

1997

Combating Discrimination Against AIDS Patients in Tanzania

Nicole Grimm

American University Washington College of Law

Follow this and additional works at: <https://digitalcommons.wcl.american.edu/hrbrief>



Part of the [Health Law and Policy Commons](#), and the [Human Rights Law Commons](#)

Recommended Citation

Grimm, Nicole. "Combating Discrimination Against AIDS Patients in Tanzania." Human Rights Brief 4, no. 3 (1997): 2-3, 21, 28.

This Article is brought to you for free and open access by the Washington College of Law Journals & Law Reviews at Digital Commons @ American University Washington College of Law. It has been accepted for inclusion in Human Rights Brief by an authorized editor of Digital Commons @ American University Washington College of Law. For more information, please contact kclay@wcl.american.edu.

TRENDS

Combating Discrimination Against AIDS Patients in Tanzania

by Nicole Grimm

Like many African countries, Tanzania has been hard hit by Acquired Immune Deficiency Syndrome (AIDS) and the Human Immunodeficiency Virus (HIV), which causes AIDS. In addition to lack of medical facilities and limited access to treatment, victims of HIV/AIDS in Tanzania in the past have faced discrimination, privacy violations, and other human rights violations. Recently, however, the government of Tanzania has begun working with human rights organizations to create safeguards for HIV/AIDS patients' human rights.

The HIV/AIDS Epidemic

Traditional funerals in Tanzania once lasted for seven days. Now, due to the HIV/AIDS epidemic, so many people are dying that their mourners now spend only three days at each

In this country of 27 million, at least 400,000 have full-blown AIDS and an additional 1.2 million are infected with the HIV virus. Even more alarming is the fact that the number of HIV-positive people in Tanzania is expected to double by the year 2000.

funeral. So far, in this country of 27 million, at least 400,000 have full-blown AIDS and an additional 1.2 million are infected with the HIV virus. Even more alarming is the fact that the number of HIV-positive people in Tanzania is expected to double by the year 2000.

Tanzania has been struggling to cope with the AIDS crisis since the early eight-

ies. The first cases of AIDS in Tanzania appeared in 1983 among smugglers in the northern district of Kagera. Like most other countries in sub-Saharan Africa, Tanzania's containment and treatment efforts since the disease's discovery have been hampered by poverty, lack of education, gender inequality, and government inaction. The current government's task has been made even more difficult because the leaders of the previous socialist regime, which held power throughout the 1980s, denied the existence of an epidemic. This prevented international aid organizations from creating treatment and prevention programs like the ones established in neighboring countries.

HIV/AIDS treatment places a heavy burden on the country's limited health care resources. Drugs like AZT, used to control HIV/AIDS in developed nations, are not widely available in Tanzania or other parts of Africa. Doctors often lack even the basic antibiotics needed to control opportunistic infections such as tuberculosis, which affects twenty to forty percent of all Tanzanians with full-blown AIDS. Medical outreach services are not adequately funded or staffed, and, as a result, experts esti-

The Human Rights Brief is a publication of the Center for Human Rights and Humanitarian Law in conjunction with the Washington College of Law at American University. No portion of this newsletter may be reprinted without the express written permission of *The Human Rights Brief*. All correspondence, reprinting requests, and articles proposed for publication may be sent to: *The Human Rights Brief*, Center for Human Rights and Humanitarian Law, Washington College of Law, American University, 4801 Massachusetts Avenue, NW, Washington, DC 20016. Ph. (202) 274-4180. Fax (202) 274-4130. E-mail: HUMLAW@AMERICAN.EDU. Internet: <http://www.wcl.american.edu/pub/humright/home.htm>. © Copyright 1997.

Directors of the Center For Human Rights and Humanitarian Law
Robert Goldman Claudio Grossman Herman Schwartz

Executive Director Robert Guitteau, Jr.

Editor-in-Chief D. Michelle Domke

Senior Articles Editors Gillian Brady
David Clark

Junior Articles Editors Rajeev Purohit
J. Michael Springman

Field Reports Editors Monika Talwar
Jamie Underwood

Center News Editor Minh Ngoc Nguyen

Inter-American System Editor William Clark Harrell

Alumni Board Vanessa Allen, Gabriel Eckstein, Fernando González-Martín, Claudia Martin, Rochus Pronk, Ayesha Qayyum, Diego Rodríguez, Brian Tittmeyer

Newsletter Staff Kim Anglin, Tiberiu Dianu, Nicole Grimm, Marie Hurlbut, Jennifer Morris, Christine Poulton

An equal opportunity/affirmative action university.
printed on recycled paper ♻️



Managing Editor

Chandini Burt

Patrick Moran
Amy Stern

Trends Editors

Gary Rabkin
Alexandra Wisotsky

Faculty/Alumni News Editor

Aimee Meacham

International Tribunals Editor Ewen Allison

While most Tanzanians now know what HIV and AIDS are, misconceptions and unfounded fears still exist about transmission of the virus.

mate that only one out of every four HIV/AIDS infections is actually reported. AIDS education efforts are also insufficient. While most Tanzanians now know what HIV and AIDS are, misconceptions and unfounded fears still exist about transmission of the virus.

Another conspicuous AIDS-related dilemma is the economic and social

continued on next page

Tanzania, continued from previous page

breakdown that has resulted from the deaths of so many working-age people. The people most affected by HIV/AIDS are those between the ages of fifteen and forty-nine, who ordinarily shoulder the burden of providing for their children and elderly relatives. As a result of this group's high mortality rate, 200,000 Tanzanian children have been orphaned, and the number of AIDS orphans is expected to grow to 750,000 by the year 2000. In addition to problems caused by the deaths of working-age providers, productive adults who are still alive and healthy are forced to spend time and assets caring for the sick instead of pursuing economically productive activities.

Human Rights Concerns

The human rights abuses perpetrated against those infected with HIV are a less visible consequence of the disease in Tanzania. Commonly reported HIV-related human rights violations include discrimination when trying to obtain inheritances, inadequate medical treat-

The human rights abuses perpetrated against those infected with HIV are a less visible consequence of the disease in Tanzania. Commonly reported HIV-related human rights violations include discrimination when trying to obtain inheritances, inadequate medical treatment, and mandatory HIV testing and disclosure of HIV status to employers.

ment, and mandatory HIV testing and disclosure of HIV status to employers. In addition to tangible human rights abuses, many HIV patients are rejected by their families and communities.

These concerns have been recognized by the United Nations as violations of fundamental human rights, including the rights to privacy and

health care. The Joint UN Programme on HIV/AIDS (UNAIDS), which was established in January 1996 as a cooperative program among six UN groups, has identified discrimination based on disability as one of the most serious human rights obstacles for people with HIV/AIDS. Discrimination based on HIV-positive status worsens the misery that HIV/AIDS sufferers already experience and deprives them of their dignity and ability to function as full and productive members of society.

One of the most serious and widespread problems is employment discrimination by both private and governmental employers. The loss of a job

Women who are HIV-positive bear an especially heavy burden. Of the 1.2 million people who are currently infected, 60-70% are female.

not only deprives HIV-positive people of their income, which is important particularly to pay for medical treatment, but often terminates the person's medical insurance. The rights of employment and an acceptable standard of living are identified by UNAIDS as fundamental human rights. Discrimination against a person with HIV/AIDS is criticized as a human rights violation when that person is either completely healthy and able to perform any required task or suffers only moderate health problems and could be easily accommodated by the employer.

In addition to the widely-experienced problems that exist for many Tanzanians with HIV/AIDS, women who are HIV-positive bear an especially heavy burden. Of the 1.2 million people who are currently infected, 60-70% are female. There are several reasons for this disproportionate infection rate and the particular human rights abuses faced by women with HIV/AIDS. One reason is that Tanzanian men have traditionally been encouraged to engage in extramarital and promiscuous sex. As a result, one infected man may infect several female partners. Another factor is poverty, which forces women to stay

The people most affected by HIV/AIDS are those between the ages of fifteen and forty-nine. As a result of this group's high mortality rate, 200,000 Tanzanian children have been orphaned, and the number of AIDS orphans is expected to grow to 750,000 by the year 2000.

with promiscuous, HIV-infected husbands and risk infection for themselves in order to maintain their access to the men's economic resources. Poverty has also forced large numbers of women to become prostitutes or "bar girls." These women run a high risk of contracting the virus because their clients often pay more if the women agree to have intercourse without a condom. A third problem is the low social status of women in Tanzanian society. This makes it difficult for women to control the sexual behavior of their male partners or to require men to use condoms. Women's low sta-

The low social status of women in Tanzanian society has also resulted in evidentiary procedures under Tanzania's Evidence Act that require female rape victims who press charges against their attackers to disclose their HIV-status, in violation of their privacy rights.

tus has also resulted in evidentiary procedures under Tanzania's Evidence Act that require female rape victims who press charges against their attackers to disclose their HIV-status, in violation of their privacy rights.

UNAIDS has recognized the particular vulnerability of women to HIV infection, and the concurrent human rights violations that women experience in countries like Tanzania where the low social status of women often results

Tanzania, continued from page 3

in economic exploitation and sexual coercion. It has found that discrimination based on sex and social status is a violation of fundamental human rights and that women's human rights are further threatened when their ability to obtain gainful employment is curtailed by gender discrimination and when they are unable to exercise personal autonomy over their bodies and their sexual activities. UNAIDS has stated that this type of status-based discrimination makes women more susceptible to HIV infection and should be combated in order to help slow the spread of the disease.

Government Response

The Tanzanian government's response to the AIDS crisis has primarily focused on containing and preventing the disease. The government's education and prevention efforts are directed primarily at rural communities in an effort to keep the disease con-

A major problem with the government's approach is that the general public has not been educated about the need to respect the human rights of HIV/AIDS patients. This has permitted HIV-related prejudices to flourish and has driven HIV/AIDS patients underground in an effort to avoid the discrimination associated with the disease.

finied to urban areas, which have the highest rates of infection. In order to slow the spread of the disease in already-affected areas, the Tanzanian government works with non-governmental organizations (NGOs) to establish condom distribution programs and educational campaigns designed to change men's sexual behavior. Another containment effort is a blood donor screening program sponsored by the World

The Tanzanian government began addressing HIV/AIDS-related human rights issues in 1996, when it issued a 27-page non-binding proposal to ban HIV/AIDS discrimination against workers and job applicants.

Health Organization (WHO), which has helped to lessen the risk of HIV transmission in blood transfusions. Adults are not the only targets in these containment and prevention efforts. In 1995, the Tanzanian National AIDS Control Program (NACP) established educational programs in Tanzanian elementary schools in order to inform young children about prevention methods and the disease's transmission and effects.

Although containment and prevention efforts could play an important role as part of an overall strategy for combating HIV and AIDS in Tanzania, they have not been overly effective by themselves. A major problem with the government's approach is that the general public has not been educated about the need to respect the human rights of HIV/AIDS patients. This has permitted HIV-related prejudices to flourish and has driven HIV/AIDS patients underground in an effort to avoid the discrimination associated with the disease. As a result, HIV/AIDS patients often do not receive adequate treatment and are more likely to infect others. Discrimination also perpetuates misinformation and stereotypes about how the disease is spread and the types of people who are affected. The resulting negative attitudes cause HIV/AIDS to remain a forbidden subject, and as a result, people are likely to remain uninformed about risky behaviors they should avoid in order to remain uninfected.

A New Approach

Recently, NGOs and Tanzanian AIDS activists have taken a different approach to the problem. While acknowledging that education and prevention are essential elements in a national strategy to combat the disease, these groups

have articulated the importance of strengthening legal human rights protections for people with HIV/AIDS.

The Tanzanian government began addressing HIV/AIDS-related human rights issues in 1996, when it issued a 27-page non-binding proposal to ban HIV/AIDS discrimination against workers and job applicants. Instead of permitting employers to terminate an HIV-positive person's job, the policy stated that an individual with an HIV infection should be permitted to continue working as long as he or she is medically able. The proposal also advocated equal rights in employment, insurance, housing, travel, and education, and called for an end to mandatory disclosure to employers and insurers. Unfortunately, this new policy did not lead to any anti-discrimination suits on behalf of HIV/AIDS patients, nor did it foster much national discussion about the problems faced by people with HIV and AIDS. NGOs remained underfunded and poorly-equipped to deal with the social and legal problems related to HIV/AIDS.

The most recent effort to address human rights abuses began in January 1997 when a group of lawyers, policy makers, and doctors met in Dar es Salaam to discuss the legal, ethical, and human rights problems associated with HIV and AIDS.

The most recent effort to address human rights abuses began in January 1997 when a group of lawyers, policy makers, and doctors met in Dar es Salaam to discuss the legal, ethical, and human rights problems associated with HIV and AIDS. The workshop was organized by NACP and the United Nations Development Programme (UNDP), and was the product of an ongoing UNDP effort to establish regional networks in response to the African HIV/AIDS crisis. The Tanzanian network is the fifteenth of its kind in the region. As a

Tanzania, continued from page 21

result of the meeting, the group agreed to formulate an integrated policy response to HIV/AIDS in Tanzania that would incorporate law, policy, and med-

Another goal is to make legal support services available to people with HIV/AIDS who have experienced discrimination.

icine and would focus on both health issues and human rights concerns.

The new approach will include lobbying efforts and other activities. First, it will attempt to prevent legislation that would discriminate against people with HIV/AIDS and encourage legislation that would strengthen institutional and legal protections for people with HIV/AIDS. The lobbying strategy will

also work to change existing laws that intentionally discriminate, as well as laws like the Evidence Act and the Criminal Procedures Act of 1985, which do not intentionally discriminate but nevertheless violate the HIV victims' privacy and non-disclosure rights. Next, the Tanzanian network will influence governmental policies regarding groups that are vulnerable to HIV infection, such as women, migrant laborers, prisoners, miners, long-distance drivers, refugees, and soldiers. The network will also advocate a ban on employer HIV-testing. Another goal is to make legal support services available to people with HIV/AIDS who have experienced discrimination. Finally, the network will establish a computer database that will compile a record of human rights violations in Tanzania against people infected with HIV and AIDS.

In May 1997, Tanzanian representatives will join members of the fourteen

other regional networks at a UNDP conference in Cote d'Ivoire. At that time, each country representative will present an update of the national network's activities and evaluate its effectiveness. The conference will be the first opportunity to determine whether the national networks have constructively addressed the problems of human rights abuse and discrimination against people with AIDS and HIV in Africa. 🌐



AMERICAN UNIVERSITY

WASHINGTON, D.C.

The Human Rights Brief

Center for Human Rights and Humanitarian Law

Washington College of Law

4801 Massachusetts Avenue, NW

Washington, DC 20016-8181

RETURN POSTAGE GUARANTEED

Non-Profit Org.
U.S. Postage
PAID
Permit No. 966
Washington, D.C.