



## Consequences of HIV/Aids – A Legal Perspective

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**Abstract:** The lifetime risk of dying of AIDS is far higher than the general prevalence rate would suggest. For example, where prevalence is 15 per cent and rates continue to apply through their lifetime, over half of today's 15-year olds will die. In Botswana, which has a prevalence rate of 36 per cent, over three quarters would die of AIDS. In some countries, these trends are reshaping the traditional population pyramid into a new population chimney," with a narrowing base of young people and children. The most dramatic change in the pyramid occurs when young adults, infected early, begin to die of AIDS.

**Key words:** pyramid, traditional population, economic emergency

### INTRODUCTION

The multi-dimensional nature of vulnerabilities that result from HIV and AIDS are at first glance difficult to comprehend and measure. At the global level, research is increasingly focusing on the relationship between HIV and AIDS and other socio-economic issues

Globally, the adverse socio-economic impact of HIV and AIDS is visible at the household, sectoral, and at the macro level. Given the low overall HIV prevalence in India, there has not been any significant effort to study the impact comprehensively. Focus so far has been on studying the impact at the level of the individual and the households. The problem of HIV and AIDS has deep social and economic roots and hence its impact reaches far beyond the health sector with severe socioeconomic consequences. A number of direct and indirect costs to the individuals as well as to the national health system can emerge as a result of HIV and AIDS.

AIDS, while continuing to be an important health issue, has evolved into a complex social and economic emergency.

HIV primarily affects young adults, cutting a broad path through society's most productive layer and destroying a generation of parents, whose death leaves behind orphans, de socialized youth and child-headed households. AIDS has a significant impact on the more educated and skilled segments of society because HIV primarily infects productive young adults rather than children or the elderly. The stigma attached to HIV and AIDS adds to the impediments encountered in mounting a response to AIDS, in addition to the discrimination already faced by infected individuals. HIV also increases social and economic vulnerability among women<sup>1</sup>.

In the hardest-hit regions, AIDS is now reversing decades of development. It changes family composition and the way communities operate, affecting food security and destabilizing traditional support systems. By eroding the knowledge base of society and weakening production sectors, it destroys social capital. By inhibiting public and private sector development and cutting across all sectors of society, it weakens national institutions. By eventually impairing



economic growth, the epidemic has an impact on investment, trade and national security, leading to still more widespread and extreme poverty. In short, AIDS has become a major challenge for human security. **A. Demographic Impacts**

AIDS deaths are premature deaths. In countries where HIV spreads mainly through unsafe sex between men and women, the majority of infected people acquire HIV in their twenties or thirties and will die of AIDS on average a decade later. In a number of countries, AIDS has resulted in increased mortality among children under five, and is now wiping out half a century of development gains, including increases in life expectancy at birth, particularly in southern

Africa, where life expectancy increased from 44 years in the early 1950s to 59 in the early 1990s. Between 2005 and 2010, it is expected to fall to 45 years and even lower in some countries.

The lifetime risk of dying of AIDS is far higher than the general prevalence rate would suggest. For example, where prevalence is 15 per cent and rates continue to apply through their lifetime, over half of today's 15-year olds will die. In Botswana, which has a prevalence rate of 36 per cent, over three quarters would die of AIDS. In some countries, these trends are reshaping the traditional population pyramid into a new population chimney," with a narrowing base of young people and children. The most dramatic change in the pyramid occurs when young adults, infected early, begin to die of AIDS. Only those adults who escape HIV infection can expect to survive to middle and old age. Also, recent studies among various African populations indicate that rates of HIV infection in young women aged 15 to 19

may be five to six times higher than in young men.

### **B. Social Impacts**

The premature death of large numbers of young adults has an inevitable impact on those societies most affected by AIDS.

### **Households and Families**

Households and families bear the brunt of the misery caused by AIDS. Those who fall ill become unable to work, forcing family members to care for them rather than producing food or income. According to studies of rural families in Thailand and urban families in Côte d'Ivoire, farm output and income fell between 52 and 67 per cent in families affected by AIDS. Families are also subject to discrimination if they have members who are HIV-positive, often facing reduced access to publicly available social and economic benefits.

### **Gender**

The gender dynamics of the epidemic are far-reaching due to women's weaker ability to negotiate safe sex and their generally lower social and economic status. More women than men are caretakers of people with AIDS, which may saddle them with the triple burden of caring for children, the elderly and people living with AIDS -- as well as financial responsibility for their family's survival. Girl children or older women may find themselves at the head of households, and many girls from families facing poverty risk exploitation, especially sexual exploitation, when trying to bring in additional income. Mother-to-child transmission is also a concern.

**Legal help for women:** In 1989, AID prevention bill was introduced in the



Parliament this had 12 clauses and preamble. It was the first to define the prevention and spread of AIDs. At present article 15(3), article 23 of fundamental right say that state will make special provision for women & children.

1. Suppression of Immoral Traffic (prevention) act of 1956 exists for penalizing work doers .However this act has never been properly enforced due to the poverty of the sex workers.
2. Legal suggestions have been made regarding license system for the commercial sex workers. This license can be renewed according to the health of the particular person.

Article 38 of the constitution requires the state to the direct the policy for improving livelihood of all the citizens. Article 47 further stresses on the government duty of health care. Alternate jobs could be provided to the commercial sexworkers. The patients surely deserve financial and help.

### **Education**

Where AIDS is widespread, education -- an essential building block of development -- is being impaired. The epidemic is eroding the supply of teachers and diluting the quality of education. AIDS also reduces the amount of money available for school fees, and forces an increasing number of children -- more girls than boys -- to drop out of school in order to help at home. As teachers become ill and unable to work, some schools are closing. In parts of Southern Africa, one fifth of teachers and secondary school students are estimated to be HIV-positive.

### **Health Services**

Since the beginning of the epidemic, 21.8 million people have fallen sick and died of AIDS, placing ever-increasing demands on health services in the worst-affected countries. Often, this increased demand stretches already over-burdened public health systems. In 1997, public health spending on AIDS alone exceeded 2 per cent of gross domestic product (GDP) in seven of 16 African countries sampled, a staggering amount for countries whose health expenditure for all diseases accounts for 3 to 5 per cent of GDP. Adding to these increased demands is the crushing burden of AIDS on health workers themselves. A study in Zambia showed that in one hospital, deaths among health-care workers increased by a factor of 13 over a decade, largely because of HIV. Overburdened public health systems may also further marginalize minority, disabled and elderly women with HIV/AIDS. HIV-positive people also lack access to medicines and to health care, often facing discrimination from hospital staff or health-care systems.

The features of the HIV/AIDS epidemic and the many legal and law-related issues it presents to the courts and to the legal system of every country. Issues such as consent for testing; counselling of those at risk and those who are infected with HIV; issues of confidentiality and discrimination; the special problems of vulnerable groups, some of them subject to discrimination which is reinforced by the law; issues of the safety of the blood supply and of the work environment.

IN the Bombay High Court where an interim order was issued suppressing the information of the identity of a person infected with HIV. Both were allowed to sue by pseudonyms (Mr M X and Ms Z Y). The applicants challenged a public



corporation's dismissal of Mr M X because he had tested HIV positive. The corporation's policy permitted discrimination on that basis. Mr M X had been a casual labourer for a public sector corporation. He was cleared for promotion, subject to a medical. The medical examination declared him to be fit. He was then required to undergo a further examination for permanency. He was again found to be physically fit. But the HIV test revealed that he was sero-positive. The corporation sought to justify its discriminatory policy, although it is hard to see how, before any onset of disability, such a policy could be justified especially in the case of a labourer. Mr M X challenged the policy as contrary to law and a violation of the non-discriminatory clauses (ss 14, 15 and 16 of the *Constitution of India*). The Bombay High Court showed considerable sensitivity in its name suppression order. Some people, denied confidentiality, would simply abandon their rights at law or never come to court<sup>2</sup>.

### Orphans

AIDS has a dramatic impact on children, particularly through the emergence of an entire generation of orphans to families affected by HIV. To date, the epidemic has left behind 13.2 million orphans, children who before the age of 15 have lost either their mother or both parents to AIDS. Studies have shown that children orphaned by AIDS are at greater risk of malnutrition, illness, abuse and sexual exploitation than children orphaned by other causes. The stigma and discrimination they face can also deprive them of basic social services and education. Today, in many African countries 20 to 25 per cent of all households are fostering orphans. The

long-term consequences of such shifts in socialization are incalculable.

### Human Development Index

The Human Development Index (HDI), a generally accepted measure of development based on economic and social indicators, is also affected by AIDS. In Namibia, for example, the HDI is predicted to fall 10 per cent by 2006 and in South Africa by 15 per cent before 2010 because of AIDS.

### C. Economic Impacts

#### Economic Growth

Growing evidence suggests that AIDS is having a devastating effect on economic growth and incomes. According to the World Bank, had average national HIV prevalence in sub-Saharan Africa not reached 8.6 per cent in 1999, per capita income on that continent would have grown 1.1 per cent, nearly three times the actual growth rate of 0.4 per cent achieved during 1990-1997. In the case of a typical sub-Saharan African country with a prevalence rate of 20 per cent, overall GDP growth would be 2.6 per cent lower each year. At the end of 20 years, the economy would be two thirds smaller than it would otherwise have been<sup>3</sup>.

#### Workers

AIDS reduces the number of healthy workers, especially experienced workers in their most productive years. This raises dependency, diminishes human capital, and may cut productivity growth by as much as 50 per cent in the hardest hit countries.

#### Public Sector

In the public sector, AIDS reduces government revenues and puts severe strain on budgets as spending on health



and social welfare mount. Scarce capacity is depleted, and the return on other public investments falls.

#### **Governance**

Governance suffers as a result of the epidemic: HIV/AIDS has a disastrous impact on the capacity of Governments, especially on the delivery of basic social services. Human resources are lost, public revenues reduced and budgets diverted towards coping with the epidemic's impact. Similarly, the organizational survival of civil society institutions is under threat, with a corresponding impact on democracy.

#### **Private Sector**

In the private sector, firms face higher costs in training, insurance, benefits, absenteeism, medical costs, sick leave, funerals and pensions. At the same time, the average experience of their labour force falls, reducing accumulated knowledge within firms. The most seriously affected businesses are those that are labour-intensive, such as transport. Companies in Africa have already felt the impact of AIDS on their bottom line. One sugar estate in Kenya quantified the cost of HIV infection as 8,000 days of labour lost to illness in two years, a 50 per cent drop in processed sugar recovered from raw cane in four years, and a tenfold increase in health costs. The company estimated that more than three quarters of all illness was related to HIV infection.

#### **Agriculture**

AIDS also threatens the basic livelihood of people living in developing countries, especially the poor. In many countries, agriculture provides a living for as much as 80 per cent of the population. As adults in rural areas fall ill, productivity

drops off dramatically. Patterns of cropping shift from cash crops to subsistence farming, reducing household income and forcing the family to sell such assets as equipment or cattle to get by. Children may be withdrawn from school to help with work or tend to the sick, impairing their own development. In some areas, women dominate agricultural labour -- up to 80 per cent -- and this requires a gender-sensitive response to HIV/AIDS.

#### **D. Impact on Security**

The reverse in economic growth and development gains being experienced in some countries affected by AIDS is magnified by the fragility and complexity of geopolitical systems. The epidemic is present in a number of countries already facing conflict, food scarcity and poverty, and poses real threats to social and political stability where it is most concentrated -- in Africa. The Security Council redefined security as an issue going well beyond the presence or absence of armed conflict, one which affects health and social services, family composition and social structure, economies and food security.

There is now broad acknowledgement that AIDS has become a global development crisis, potentially affecting national security in some countries. Armed conflict and associated population movements provide fertile ground for the spread of AIDS, while the epidemic itself can be seen as a risk factor in the breakdown of social cohesion and in social and political instability, in addition to a threat to security forces

In India, the impact of HIV and AIDS is not very visible due to the low prevalence rate and large population size. The latest official government estimate is 3.5





million at the end of 1998<sup>4</sup>. These estimates are based on a statistical analyses starting from the number of cases reported by participating hospitals. The general pattern is that these are underestimates because many of the afflicted don't seek help as they are too poor or too marginalized. As a result, the true numbers may be as high as 10 million. What is even more scary is that the rate of increase is very high: it could be as large as 1-2 million per year already with the total number of infected doubling every 2-3 years. Thus, if unchecked, there could be 100 million people that are HIV+ by the year 2010. A second tragedy is that due to poor health conditions in India, the mean life after infection is likely to be only 4-5 years. Soon the hospitals all over India will soon start to see large numbers of patients daily. This very disturbing and dangerous situation has already been reached in the states where the pandemic is more advanced -- Maharastra, Karnataka, Tamil Naidu, Andhra Pradesh, Manipur, and Mizoram. When asked, any doctor from Bombay, Bangalore, Chennai or Hyderabad will tell you of the increasing numbers of infected people, both rural and urban, coming in every day.

The third problem is that in most cases the patients are seeking medical help at very late stages of the infection when they are already debilitated by a serious opportunistic infection (AIDS). At this stage they need hospitalization, and over the 10-15 days in which their HIV status is ascertained and the family comes to grips with the situation, their hospital bills have zoomed to at least Rs. 50,000 - 100,000. This sum is significantly greater than the family's savings and assets. At this point they have no option but to take the patient home to die. In addition, the

family is left in debt which they have no way of paying back (money lenders are routinely charging 20% interest per month). Solutions are gut-wrenching -- for example selling off the young children for sex work, or for bonded labor. Even if the children escape this gruesome future, they still live a stigmatized life. For example girls have a hard time getting married. In short HIV/AIDS is destroying not just individuals but entire families.

Another worrisome trend is the number of people from the armed services and the police that are showing up. Given the "macho" complex that is common in these communities, the long periods of time they spend away from families, and the power of exploitation that the police have over the poorer commercial sex workers, a high rate of infections is not unexpected. However, the fact that the lead group has already advanced to the stage of AIDS implies that this serious social and political situation is already at our door steps.

Because of the many social, economic, medical, and political ramifications, stopping the spread of HIV/AIDS should be considered a national priority. The situation in a way constitutes a national emergency as it has the potential to create social, economic, medical, and political chaos throughout the nation, including the possibility of a collapse.

Although it is true that the human race is very resilient. People will survive, just as Germany and Japan survived World War II. However, the cost was very high. They had to restart from scratch, and the survivors paid a very high price in terms of losing loved ones, watching their property and assets destroyed. Germany got divided and it took 50 years to recover. The misery of HIV will be



greater as people watch their loved ones die slowly over years and then leave behind children as orphans and elders without any means of support. Enduring such misery is certainly not the way to move ahead, especially since the well-being of society itself is at risk.

The second issue is medical. HIV/AIDS is the first fatal sexually transmitted disease in recent times. Historically, society has a very poor track record in overcoming and eliminating sexually transmitted diseases. Even the developed nations are struggling to eliminate gonorrhea, herpes, chlamydia, etc., since sex is a closeted subject. In spite of the fact that HIV is not easy to transmit (syphilis, gonorrhea, hepatitis, etc., are 10-100 times more virulent), nevertheless, we are witnessing an explosive spread of HIV worldwide. In addition, HIV by attacking and destroying the immune system is allowing the proliferation of many other opportunistic diseases that are killers. For example tuberculosis, and especially multi-drug resistant TB, is being seen in increasing numbers in conjunction with HIV, as are certain other rare diseases like toxoplasmosis. With modern day global mobility, these communicable diseases will spread worldwide into the general public.

#### conclusion

Lastly, the world is far more interconnected and interdependent now. The explosion of HIV throughout the developing world could create a panic in the global economy leading to global economic and political chaos. It is significant to understand the spread of HIV is now exploding are the countries of the former USSR, India, Pakistan, and China. Some of these regions have

unstable political systems, contested borders, restless citizens, strong armies, and nuclear weapons. Thus, HIV can accelerate and spark a very volatile situation.

#### References

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<sup>3</sup> NACO Web page <http://www.naco.nic.in/naco/>

<sup>4</sup> NACO Web page <http://www.naco.nic.in/naco/>