

Short report

## Ethical issues related to HIV/AIDS: case reports

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### Abstract

The continents of Africa and Asia have the highest number of HIV infected persons in the world. Worldwide there are 42 million and 29.7 million (70%) are in sub Saharan Africa<sup>1</sup> [United Nations AIDS (UNAIDS). Available from: [www.unaids.org](http://www.unaids.org)]. The stigma and discrimination attached to HIV/AIDS are hampering control of the disease. Family life has greatly been disrupted by the pandemic. AIDS causes illness, disability and death as well as severe economic and emotional disruptions to the families. The epidemic is well established in South Africa. The mortality will be doubled over the next five years.<sup>2</sup> A broad range of coercive measures has been considered to be applied internationally in the interest of controlling the spread of HIV.<sup>3</sup>

Responsibility of the employers to their HIV/AIDS employees at workplace, choice of termination of pregnancy when a woman is HIV positive, attitude of health care provider to their HIV infected patients, informed consent for taking blood to protect from transmission of infection in a case of accidental prick, and forced resignation from employment, are discussed in this manuscript. The ethical problems are highlighted, and possible solutions recommended.

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### 1. Introduction

HIV/AIDS carry a stigma, which will be difficult to overcome for a long time. Until such time an effective vaccine is developed, those infected will have to deal with it. It needs some essential component of anti-discrimination such as legal protection.<sup>4</sup> Pervasive stigma has surrounded HIV/AIDS since the beginning of the pandemic. In South East Asia, as elsewhere, it has been accompanied by discrimination, affecting transmission patterns and access to care and support.<sup>5</sup>

There is a lack of adequate and affordable care, treatment, and support. The role of national and international activism, strategically constructed alliances and principled leadership is critical in achieving this change.

The issue of continued equitable access to HIV/AIDS treatments for the world population is important.<sup>6</sup>

African countries, such as Tanzania, have been criticized for failing to recognise human rights abuses against people living with HIV. Discrimination, which hastens spread of the disease forcing it underground, is found even among medical personnel who disclose patient information without consent or refuse to treat patients with HIV/AIDS. Certain laws also compromise the rights of infected people by requiring physicians to tender medical reports before courts, permitting employers force employees to undergo HIV testing.<sup>7</sup>

The situation in South Africa is extremely serious and has in absolute numbers, the largest HIV positive population in the world (5 million). One in nine South Africans (more than 20%) of adult population is HIV positive.<sup>8</sup> The Employment Equity Act prohibits employers to conduct pre-employment HIV test unless the labour court has given permission.<sup>9</sup>

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International labour standards dictates that HIV/AIDS be treated like any other life threatening medical condition, with no undue burden placed on employees.<sup>10</sup> South Africa's new Labour Relations Act represents a major advance in protecting persons with HIV/AIDS from workplace discrimination. There remains, however, a gap between a theoretical rejection of based discrimination and actual labour practices.<sup>11</sup> Negative interactions with health care providers can have important implications for the health and health care of HIV-positive individuals. A recent study carried out on HIV positive individuals<sup>12</sup> showed that a majority of participants had perceived discrimination in their interactions with health care providers when getting treatment for HIV. More specifically, 71% reported having experienced discrimination when receiving treatment for HIV based on their race or colour, and 66% reported discrimination attributed to their socio-economic status, position, or social class. The purpose of these case reports is to highlight the ethical problems.

## 2. Case reports

### 2.1. Case 1

The company abruptly discharged B.B., a 36-year-old miner. He died within 2 weeks. The mining company requested an autopsy. There was a history of pulmonary tuberculosis and silicosis. The company refused to provide the radiograph and case reports although he was admitted to hospital. On telephonic conversation with a nurse, she refused to divulge the HIV status of the deceased. At autopsy there was evidence that he had cytomegalovirus pneumonia and AIDS in this patient was a strong possibility.

### 2.2. Case 2

PM, a 24-year-old female was raped in the evening while she was walking home by three men. She recognised two of them. The case was reported to police and she was referred to Sinawe Centre in Umtata Hospital for HIV testing and Post Exposure Prophylaxis (PEP). She was provided with AZT plus 3TC for a week. She was found to be already HIV positive and the pregnancy test was also positive. On review and PEP was stopped and referred to Gynaecology Department for termination of pregnancy.

### 2.3. Case 3

Z a 30-year-old lady was HIV infected and she went for a dental consultation. The sister on duty kept her file

separately and marked it with red ink. She was also asked to sit separately. The patient is someone who is actively involved in HIV/AIDS care and was aware of her rights. Initially she wanted to take legal action against the sister but allowed her a second chance.

### 2.4. Case 4

A health professional was taking blood from an alleged rapist brought by the police for DNA profiling. She sustained a needle stick injury whilst recapping the needle. She immediately obtained PEP. A sample of blood of the patient was taken without her consent for HIV testing and found to be negative. She also tested negative and therefore stopped continuing prophylactic treatment.

### 2.5. Case 5

A 35-year-old academic employed in a tertiary institution was diagnosed as a HIV positive. After diagnosis he began to drink alcohol. He came for lectures under the influence of alcohol. The management of the institution came to know this, and asked him to resign. He did so and was not given terminal benefits because he tendered the resignation.

## 3. Discussion

The widespread rape and forced sexual abuse of children is a serious social and health issue in this region. One of the motives behind this unsocial and unhealthy epidemic is the strong belief in a myth of achieving a cure for a person's HIV/AIDS status through sexual intercourse with a virgin. This is a contributory factor in the transmission of HIV/AIDS in the Transkei region.<sup>13</sup>

All the indicators predict that there is a high prevalence of HIV/AIDS in this area and a mortality rate.<sup>14</sup> The roll out plan to provide antiretroviral drugs to the HIV infected persons will start soon in this region. The poor literacy rate is the biggest barrier to a successful coverage. A recent study carried out by the author on the victims of rape (2004) showed that 84.5% of the victims failed to return for the second test.<sup>15</sup>

It appears that the deceased (BB) was known HIV positive to the management of the company. Perhaps they had allowed him to continue to work to prevent observers pointing fingers at the management claiming unfair discrimination. Allowing a HIV positive miner to work underground is a double-edged sword. On the one hand HIV infection may reduce physical strength and on the other no one is supposed to be discriminated on account of HIV. The mining industry has

contributed directly to the spread of disease in the black rural communities of South Africa by creating conditions on the mines such as overcrowded hostels for workers only and not for their families, which encourages the spread of infection within the mines and by repatriating those who became ill; and indirectly by contributing to the general impoverishment of the rural areas to which the infected mineworkers return, thereby creating ideal breeding ground for the further spread of disease.<sup>16</sup>

Antiretroviral treatment is still not available freely to many ordinary people. However, supportive and prophylactic therapy can be offered to maintain health for as long as possible if the HIV status is disclosed. The time has come for us to maintain confidentiality but remove the secrecy from this deadly disease. For BB to die within 2 weeks of discharge from the mining hospital, he must have been quite sick although he was only 36 years old. The mining houses could go a long way to help alleviate these problems by ensuring that the mineworker who are boarded on the grounds of illness are financially justly compensated, informing them of the nature of their illnesses, and preparing them psychologically for the realities back home.<sup>17</sup>

South Africa's mines contribute about 20% to the country's gross domestic product (GDP) and account for an estimated 3% of annual growth in GDP. It is estimated that each miner supports 7–10 dependents. AIDS related deaths, will affect mining productivity, and this be accompanied by rising expenditure in recruitment. About 10–20 are infected with HIV; urgent steps should be taken to slow the spread among miners and in the communities.<sup>18</sup>

Although chances of contracting HIV from a single exposure are small the victim did not want to divulge this to her boyfriend because of the fear of losing him. Health care workers have no right to disclose such information because the rights of the individual still overrides the rights of the community in South Africa. But the health care worker must advise the client on the benefits of disclosing the status as they can then take precautions. There are many women who are financially dependent on the partners that to lose them is to lose an income. So they rather run the risk of perpetuating the infection than die of hunger.

Poverty and ignorance are the main reasons for the difficulty in containing this epidemic. If PM (case 2) had not been sexually assaulted she would never have known her HIV status. Currently only 10 to 20% of infected mothers give birth to infected offspring, while the majority of babies remain uninfected.<sup>8</sup> Was it right for the health care giver to recommend termination of pregnancy knowing that only about 10–20% of children get infected and also that prevention of mother to child transmission (PMTCT) is now available in this region? What health care workers should do is to place all the facts before the patient and let the patient decide the outcome.

HIV infection must always be considered, as harm to others should be interpreted as a 'public health' matter. The reasoning behind this interpretation is that the chances of keeping the epidemic under control are good when only a few responsibly acting individuals are infected and the odds turn against societal interests when the level of infection reaches certain saturation levels.<sup>19</sup>

Discrimination is the biggest problem associated with HIV/AIDS (case 3). This is as a result of the stigma attached to the disease. What is strange is that hepatitis B which has the same epidemiological pattern and which is 10 times more infectious than HIV does not have such a stigma attached to it. Who is responsible for this unfortunate situation? There are many who need to take the blame. The health care workers are the primary offenders. Then the press that also must accept a fair proportion of the blame. AIDS KILLS has been their slogan. Although it is true the advent of anti retroviral drugs has changed it from a killer to a chronic disease.

Needle stick injuries occur in health care settings (case 4). In this instance the caregiver did not adhere to accepted norms and exposed herself when recapping the needle. Obtaining a 2nd sample for HIV screening without consent was a grave error of judgement. Fortunately for her both tested negative and the matter rested there.

Contracting HIV through a needle stick injury is very uncommon. Health care professionals however must follow the usual regulations in screening the patients in such situations. The drugs for post exposure prophylaxis have harsh side effects and ascertaining the HIV status is necessary to prevent unnecessary intake of these toxic medications.

In case 5, the individual has been victimized because of the HIV status. He was not even offered a chance to rehabilitate himself. In the mid nineties when this incidence took place HIV infected persons did not have many rights in the workplace. People do not want to disclose their HIV status, because of the fear of dismissal. Human rights protection is possible by not discriminating and in turn will help fighting the epidemic. Protective measures could include enacting legislation to prohibit pre-employment testing. Legislation to regulate the provision of insurance and to prohibit or regulate insurance HIV testing and the wholesale refusal of AIDS-related coverage, more broadly drafted legislation to prohibit public enterprises from discriminating against persons on the basis of HIV or AIDS and to enshrine principles of indiscrimination.<sup>3</sup>

Education of individuals and the society at large is the solution to this problem. Black African societies culturally are paternalistic. But the men are supposed to look after the women and not abuse them. Health care professionals need to be educated on the disease, safe nursing practices and patients rights. HIV infected individuals have now to be looked upon as ones with a

chronic disease like any other and not as individuals with no hope at all. Soon anti retroviral treatment will be available in the public sector. Although the confidentiality will continue to be guarded, secrecy will gradually disappear just like with hypertensives and diabetics who are also on life long treatment for control but are open about their disease.

Sex is a biological need for continuation of human species. Unfortunately HIV is contracted mainly during sexual activities. If there is one big difference between other chronic diseases and HIV, this is it. Anything related to sex is easily stigmatised. People are labelled as immoral when a bad situation they are in, is as a result of sex. This is not only true of diseases but also of illegitimate children. This is where education has a huge role to play.

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