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## HIV and disclosure of information

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### Abstract

HIV and disclosure of information is a complex matter. It is well known fact that it is that disease which nobody would like to disclose. It depends upon the circumstances whether to disclose it or not. Sometimes it is necessary to disclose it to save the life of another person but all these depends upon the prevailing circumstances. This paper explores about the difficulties i.e. stigma, ostracization, social humiliation, fear of rejection to be faced by the persons having HIV/AIDS. HIV is a virus which weak the immune system of a body and AIDS is a condition which happen due to HIV infection, when immune system is affected. The study examines the impact of HIV and disclosure of information on the individual as well as on the society. There are various pronouncement of the honourable courts vide which it has been explained the circumstances under which HIV information can be disclosed.

**Keywords:** HIV, disclosure, Social Stigma, fear of rejection, social boycott, antiretroviral therapy, social support, antibody test, nucleic acid test, medical confidentiality

### 1. Introduction

HIV is a deadliest disease in India. It is spreading day by day which is very much <sup>[1]</sup> dangerous to living person HIV stands for human immunodeficiency virus. It is the virus which causes Acquired Immune Deficiency Syndrome (AIDS). It will weaken immune system by destroying T cells until ones unable to fight. Weakening of T cells gives rise to the AIDS, which can damage immune system.

### 2. Difference between HIV and AIDS

HIV is virus and AIDS happen due to HIV.

### 3. HIV weaken the immune system of body which made the body unable to bear the infections.

### 4. Who can become victim of HIV?

Anyone can become victim of HIV.

### 5. Symptoms of HIV

HIV can happen without any symptom but there are some symptoms which are noted as under fever, chills, fatigue, sore throat muscle, aches, night sweats, rash swollen lymph nodes, mouth sores,

### 6. Different stages of HIV

Acute HIV is a flue like symptoms in a mouth after being infected with HIV <sup>[2]</sup>.

### 7. Chronic stage clinic latency

It can go for a long time without feeling any sickness. It can still spread HIV to others even if one feels well.

### 8. AIDS

It is a third stage of HIV it weakness the immune system of a person and in so many cases a person loses life due to HIV virus

### 9. HIV guidelines

HIV guidelines cover treatment, prevention, and testing. These guidelines are created <sup>[3]</sup> by organisations like the World Health Organisation (WHO) the centres for disease control (CDS) and the National AIDS control organisation.

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India is a largest democracy and is facing HIV disease. There are various individuals who have faced HIV very bravely and have become an example for the other people. They not only faced HIV but also helped so many other people to combat this problem. In society, it is treated as stigma and people who are suffering from HIV are facing discrimination in the society. There are some examples which are as under:

In the year 2009, Mr. Gautam Yadav diagnosed HIV at the age of 18 years. He faced stigma and misinformation regarding HIV. He bravely fought this menace and within years he became an activist of HIV to fight social stigma. He made support of many other individuals by telling his personal experience.

Mr. K. Pradeep Kumar from Manipur in the year 2000 came to know that he is suffering from HIV. He was treated as untouchable in the hospitals many time. Despite this stigma, he thought for facing this problem by getting training from books and won the title of Mr. Manipur, Mr. India and Mr. South Asia.

Jahanbi Goswami became the first woman from North-East to declare HIV status. Now she is an HIV activist from assam. She publicly declared her HIV status. She formed Assam Network of Positive People (ANPP) and is currently working as president of Indian Network for People living with HIV/AIDS. She also became first woman to hold this status. Her main aim is to empower the people suffering from HIV/AIDS.

Divyanshi an 18 years old girl diagnosed with HIV. There was an organisation known as Positive Yuva Network. She got full support from this organisation. The main objective of the organisation is to uplift the people facing HIV and stigma from the society. Divyanshi educated various people about HIV and proved that a normal and happy life is also possible for the persons with HIV. She is a good photographer and has initiated a start-up.

Reena Mistry, a resident of Gujarat lost her parents due to HIV and later on came to know that she was suffering from HIV. Reena became financially independent despite stigma and discrimination due to this virus from the society. Reena proved that this virus is manageable.

#### 10. Challenges being faced by HIV persons

- **Social stigma and discrimination:** Due to lack of awareness among the masses <sup>[4]</sup>, HIV persons have to faced stigma and discrimination. Other people donot want to have any relationship with them without knowing the fact that government has taken various measures for the treatment of HIV patients. It has been noticed that even other people donot want to talk to them due to HIV.
- **Financial fall down:** the persons who are suffering from HIV are financially very weak because no one is ready to help them. Since they are not financially sound so they are not able to start any business. Due to this financial position, they are treated discriminately in the society.
- **Difficulty for health care:** Though the government has taken stern stand for treatment of HIV patients yet there are so many precautions which are yet to be taken. Government has started anti retro viral test but in rural areas it is not possible because in some rural areas transportation is not available.
- **Women face a different challenge:** Challenge being faced by HIV women patients is very different. They

are tested badly in the society. They face discrimination in getting health treatment and healthcare of their children.

- **Discrimination in work place:** HIV patients are treated badly in their work place. They have been treated as they have committed any crime in the society. Nobody at the work place want to share anything with HIV patients.

**Uncertainty about future:** HIV patients face very big challenge in their life i.e. uncertainty about their future. It is well known fact that there is uncertainty about the future of HIV patients which leads to depression and anxiety.

#### 11. What is to be done for HIV patients?

- **Social support:** it is our moral duty towards HIV patients that they are provided social support in society. The government must start TV programs and newspaper advertisements for the support of HIV patients.
- **Psychological support:** There is necessity of psychological support for the HIV patients. Group counselling must be provided to overcome this problem.
- **Healthcare services:** Every HIV patient must have medical treatment. It should be easily available so that they may not stand in long ququq for their treatment and medical staff should have good treatment with them. Many NGOs are providing help for HIV patients.
- **Protection against discrimination:** it is duty of the society to provide protection to the HIV patients. No patients to be treated with discrimination in the society. Awareness should be there in the society so that no one should be discriminated.

#### 12. HIV and disclosure of information

There is a very important case Mr X v Y Hospital which relates to disclosure of information regarding HIV of a person under article 21 of the Constitution of India which relates to right to life with dignity <sup>[5]</sup>.

The Hon'ble Supreme Court of India was dealing with the right to confidentiality of an HIV patient. The appellant was diagnosed as HIV after he attempted to donate blood at the respondent hospital. This information was disclosed by the said hospital and which resulted that marriage was called off and the person who was affected with HIV was ostracised by the relatives and the people around him. Information regarding HIV status by the hospital was violative of medical ethics for training to the confidential and also in friend upon his right to privacy under article 21

The Hon'ble Supreme Court of India while referring to the connected Law including the medical ethics guidelines in India and Britain to analyse whether the appellant had right to confidentiality regarding his HIV disease in accordance with Indian matrimonial laws to interpret the rule of confidentiality in the context of marriage. Indian and American case law on a right to privacy and the Indian penal code 1860 which makes it an offence to spread dangerous infectious disease or the appellant is right to privacy because they were under a legal duty to make such disclosure of information as well as legal duty to disclose the venereal disease under matrimonial and penal loss failing which, he would be criminally liable. Apex Court observed that disclosure of information regarding HIV status was permitted in the public interest. Under the right to life in case of conflict between the right to privacy and right to

health of another 21 article was not absolute and could be restricted.

Issue of confidentiality came before the Hon'ble Supreme Court of India in the case titled <sup>[6]</sup> as *Dr. Tokugha v. Appollo Hospitals Enterprises*. The Hon'ble Supreme Court of India referred the right to marry a person who is infected with HIV. Dr. Tokugha Yephthomi sued of the Appollo Hospital after the hospital revealed his positive HIV status, which was discovered when he donated blood to the hospital, the disclosure caused the cancellation of his upcoming marriage and resulted in his embarrassment and ostracism by the community because the potential bride had been saved by the disclosure, Hon'ble Mr. Justice Sagis Ahmad and Hon'ble Mr. Justice B.N Kirpal rejected his claim for damages. According to legal activist Shobha Aggarwal, the judgement violates a person's right to privacy and confidentiality without establishing guidelines.

### 13. Conclusion

It is crystal clear that HIV virus is weakening the immune system of a body which gives rise to infectious disease like AIDS. A person is required to take up necessary measures as advised by the government from time to time to avoid this disease failing which it can create problem for other persons also. The disclosure of information about this virus disease to other persons is also mandatory keeping in view the dangerous results of HIV virus for other persons also. Meaning thereby that disclosure of information is mandatory in such like cases. Since Government is doing a lot of to decrease this disease but it is our duty to think what we have done for the country and what measures we are taking to avoid this disease.

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