



Issue Paper:
***Review and Assessment of HIV/AIDS Strategies that
Explicitly Include Attention to Rights
with a focus on Latin America:
Treatment, Care, and Support***

Defining the Issue

Human Rights have become the base for various strategies for HIV/AIDS in Latin America not only for prevention, but also treatment, care and support (TCS). All of these are the result of a gradual evolution to understand HIV/AIDS, not only as an infectious disease, *but* also as a complex *Human Rights* situation which comprises the individual and social rights.

The evidences of this change find themselves explicitly in the jurisprudence, legislation, regional declarations and in the national strategic plans for HIV/AIDS. These human necessities related to HIV/AIDS have been linked with fundamental rights, which are inherent to mankind, such as: life, free transit, cruel treatment, equality nondiscrimination, liberty and personal safety, privacy, health, free development of personality, work, social security and education.

Behavior and discriminatory attitudes, socially tolerated for stigmatized groups and populations, such as: homosexuals, intravenous drug users and certain nationalities, which were affected by the epidemic at the very beginning, lead to a wider spectrum of the vision of human rights, once it was understood that these accepted attitudes, were as well, violation of the fundamental human rights of these populations.

However the validity of the human rights has seen itself affected, thus their full enjoyment and observance has been neglected and at the same time, the deserved attention earned by the vulnerable populations, has been obviated.

Evidences which value the human rights related to treatment, care and support

Jurisprudence

From the jurisprudential point of view, due to its special or emblematic character we quote abstracts from the following court rulings:

VENEZUELA, TSJ, Politic Administrative Courtroom, June 15th, 1999

“the rights to health, to life and to access to science and technology are closely linked to this case, so the corresponding analysis will be performed in a merged manner. This link can be explained as follows: the right to access to the most advanced developments of science and technology, will provide people affected with HIV/AIDS with a guaranty to preserve the minimum vital conditions (right to health), which in this case will imply the way to elongate the life of these patients and in a long term, an eventual cure of the disease which affects them.”

Colombia – Seventh Courtroom of Tutelary Revisions from the Constitutional Court – Sentence Number T-271/95

“right to health/right to life - The link between the right to life and the right to health can be seen with absolute clearness, as the presence of such a pathology, which besides of leading to death, also deteriorates over time the quality of life the person can still aim for.”

Legislations

All Human Rights tools, be they international or regional, have proven efficient to support treatment, care, and support.

Many of the normative instruments related to HIV/AIDS in the region, refer to human rights as a fundamental strategy for prevention and assistance.

Ibero-American Summit, Panama, October 2000

Links the declaration related **to the protection of** childhood and adolescence, with the international Treatments and Covenants and signed by the States of the region, especially to treatment, care, and support.

National AIDS Strategic Plans

The majority of the regional **National AIDS Strategic Plans** , include human rights into their prevention and assistance strategies.

Summary - Panorama of the current situation of treatment, care, and support services

Policy level:

- Involvement of PLWHA and civil society
- Problems related to procurement, supplies and continuity
- Equity, inequality among those subscribed to Social Security and those who are not. Many programs were initiated by pregnant women attending antenatal services and children.
- Informed by evidence. Seldom supported by documentation and information.
- Regulation of laws related to medicines and HIV related goods
- Medication/Drug laws, provision of generic products

Programmatic level:

- Limited integral attention where comprehensive TCS exists: including prevention services, treatment for STIs and OIs.
- Accessible and confidential VCT, with the exception of Brazil, none
- Tailored health information, support services, training for PLA is nonexistent
- Evidence of initiatives with injecting drug users (IDU), sex workers, children and adolescents.
- With the exception of Brazil, nonexistent initiatives for prisoners.

A preliminary analysis leads to the following conclusions:

1. True and effective evidence exists about the link and compression of treatment, care, and support, and human rights.
2. The international right to human rights and rights under national laws?, are used as a basis, even though there is no specific mention on treatment, care, and support and HIV/AIDS.
3. The conception of human rights and treatment, care, and support tends to extend itself; by the way of declarations, settlements, jurisprudence, strategic plans and internal legislation.
4. Still, the fulfillment of the rules, commitments and decisions, remains weak.
5. There exists a severe crisis in the health sector which overshadows the attention that should be paid to specific health issues.
6. Human rights, besides being a legal and advocacy tool, are useful to build consciousness and sensitivity of the public and private sectors involved with treatment, care, and support.

*This issue paper was prepared by Edgar Carrasco
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