities who on an international level, have been throughout the years are putting humongous efforts in promoting ways (with the help of learned medical practitioners) which would be useful in preventing, tackling and curing this epidemic.<sup>4</sup> By the mid-to-late 1980s, concern for the public health had embraced techniques that unequivocally joined the need to regard the human rights and respect of HIV-infected individuals and individuals suffering

<sup>1</sup>Jonathan M. Mann, *AIDS and Human Rights: Where Do We Go from Here?*, HEALTH AND HUMAN RIGHTS, VOL. 3 (Apr. 5, 2019, 02:22 PM), <https://www.jstor.org/stable/4065288>

<sup>2</sup>Data and statistics, HIV/AIDS, WORLD HEALTH ORGANISATION,

<https://www.who.int/hiv/data/en/>

<sup>3</sup>Miriam Maluwa, Peter Aggleton&Richard Parker, *HIV- and AIDS-Related Stigma, Discrimination, and Human Rights: A Critical Overview*, HEALTH AND HUMAN RIGHTS, VOL. 6 (Apr. 2, 2019, 11:21 AM), <https://www.jstor.org/stable/4065311>

<sup>4</sup>Richard Lewis Siegel, *AIDS and Human Rights*, HUMAN RIGHTS QUARTERLY, VOL. 18 (Apr. 3, 2019, 10:39 PM), <https://www.jstor.org/stable/762474>



from AIDS.<sup>5</sup>By, 1987 WHO (World Health Organisation) had formally included non-discrimination towards HIV-infected individuals and individuals with AIDS into the Global AIDS Strategy. This was a really noteworthy development; out of the blue, there was a worry about the human rights of infected individuals which have turned into a vital piece of methodology to control an epidemic such as AIDS.<sup>6</sup> This was just the beginning. As experience expanded, and the examination of HIV/AIDS and society extended, the genuine proportion of complementarity between public health and human rights started to be valued.<sup>7</sup>

The story of recognizing AIDS as a global problem have throughout the years faced many obstacles, the organisations in many parts of the world failed miserably in implementing laws for protecting socially ostracised HIV-infected patients. The reasons for such failures would amount to a long list with governments and the people to be blamed. In this article, we'll be trying to discuss about those obstacles, about their effect. In doing the same we at first should go through the important steps taken up by different organisations, national governments, etc. in battling the epidemic in accordance with Human Rights laws and conventions existing around the world.

#### **HUMAN RIGHTS OF People living with HIV/AIDS (PLWHA)**

Various methods have been adopted by different countries to deal with the deadly disease of AIDS. Some have made innovative legislation. Some of them came up with an idea of the international AIDS tribunal.<sup>8</sup>Other countries suggest that the WHO canlead a treaty to promote international health.

There are three objectives which Global AIDS Strategy<sup>9</sup> seeks to achieve; they aspire to

<sup>5</sup>Sofia Gruskin, Jonathan Mann & Daniel Tarantola, *Past, Present, and Future: AIDS and Human Rights*, HEALTH AND HUMAN RIGHTS, VOL. 2 (Apr. 5, 2019, 05:16 PM), <https://www.jstor.org/stable/4065181>

<sup>6</sup>*Id.*

<sup>7</sup>*Id.*

<sup>8</sup>Robert M. Jarvis, *Advocacy for AIDS Victims: An International Law Approach*, THE UNIVERSITY OF MIAMI INTER-AMERICAN LAW REVIEW VOL. 20 (Apr. 6, 2019, 01:09 PM), <https://www.jstor.org/stable/40176169>

<sup>9</sup> Drafted by the World Health Organization (WHO), the Global AIDS Strategy establishes guidelines that

prevent the transmission of disease, reduce the anxiety caused due to the disease and efforts at national and world level to fight with the disease.<sup>10</sup>The WHO recognized various principles like making people aware to protect them from infection, avoid discrimination and ensuring human rights of the infected people to achieve these objectives.

In the U.S. there were restrictions on immigration for those people who had AIDS as a response to this discrimination The Eighth International Conference on AIDS held. Later the Ninth International Conference was also held where HIV-positive people were allowed.

WHO is compiling all the laws which different countries have made to fight with AIDS and WHO has also taken up the task to create awareness regarding the disease. According to the London Declaration on AIDS Prevention, the only way to prevent the spread of this deadly disease is to make people aware of the ways of its transmission as there is no treatment of AIDS.<sup>11</sup> Many countries like Algeria<sup>12</sup>, France<sup>13</sup>, Rwanda<sup>14</sup> and Spain<sup>15</sup>, etc.

each country can use in developing detailed programs and legislation for control of AIDS. "[T]he Global Aids Strategy was unanimously approved and adopted as the foundation for global action by the World Health Assembly (May 1987), the Venice Summit of the Heads of State or Government (June 1987), the Economic and Social Council of the United Nations (July 1987), the United Nations General Assembly (October 1987), and the World Summit of Ministers of Health on Programs for AIDS Prevention (London, January 1988)." Jonathan Mann et al. , *Global Coordination of National Public Health Strategies*, 18 *Law, Med. & Health Care* 20, 20 (1990).

<sup>10</sup>*Id.*

<sup>11</sup> London Declaration on AIDS Prevention, Jan. 26-28

<sup>12</sup> Order No. 98/89/MSP.MIN of 22 June 1989 Establishing a National Medical Committee on the Control of Sexually Transmitted Diseases and AIDS (Alg.), summarized in 41 *Int'l Dig. Health Legis.* 602 (1990) (English translation).

<sup>13</sup> See Decree No. 89-83 of 8 February 1989 Establishing a National Council on Acquired Immune Deficiency Syndrome, [1989] 35 *J.O.* 1915-16 (Fr.), summarized in 40 *Int'l Dig. Health Legis.* 381 (1990) (English translation). Proposals must be submitted to the government with opinions regarding the problems associated with AIDS that confront



have made many commissions to deal with the disease. Around ninety countries have made some laws related to AIDS.<sup>16</sup> The Republic of Korea is a country that took a drastic step of isolating the people suffering from AIDS in order to prevent the transmission of the disease to others.<sup>17</sup> Sweden has made a law to regulate ear piercing so that AIDS does not spread due to the usage of the same needle for piercing by AIDS patients and non-patients.<sup>18</sup>

PLWHA have been facing discrimination since ages and some people do not test for AIDS because of the fear that they will be isolated from society if they test positive. There have been problems to ensure Human Rights to these people, the solution to this issue is that all the countries must show reverence to the internationally recognized human rights.<sup>19</sup> "Avoidance of Discrimination in Relation to HIV-Infected People and People with AIDS" was a resolution which the World Health Assembly adopted at its forty-first

session. It is obligatory to ensure the human rights of PLWHA.

1. Argentina: has a law that deals with controlling AIDS and ensuring human rights to PLWHA is the core of this law.<sup>20</sup> The law ensures that PLWHA is not discriminated or stigmatized; they are looked with reverence by others. Argentina's law on AIDS also ensures that their human rights are protected and for this government impart access to education regarding the causes and means of transmission of AIDS and also make people aware of the methods through which they can prevent this deadly disease.<sup>21</sup>

2. Italy: In 1990 Italy came up with a law that focuses on two things: one is the possible measures to prevent AIDS and two, to provide adequate care and support to those who are already suffering from the disease.<sup>22</sup> Under this law a caretaker would be provided who is aware of the patient's condition, he will provide the patient with care and support and also ensures that the confidentiality of the patient is maintained.

3. Republic of Korea: The Korean Law to deal with AIDS has a two-fold objective: to ensure human rights to PLWHA and to prevent the transmission of the disease.<sup>23</sup> The law ensures that the masses also put in their efforts to protect human rights of infected people and there are provisions in the law to prevent any sort of discrimination against the diseased. But there are provisions of isolating the infected person in case he is a danger to society and there is any chance of spreading of the disease through him.

4. Sweden: In Sweden, there is a law<sup>24</sup> that if a person thinks himself that he has acquired HIV

<sup>14</sup> Instruction No. 5291 of 11 December 1987 determining the institutional framework of the National AIDS Control Program (Rwanda) 7 Annex 2, summarized in 42 Int'l Dig. Health Legis. 649 (1992) (English translation)

<sup>15</sup> Decision of 5 June 1987 of the Council of Ministers establishing the National Commission for the Coordination and Monitoring of Programs for the Prevention of AIDS, and making provision for the Adoption of AIDS Control Measures (Spain), summarized in 40 Int'l Dig. Health Legis. 386 (1989) (English translation).

<sup>16</sup> Sev S. Fluss, International AIDS Legislation, in Ethics and Law in the Study of AIDS 7, 7 (Hernán Fuenzalida-Puelma et al. eds., 1992).

<sup>17</sup> Law No. 4077 of 31 December 1988 amending the Law on the prevention of acquired immune deficiency syndrome, No. 11122, at 99-100 (Korea), summarized in 40 Int'l Dig. Health Legis. 57 (1989) (English translation [hereinafter Korean Law]).

<sup>18</sup> See General Recommendation No. 40 of 29 November 1989 of the National Board of Health and Welfare on ear piercing. Socialstyrelsensförfattningsamling, 1990, 22 January 1990, at 7 (Swed.), summarized in 41 Int'l Dig. Health Legis. 430, 430-31 (1990) (English translation). While noting the low risk of transmission of HIV in ear piercing, these Recommendations discuss the need for "compliance with the general rules of hygiene, and careful cleaning and sterilization of instruments used in ear-piercing (and similar procedures)

<sup>19</sup> Jarvis, *supra* note 8

<sup>20</sup> Law No. 23.798 of 16 August 1990 Declaring the Control of Acquired Immune Deficiency Syndrome to Be of National Importance, Boletín Oficial de la República Argentina, 20 September 1990 No. 26.972, § 1a, at 1-2 (Arg.), summarized in 41 Int'l Dig. Health Legis. 603 (1990)

<sup>21</sup> *Id.*

<sup>22</sup> Law No. 135 of 5 June 1990 Establishing a Program of Urgent Interventions for the Prevention and Control of AIDS (Italy), summarized in 42 Int'l Dig. Health Legis. 17 (1991) (English translation) [hereinafter Law No.

<sup>23</sup> Law No. 4077 of 31 December 1988 amending the Law on the prevention of acquired immune deficiency syndrome, No. 11122, at 99-100 (Korea), summarized in 40 Int'l Dig. Health Legis. 57 (1989)

<sup>24</sup> Regulations and General Recommendations No. 18 of 2 June 1989 of the National Board of Health and Welfare on the Implementation of the



he must go and get himself tested so that he does not become a reason of spreading the disease to others. But there is a provision in this law that merely if a person is a prostitute or has multiple sexual partners, society cannot presume him as infected and force him to get himself checked because that is against human rights, ergo the law protects such rights of the persons.<sup>25</sup>

### Homosexuality and AIDS ( withinthe context of Human Rights)

AIDS connection with homosexuality has always complicated matters, for medical practitioners and activists.<sup>26</sup> People even though have a soft heart for HIV-infected people, but even in the 21<sup>st</sup> century they disapprove the concept of homosexuality, and we often see the usage of the public term 'against nature'. What is amazing to note here is that HIV was first identified as a disease transmitted majorly among homosexual couples, for example in California and other parts of the United States.<sup>27</sup>For a brief span after its underlying "revelation" on the two coasts of the United States, it was known as GRID (Gay-Related Immunodeficiency Disease), and even as attention to its reality among different gatherings expanded, both inside the United States and different pieces of the world, the connection between AIDS and homosexuality still remained.<sup>28</sup>

Presently, several years into the epidemic, we have reasons to believe that HIV in all probability started in Africa, that it is to a great extent spread through heterosexual transmission and

thus, homosexual transmission aiding HIV infection has been limited to only a few countries and it is because of the efforts put by the international organisations to minimize the difference between homosexuality and HIV epidemic.<sup>29</sup>Even after all such efforts it has been found in a recent research and analysis on the same which comprised resourceful countries like the United States, United Kingdom, Australia, France, Netherlands, Germany, and Canada found that the HIV infection has increased by ~ 3% among men who have sex with men (MSM) during the period 2000-2005, though during the 2000s, the amount of HIV-infected patients came down in those countries.<sup>30</sup> Even though homosexuality talks about both men and women, yet it has been found in various parts of the world that it's the male counterpart that faces higher discrimination if they are suffering from AIDS. This statement has been proved by the fact that most of the African countries haven't talked about the rights of such men (who are homosexual and HIV-infected) in their Aids/HIV programs. Criminalisation of homosexuality and specific discrimination towards such men has been the reason for the non-inclusion of their Human Rights.<sup>31</sup>Even if we purely focus on the plight of homosexuals and the stigmatisation they face being HIV-infected patients the answer lies in the following example of Cameroon which criminalised homosexuality in 1972 and homosexuals since then faced a lot of harassment in the country. Like in 2006 media channels in the country released a list of suspected homosexuals which led to a lot of violence against them.<sup>32</sup> The example of Cameroon, in this case, proves the point that homosexuals at first place face discrimination and that's why it has been seen in most of the parts of the world that because of such violent attacks on them has resulted in the homosexuals trying to hide their identities.<sup>33</sup>

Communicable Diseases Law, Socialstyrelsensförfatningssamling, 1989, 20 July 1989 (Swed.), summarized in 40 Int'l Dig. Health Legis. 833 (1990)

<sup>25</sup>Amy Lou Raney, *Legislative Instruments Dealing with AIDS and the Importance of Education*, THE INTERNATIONAL LAWYER VOL. 27,

<sup>26</sup>Dennis Altman, *HIV, Homophobia, and Human Rights*, HEALTH AND HUMAN RIGHTS, VOL. 2 (May 7, 2019, 10:45 AM), <https://www.jstor.org/stable/4065184>.

<sup>27</sup>Christian C. Makwe&Osato F. Giwa-Osagie, *Sexual and Reproductive Health in HIV Serodiscordant Couples*, AFRICAN JOURNAL OF REPRODUCTIVE HEALTH / LA REVUE AFRICAINE DE LA SANTÉ (May 7,2019, 03:44 PM), <https://www.jstor.org/stable/24362091>

<sup>28</sup>Altman, *supra* note 26, also see D. Altman, AIDS in the Mind of America (New York: Doubleday, 1986).

<sup>29</sup>*Id.*

<sup>30</sup>Chris Beyrer, *Global Prevention of HIV Infection for Neglected Populations:Men Who Have Sex With Men*, CLINICAL INFECTIOUS DISEASES VOL. 50, SUPPLEMENT 3 (May 7, 2019, 04:24 PM), [https://www.jstor.org/stable/40599184?seq=1#page\\_scan\\_tab\\_contents](https://www.jstor.org/stable/40599184?seq=1#page_scan_tab_contents)

<sup>31</sup>Matthew Kalamar, Pranitha Maharaj& Ashley Gresh, *HIV-prevention interventions targeting men having sex with men in Africa: field experiences from Cameroon*, CULTURE, HEALTH & SEXUALITY, VOL. 13 ( May 8 ,2019, 9:45 AM), <https://www.jstor.org/stable/23047737>

<sup>32</sup>*Id.*

<sup>33</sup>Beyrer, *supra* note 30.



Therefore, even in the relatively few countries where homosexual intercourse accounted for the widespread of AIDS, the major part of the funding (which was assigned to the AIDS/HIV prevention schemes) was spent on the heterosexuals, and thus, the gay community (happened in Britain)accused such schemes as a deliberate attempt of “de-gaying” of AIDS, which ensured the homosexuals to be the most vulnerable community (in the context of being HIV-infected).<sup>34</sup> So, what we understand and can summarise about the homosexual community briefly in the context of HIV and Human rights is that they are one of the most vulnerable ones because of their sexual orientation, the harassment they face makes it difficult for them to be open about their true identity let alone about the possible disease they might be suffering from, that too something as unacceptable as AIDS. The role of government and international organisations should be that at first, they should focus on decriminalise homosexuality (if at all they have any laws against the same) and let them come in open, then only we can talk about all the Human Rights they must have including HIV/AIDS-related rights.

### Women and AIDS

Out of the total population affected by AIDS in the world 47% of them are women<sup>35</sup>, as women are considered to be inferior gender in all societies, therefore, their chance of getting infected increases manifold. Women do not enjoy the same liberty and rights as enjoyed by their male counterparts, rather women are always dependent on men for their personal and economic security. This is the reason that women usually conform to the wishes of males and never oppose them. In our society, a common concept called “double-standard morality” exists, according to this men are allowed to indulge themselves in some sexual activities but women are barred to practice the same.

For instance, it is okay if men have extramarital intercourse but women are expected to retain virginity till marriage and later on, also they have to be loyal to their husbands. A married

woman is incapable to insist her husband to use condom nor can she deny sexual intercourse to her husband and ergo there is a high probability of women getting infected within marriage. A study was conducted in Uganda, where it was concluded that if women have an HIV positive spouse they tended to stay in the marriage, but if wives are HIV positive then men usually go for a divorce, or they remarry. The study also had a conclusion that if the wife is suffering from AIDS then she must have brought that disease outside marriage and her character was questioned.<sup>36</sup> There is a scary myth which further deteriorates a woman’s life is that intercourse with a virgin would cure the ailment of AIDS patient, such a myth makes innocent and young girls also infected.<sup>37</sup>

Earlier there was a myth that HIV was a disease of gay and there were very few or no cases reported of AIDS in women media further bolstered this myth. To ensure good woman health many health care centres are opening yet the women infected with HIV do not receive the level of care as received by the men.<sup>38</sup>

One of the ways of AIDS transmission is breastfeeding, there are 65% of chances of the same.<sup>39</sup> Breastfeeding by an infected mother can be virulent. There are 65% of chances that AIDS will transmit through breast-feeding. There can also be a prenatal transmission, the risk of prenatal transmission is reduced to 30% if the infected mothers take zidovudine but without its risk is as high as 100%.<sup>40</sup>

Women usually do not have access to enough resources due to their poverty. So they do not always consider their own personal vulnerability and above that, if they are infected with HIV it just

<sup>34</sup>Altman, *supra* note 26, also see E. King, Safety in Numbers (London: Cassell, 1993), and P. Scott and L. Woods, Critical Tolerance (Brighton: Critical Tolerance Group, 1997)

<sup>35</sup>Global Health Observatory (GHO) data, HIV/AIDS, WORLD HEALTH ORGANISATION, [https://www.who.int/gho/hiv/epidemic\\_status/cases\\_adults\\_women\\_children\\_text/en/](https://www.who.int/gho/hiv/epidemic_status/cases_adults_women_children_text/en/)

<sup>36</sup> Carolyn Baylies, *HIV/AIDS and older women in Zambia: concern for self, worry over daughters, towers of strength*, THIRD WORLD QUARTERLY, VOL. 23 (Apr. 15, 2019, 07:54 PM), <https://www.jstor.org/stable/3993505>

<sup>37</sup>Suzanne Mulligan, *Women and HIV/AIDS*, THE FURROW, VOL. 57 (Apr. 6, 2019, 07:55 PM), <https://www.jstor.org/stable/27665327>

<sup>38</sup> Mary Ann Adler Cohen & Cesar A. Alfonso, *Women, Sex, and AIDS*, INTERNATIONAL JOURNAL OF MENTAL HEALTH, VOL. 26 (Apr. 1, 2019, 08:56 AM), <https://www.jstor.org/stable/41344814>

<sup>39</sup> Philip A. Pizzo, *Pediatric AIDS: Problems within Problems*, THE JOURNAL OF INFECTIOUS DISEASES, VOL. 161 (Apr. 10, 2019, 02:31 PM), <https://www.jstor.org/stable/30126094>

<sup>40</sup>Cohen & Alfonso, *supra* note 38



adds to their ordeal. There is no quick solution reduce to the vulnerability of women to HIV infection because for that economic, social conditions of women have to be improved.<sup>41</sup>

### India and HIV/AIDS

It has been reported that the first ever HIV case (in India) was diagnosed in Chennai by DrSuniti Solomon and her student DrSellappan Nirmala amongst female sex workers.<sup>42</sup> Since then the growth of this epidemic in the country has been alarmingly high.

Approximately **2.1 million** people in India are HIV victims,<sup>43</sup> and even though so many people suffer from this disease in the country yet, thanks to the stigma attached to it because of the social and religious people even after facing problems living with it avoid testing and treated.<sup>44</sup>The different socio-cultural practices that are prevalent in this country are said to be the main reasons for the transmission of HIV infection, it is because of the fact that these cultural practices influence human behaviour in particular which in one way or other help in the transmission of HIV infection. Circumcision, a practice among Muslims has been said to be dangerous as it has been feared that it might be done by non-sterilised instruments.<sup>45</sup> Also this process takes place in groups of dozens of children involved together which automatically increases the risk of infection. Another common practice is ear piercing in both boys and girls, which is not restricted to one particular religion or community rather most of them practice this and as mostly it is usually carried out by Goldsmiths in

rural areas, it has been seen that the requisite precaution and care is not being taken.<sup>46</sup>

Sexual behaviour is also considered to be a prime factor in the growth of HIV/AIDS. As mentioned earlier there are different sexual freedom standards for men and for ladies is extremely biased while allowing degrees of freedom to men without information of how to counteract illness, yet implementing through serious good and religious strictures pre-and post-conjugal virtuousness for ladies, leaving ladies frail to have safe sex with their spouses or partners.<sup>47</sup>

Prostitution, another common practice that forces women to commercial sex where multiple partners are involved and many times it involves children which exposes them to huge medical risks and infection.<sup>48</sup> In fact, because HIV was detected in sex workers in India, many believe that if all of them would be mandatorily tested and those detected positive if isolated then surely AIDS at large can be controlled.<sup>49</sup>

Homosexuality (as mentioned earlier) is also the main reason for HIV transmission. Supreme Court recently struck down **Article 377** (which criminalized homosexuality)<sup>50</sup>, but even then homosexuality hasn't been socially accepted and we often find that homosexual couples are harassed publicly even today, which forces them to stay underground and therefore no kind of protection is used which aids in the transmission of this dangerous epidemic.<sup>51</sup>

All the above-mentioned practices would never have been a problem if couples while having sex would use protection. Condoms even though are not 100% safe yet are effective and even though their use has been quite prevalent in foreign countries, Indians still hesitate to use it. The reasons for not using it are :-

1. Some believe that using it would decrease sexual pleasure.

<sup>41</sup>QuarraishaAbdool Karim, *Women and AIDS the Imperative for a Gendered Prognosis and Prevention Policy*, AGENDA: EMPOWERING WOMEN FOR GENDER EQUITY, NO. 39 (Apr. 14, 2019, 12:19 PM), [www.jstor.org/stable/4548015](http://www.jstor.org/stable/4548015).

<sup>42</sup>Haresh Narayan Pandey, *AIDS and its Social Awareness in India*, INDIAN ANTHROPOLOGIST, VOL. 32 (Apr. 25, 2019, 10:21 AM), <https://www.jstor.org/stable/41919909>

<sup>43</sup>Data, India Statistics, UNAIDS, <https://www.unaids.org/en/regionscountries/countries/india>

<sup>44</sup>Malini Daniel, *AIDS in India: Denial and Disaster*, HARVARD INTERNATIONAL REVIEW, VOL. 25 (Apr. 25, 2019, 01:55 PM), <https://www.jstor.org/stable/42762905>

<sup>45</sup> Pandey, *supra* note 42.

<sup>46</sup>*Id.*

<sup>47</sup>Radhika Ramasubban, *HIV/AIDS in India: Gulf between Rhetoric and Reality*, ECONOMIC AND POLITICAL WEEKLY, VOL. 33 (Apr. 28, 2019, 12:22 PM), <https://www.jstor.org/stable/4407357>

<sup>48</sup>*Id.*

<sup>49</sup>Moni Nag, *Sexual behaviour in India with risk of HIV/AIDS transmission*, HEALTH TRANSITION REVIEW, VOL. 5 (Apr. 21, 2019, 11:33 PM), <https://www.jstor.org/stable/40652174>

<sup>50</sup>Navtej Singh Johar v Union of India, (2018) 1 SCC 791.

<sup>51</sup>Ramasubban, *supra* note 47



2. People feel shy to buy it from medical shops.

3. Its direct link to male and female private parts, makes it socially and culturally insensitive and people, therefore (even spouses) avoid talking about it.<sup>52</sup>

The problems we so far talked about help in transmitting the HIV virus, but what about a person who has already been infected. Things become more complicated for him/her. When you are infected with a disease you go to a doctor for getting proper treatment but if that disease is HIV/AIDS then because of the social stigma you may not go for any kind of treatment. Generally, such people face discrimination from their peer groups, colleagues, the community they belong to and even one own family in some cases turn against him/her. Even in workplaces they get neglected and in most of the cases, HIV-infected people get fired from their jobs. Harassments of such nature would make them feel ashamed of their condition which prevents them from discussing about it with anyone (including medical practitioners) who could possibly help them by giving them correct advice (what can they do about the infection).<sup>53</sup>

## II. Conclusion

In this paper, we briefly talked about why it's high time that international organisations and governments need to have strong conventions and laws respectively. HIV/AIDS though has been accepted as a deadly disease yet no strict laws are there for the protection of those who are its victims. The main reason for the same is the 'stigma' attached to it. People have been ostracized from their societies, their jobs have been taken away simply because they suffer AIDS. Rumours and myths about the epidemic which have no scientific background and are highly illogical in nature aids in making this disease (which could otherwise have been treated) an incurable one. PLWHA are considered as a burden in society, they are condemned. They face discrimination at the hands of society and their situation even worsens when they do not have enough money to spend on regular tests and buying medicines. Government at the national level and international organisations should ensure that these people have enough funds and also have access to clean water and clean surroundings. PLWHA are prone to get sick more frequently ergo

it is a prerequisite that they must have access to clean air and water.

As we progressed through the paper we discussed how women are more vulnerable to this disease as compared to men. The main reason for such vulnerability is the absence of rights they should have. Women of the modern societies have done well in tackling the patriarch society that mostly exists yet in rural areas (especially true for the unemployed ones) men have the control over women choices (which includes choices related to sexual intercourse). Such women get easily infected by the virus as most of the time no protection is being used and they anyway don't have any control in ensuring that their partner must be using protection. Women forced into prostitution face more risks as it involves multiple sexual partners. We also saw that homosexuals too are highly vulnerable to the infection. In many parts of the world, homosexuality hasn't been publicly accepted therefore, being mostly underground, the chances of getting infected increases. Not using protection is the main reason for HIV transmission in India (especially because in India HIV is mainly transmitted through sexual activities).

A solution to this complicated problem exists, which is 'recognizing the rights of HIV-infected patients'. People suffering from Cancer, TB, etc. don't really have any specific laws made for them, so why people suffering from AIDS require any kind of law at all? The answer is because people suffering from such diseases don't get stigmatised, people do not have any myths about them, rather people sympathise with such patients, which is definitely not true for AIDS patients. Human Rights talk about a life that should have a dignity attached to it, and HIV-infected patients do not have that dignity. Laws should be made such that people should be at first place be made aware of this epidemic. As we earlier talked in this paper 'sex education' should be promoted in all schools. The importance of using protection should be discussed in both rural and urban areas. Women and homosexuals rights should be recognized by law, if required, they should have special provisions for such patients.

HIV/AIDS is a silent killer, only the one who has suffered knows what kind of menace it is to society. We need to stand together and fight just like we do in case of other life-threatening diseases, we as a community should stand with those patients, and laws should be there to protect their rights. There are International Conventions, but no solid work has been done on the same in every part, which is a major concern. Therefore, we need to act

<sup>52</sup>*Id*

<sup>53</sup>Pandey, *supra* note 42



now as the number of patients getting infected is increasing day-by-day and that must stop, governments should act immediately because if not now then surely this epidemic would take no time in destroying us all. Lack of AIDS treatment is a gross violation of core human right to life. Liberty of people living with HIV or AIDS is fundamental to human rights and public health. Coercive public health measures like forced testing, quarantines, coercive treatment efforts, criminalisation, and compelled sterilization are illegitimate. If we need to ensure human rights to the people who are suffering from AIDS the foremost step should be to reduce the discrimination faced by them especially at hospitals. Secondly, there should be sufficient arrangements to provide them with adequate treatment. International Conventions supported by various states would result in changing the global outlook towards the people suffering from AIDS. States have an obligation to ensure populations are educated about essential health issues and must respect the right to correct and impartial health information.

Human rights are central to all aspects of an effective response to HIV and AIDS and have been emphasised in international and national programs since the creation of the World Health Organization's Global Programme on AIDS in the 1980s.