



Legal Protection for HIV Infected Patients

ARTICLE INFO

ABSTRACT

Article Type

Original Research

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Article History

Received: 20 Sep 2024

Revised: 15 Nov 2024

Accepted: 08 Dec 2024

Published Online: 01 Apr 2025

How to Cite this Article

Ehsanpour SR, Loghmani N. Legal Protections for HIV Infected Patients. ILS. 2025; 1(2): 1-8.

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Background

Anyone with AIDS has the same citizenship rights as others such as health rights. This right is one of the most prominent examples of human rights. If a person inflicted by AIDS, his/her citizenship rights should not be ignored and not result in isolation, depression, humiliation and suicide.

Materials and Methods

This research method is a descriptive-analytical one.

Ethical Considerations

Honesty and fidelity in writing the text have been observed.

Findings

Infliction to AIDS, in addition to causing hardships and pains for the affected person, will also results in emotional and psychological damages. In this regard, this person needs programs by relevant agencies to improve his conditions. Patterns from some countries, including existing U.S. laws, are open to appropriate treatment for AIDS patients.

Conclusion

One of the leading problems is unfair look and action against AIDS patients. Discrimination in receiving appropriate treatment, occupation, and numerous other social freedoms are important. On the other hand, considering the history of research, the existing laws and existing gaps in regards to protect HIV patients' rights such as the right to work, the right to health, and the right to fair trial have been investigated by looking at the regulations of the United States of America.

Key words

HIV Infected Person, Human Rights, US Laws.

INTRODUCTION

This study aimed to investigate the criminal policy on HIV infected patients with a view to U.S. law. The purpose of this paper is to correct the wrong views about these people who have been deprived of society, work, jobs and other social services due to their specific illness.

DEFINITIONS

1 - The Patient

In Persian Dictionary *AMID*, the patient means "unwell, suffering, and sick" and illness means "suffering, unhappy". [1] In *MOIN* Persian Dictionary, the patient is defined as "sick, unwell, pained and suffering". [2] "Health" and "disease" are words that have different interpretations in different situations. In medicine, for example, disorders in situations are called "diseases", which are considered based on medicine and body work. [3]

2- HIV/AIDS

This disease was first identified in the United States in 1981. [4] HIV is usually transmitted by direct contact with blood, sperm or sexual fluid exchanges during unsafe (non-protected) sex with an infected person. [5]

3- Criminal Policy

"Criminal policy is a discipline that, in accordance with philosophical and scientific findings and in accordance with historical requirements, attempts to formulate criminal theories and prevent crimes that are useful in practice." [6]

4- Victim

A victim is a person who is harmed or damaged by commitment of a crime. The victim is one of the parties to the criminal case which has been damaged as a result of a criminal act and has suffered damages (whether physical, psychological or financial). [7]

5- The Right to Health

The first case that can be considered as a manifestation of protection of people with AIDS is to protect their right to health. "This means that everyone has the right to achieve the highest standard of physical and mental health, and this right includes all medical services, public health, adequate food, adequate housing, a healthy workplace and a clean environment. [4] The Right to Health was first predicted in 1946 in the World Health Organization statutes as a fundamental element of human rights and a life of dignity. [8]

MATERIALS AND METHODS

This research is theoretical type; the research method is descriptive-analytical one.

DISCUSSION

A. The Basis of the Right to Health for HIV Infected Patients

Health is the first and most important right of every human being, regardless of gender, age, race, nationality, religion, religion, etc. And everyone deserves it for the benefit of being human.

1- The Right to Life

HIV/AIDS victims should enjoy the same rights as others without discrimination [9]. One of the most important rights is the right to life.

2 – Human Dignity

Another basis of protecting the right to health of AIDS victims is respect for "human dignity". This is more important in Iran's domestic law. Dignity is the dignity and honor that man enjoys because of his creation and it is a value that all human beings enjoy innately and equally. [10] As God says, "*Man should note that God has given him a high personality and should not infect his gem easily*" [10]

B. Manifestations of Protection of the Right to the Health for HIV Infected Victims in General Laws

In General Laws, the right to health of HIV infected victims stated in laws such as the Constitution, the Twenty-Year Vision Document, the Fourth Economic, Social and Cultural Development Plan Act, the Insurance Laws and the Fifth Development Plan Law, which are referred to below.

1 – Constitution

Regarding the right to health, Principle 23 of the Constitution recognizes and mandates the right to health services and medical care for all. "Social security in terms of retirement, unemployment and aging, disability, unemployment etc is mandatory for all." According to this Principle, the government

should provide these services to the people of the country.

2 –Fifth Development Plan Act

In The Fifth Development Plan, Articles 32-35 devoted to health, such as the preparation of the country's health system program by the Ministry of Health and Medical Education. [11]

3 –Fifth Development Plan Act

In relation to insurance laws for protection of the right to health, it can be noted that the bill for the formation of the Ministry of Health and Medical contains an article, which obliged the government to submit the Health Services Insurance Bill. [12]

C. Governing Principles on Protecting HIV Infected Patients

1- Autonomy

The principle of autonomy and autonomy of the patient is in fact a right at the disposal of the individual to decide about his/herself [13]. The official history of emphasis on patient rights to independence is in the Nuremberg Statement of 1947 [14].

In this regard, the patient or person with AIDS has the right to receive counseling, diagnostic tests of HIV, treatment and care [11]. Some states, such as Arkansas and New Jersey, have adopted AIDS policies that require obtaining informed consent. [15]

2- Non Discrimination

In fact, every society expects its members to follow the values and norms, but there are always some who do not observe these values and norms." [16]

AIDS is seen as a stigma in society, and this thought can be the result of the idea that a person with AIDS has been infected due to illegal sexual behavior. There is a possibility of AIDS transmission in high-risk behaviors such as high-risk sexual behaviors or drug injections. Because these behaviors are supposed immoral acts [17] so can lead to discrimination against AIDS patients.

3- Confidentiality

Medical reports and facts for HIV infected individuals should be considered in all stages of diagnosis, counseling, care and treatment as confidential [11].

D. Legal Rights of HIV Infected Patients

1- Fair Trial

In addition to the right to health and the right to work in support of AIDS victims, the right of "Fair Trial" is also another important manifestation of the protection of HIV infected victims [19].

2- Free Legal Aids

Legal Aids apply to those offenders who must be present in criminal proceedings, i.e. from the time of the offence to the execution of the sentence, as well as compensation for the losses [20].

In addition, protecting HIV infected victim's family against threats is in high importance [21]. US provisions recognized this kind of right for HIV infected individuals [22].

3- Access to Justice

Another right that should be considered specifically for AIDS victims is the right to immediate access to the criminal justice system [23].

In Iranian laws, Article 175 of the Criminal Procedure Code adopted in 2013, permits the use of computer and telecommunication systems, such as messaging (email), remote video communication, fax and telephone, to file a complaint [24].

In U.S. law, because of the importance of this right, Article 6 of the Basic Principles Declaration have recommended States Party to take necessary measures by using judicial and executive methods to avoid unnecessary delays for trial. It has also paid attention to this right of victim in Para 7 of Section A. According to this paragraph, the offender has the right for fast trial [22].

However, this right does not mean that we should give the victim the authority to act in such a way that deny not only the defendant's right to a fair trial, but also the government's right to hold hearings [22].

CONCLUSION

Like other patients, AIDS patients have rights in the community that these rights should be respected. By studying the legal system of Iran

and the United States regarding the protection of AIDS patients, it is clear that Iran's legislative criminal policy does not include criminal protection of these individuals, but United States have passed deterrent and protective laws for HIV-infected persons in various fields such as labor and employment regulations, accommodation, treatment, etc.

ETHICAL CONSIDERATION

Authenticity of the texts, honesty and fidelity has been observed.

AUTHOR CONTRIBUTIONS

Writing of the manuscript was done by Corresponding author; and Planning & supervising was done by the first author.

ACKNOWLEDGMENTS

None.

CONFLICT OF INTEREST

No conflict of interest was reported by the author. The author declare that he has no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

FUNDING

This Research received no external funding.

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