

Right to confidentiality of hiv patients law general essay

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CONTENTS

Introduction

What is meant by Confidentiality

Requirement of Confidentiality of HIV/AIDS patients

Consent and Testing

Right to confidentiality under Indian Constitution

Right to Confidentiality vs. Right to Information

Legal Issues arising in Context of HIV/AIDS

HIV/AIDS Bill

Conclusion

INTRODUCTION

The maintenance of confidentiality of an individual's health status is one of the cornerstones of rights based legal and public health responses to HIV/AIDS. Ethics cannot be considered in a vacuum. The social context dictates how the principles of ethics are applied and interpreted. Spread of HIV is linked to certain patterns of human behaviour. Hence, it has both biological and socio-cultural determinants. Any attempt to control its spread must take into account the complex social and cultural factors in which the disease is embedded. Hence, in India it is very important to maintain

confidentiality and privacy of HIV/AIDS patient. India has a large migrant population. Rapid urbanization coupled with poor housing facilities in city areas leads to migrant labours staying away from families. Illiteracy and poor awareness exposes them to high risk of HIV/AIDS. Thus, we can say India is highly prone to disease called HIV/AIDS. Human rights abuses in the HIV-age assume many shapes and forms and occur with unacceptable frequency and impunity — children are thrown out of schools, workers are removed from jobs, patients are refused treatment, healthcare workers are denied universal precautions, NGO interventions with sex workers and men who have sex with men are shut down, and women face increased neglect and violence. In an epidemic that has witnessed unprecedented stigma, the disclosure of an individual's HIV positive status has a devastating effect on her/his life. Thus, public health experiences over the last two decades have revealed that the non-consensual disclosure of a person's HIV positive status has resulted in social stigmatization, denial of employment and medical services and is likely to fail in controlling the spread of the epidemic. People suffering from HIV undergo humiliation. Indian society is still very much conservative and they do not possess exact knowledge of HIV/AIDS. They take HIV/AIDS as a communal epidemic and thus a patient suffering from HIV has to lead a very difficult life with its revealed status of illness. This project argues that the confidentiality of HIV status must be guaranteed because it is an inherent human right and also to effectively deal with the epidemic.

What is confidentiality?

Confidentiality has been defined by the International Organization for Standardization (ISO) as " ensuring that information is accessible only to

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those authorized to have access" and is one of the cornerstones of information security. Confidentiality is an important principle in ethics, and is a central part of all fiduciary relations. Confidentiality is about your privacy, meaning that any information you tell someone will be kept between you and that person, unless it is clear that it is public or open access information. In legal terms confidentiality has been understood to exist within the parameters of a special relationship that is dependant on factors of mutual trust, knowledge or skill or with the objective of imparting services. There has not been a clear statutory enunciation of confidentiality in India.

Confidentiality in terms of Medical Ethics: The ethical principle of confidentiality requires that information shared by the patient with the doctor or public health worker in the course of treatment is not shared with others. This is important for the therapeutic alliance, as it promotes an environment of trust. A patient expects to have his or her privacy respected by the physician and should not be disappointed. Protection of confidentiality applies to personal information and information of a private nature, even though the disclosure of this type of confidential information may not lead to pecuniary loss. Incomplete information that may nonetheless give away someone's identity is also confidential. Duty to maintain confidentiality has its origin in the Hippocratic Oath, which is an ethical code attributed to the ancient Greek physician Hippocrates, adopted as a guide to conduct by the medical profession throughout the ages and still used in the graduation ceremonies of many medical schools and colleges in India. The Hippocratic Oath consists of two parts. The first, or covenant, is the solemn agreement concerning the relationship of apprentice to teacher and the obligations

enjoined on the pupil. The second part constitutes the ethical code. It is on the basis of the above that International Code of Medical Ethics has been laid down as: " A Physician shall preserve absolute confidentiality on all he knows about his patient even after his patient has died." Learned counsel for the appellant also directed courts direction to the code of medical ethics made by Medical Council of India. It states that do not disclose the secrets of a patient that have been learnt in the exercise of your profession. Those may be disclosed only in a Court of Law under orders of the presiding judge.

REQUIREMENT OF CONFIDENTIALITY OF HIV/AIDS PATIENTS

HIV status has been used as a basis for discrimination in matters of housing, employment, and insurance. There is a widespread social stigma attached to HIV positive status because AIDS is still perceived as a gay disease, and also because of lingering ignorance as to how the virus is transmitted. Because of society's irresponsibility in educating people about the facts of HIV, this stigma is often extended to anyone who gets tested for HIV. Getting tested implies that they are engaging in homosexual sex, promiscuous behavior, or illegal IV drug abuse. Because of the sensitivity that surrounds society it is very much required to maintain privacy and confidentiality of HIV/AIDS patients. Confidential test results are kept between the medical facility and patient unless the patient gives written consent for their release. To stop the humiliation and discrimination of HIV patients by society we need to keep the privacy of such patients. It's solely a patient's wish whether he/she wants to disclose his illness status or not. Privacy and confidentiality is highly essential for a patient suffering from HIV/aids so that personal liberty and

right to life of an individual is not hurt and infringed as stated under Article 21 of Indian Constitution.

Consent and testing

The principle of consent is based on the fundamental principle of the autonomy of an individual, and is recognized within the framework of the right to life and personal liberty in Article 21 of the Indian Constitution. Legal issues related to consent in the HIV context arise primarily with regard to HIV testing and treatment. The most important reason for taking consent from a person before testing and treatment is respect for human dignity and bodily integrity. Anonymously administered tests are never linked to a name at all; subjects are assigned a code and their test results are communicated along with some form of pre- and post-test counseling and/or education, but there is no long-term documentation of the codes and their related HIV information.

Right to confidentiality under Indian constitution

The right to confidentiality or right to privacy is guaranteed under Article 21 of Indian constitution which guarantees Right to life and personal liberty and is a fundamental right. Article 21 assures the right to live with human dignity, free from exploitation. The state is under a constitutional obligation to see that there is no violation of the fundamental right of any person. There has not been a clear statutory enunciation of confidentiality in India. However, the Indian Constitution guarantees the fundamental right to life and liberty, which has been interpreted to include the right to privacy. Privacy as a right involves the extent to which privacy is (and should be

legally protected). The law does not determine what privacy is, but only what situations of privacy will be afforded legal protection. It is interesting to note that the common law does not know a general right of privacy and the Indian Parliament has so far been reluctant to enact one. Judicial activism has brought the Right to Privacy within the realm of Fundamental Rights. Article 141 of the Constitution states that " the law declared by the Supreme Court shall be binding on all courts within the territory of India." Therefore, the decisions of The Supreme Court of India become the Law of the Land. The Supreme Court of India has come to the rescue of common citizen, time and again by construing " right to privacy" as a part of the Fundamental Right to " protection of life and personal liberty" under Article 21 of the Constitution, which states " no person shall be deprived of his life or personal liberty except according to procedures established by law". In the context of personal liberty, the Supreme Court has observed " those who feel called upon to deprive other persons of their personal liberty in the discharge of what they conceive to be their duty must strictly and scrupulously observe the forms and rules of the law". Even the fundamental right " to freedom of speech and expression" as enumerated in Article 19(1) (a) of the Constitution of India comes with reasonable restrictions imposed by the State relating to (i) Defamation;(ii) Contempt of court;(iii) Decency or morality;(iv) Security of the State;(v) Friendly relations with foreign states; (vi) Incitement to an offence;(vii) Public order;(viii) Maintenance of the sovereignty and integrity of India. Thus, the right to privacy is limited against defamation, decency or morality. The Supreme Court has reiterated the Right to Privacy in the following cases:

JUDGEMENTS AND CASES

India's first HIV litigation arose when HIV-positive activist Dominic D'Souza was incarcerated in the late 1980s. D'Souza, a resident of Goa, was found to be HIV-positive when he donated blood at a Goa hospital. The test was performed without his knowledge or consent, and the results were revealed not to him, but to the local police. D'Souza was subsequently arrested and confined in an unused TB sanatorium pursuant to the Goa, Daman and Diu Public Health Act, 1985, an amendment to which in 1986 authorised the State to mandatorily test any person for HIV and isolate them if they tested HIV-positive. His mother, Lucy D'Souza, filed a writ petition before the Goa bench of the Bombay high court arguing that the provision in question violated her son's fundamental rights under Articles 14 (Equality before the law), 19(1)(d) (Right to move freely within India) and 21 (Right to life and liberty) of the Indian Constitution since: (a) the provision for isolation was based on wrong scientific material and foundation (b) the object sought to be achieved by the Act (ie, to protect public health) was nullified by the isolation provision (c) the discretion to isolate a person was uncontrolled and unguided and (d) the provision for isolation was procedurally unjust and unfair in the absence of the right to a hearing. In *Lucy R. D'Souza v. State of Goa* [AIR 1990 Bom 355] the high court recognized the serious consequences of the State's policy to isolate, but held that the interest of public health supersedes an individual's rights, and while isolation may not be 'ideal', it was 'practical'. It also stated that the legislation was passed by authorities who had considered the available information and evidence about the disease and had determined that the isolation of an HIV-positive person was

the correct course of action, and that there had been no violation of rights. (Although the Act in question still remains in the statute books, following the judgment, the government decided to stop implementing it; more recently it was reportedly amended.) Dominic's case highlighted several aspects of the laws that are related to the HIV epidemic beyond the application (or mis-application) of public health laws. Dominic was tested for HIV without his consent, his confidentiality was breached, and eventually, when he was released, he had lost his job. In *Mr. 'X' v. Hospital 'Z'* (1997) 1 SCC 301 for the first time the Supreme Court articulated on sensitive data related to health. In this case, the appellant's blood test was conducted at the respondent's hospital and he was found to be HIV (+). His marriage, which was already settled, was called off after this revelation. Several persons including the members of his family and those belonging to their community came to know of his HIV (+) status and were ostracized by the community. He approached the National Commission against the respondent hospital claiming damages from them for disclosing information about his health, which, by norms of ethics, according to him, ought to have been kept confidential. The National Commission summarily, dismissed his complaint. Consequently he moved the Supreme Court by way of an appeal. The appellant argued that the principle of 'duty of care' as applicable to persons in medical profession also included the duty to maintain confidentiality and that since this duty was violated by the respondents, they were liable to pay damages. " Right of privacy may, apart from contract, also arise out of a particular specific relationship, which may be commercial, matrimonial, or even political. Doctor-patient relationship, though basically commercial, is

professionally, a matter of confidence and, therefore, doctors are morally and ethically bound to maintain confidentiality." It however, held that although it was the basic principle of jurisprudence that ' every Right has a correlative Duty and every Duty has a correlative Right', the rule was not absolute and was ' subject to certain exceptions' in the sense that ' a person may have a Right, but there may not be correlative Duty, and the instant case fell within exceptions. The court observed that even the Code of Medical Ethics carved out an exception to the rule of confidentiality and permitted the disclosure in certain circumstances ' under which public interest would override the duty of confidentiality' particularly where there is ' an immediate or future health risk to others'. According to the court, the ' right to confidentiality, if any, vested in the appellant was not enforceable in the present situation, as the proposed marriage carried with it the health risk from being infected with the communicable disease from which the appellant suffered. As regards the argument of the appellant that his right to privacy had been infringed by the respondents by disclosing that he was HIV (+) and, therefore, they were liable in damages, the Supreme Court observed that as one of the basic human rights, the right of privacy was not treated as absolute and was ' subject to such action as may be lawfully taken for the prevention of crime or disorder or protection of health or morals or protection of rights and freedom of others." Other cases in which right to privacy has been defined in Indian Constitution under Article 21: 1. Kharak Singh v. State of UP (AIR 1963 SC 1295) In this case the appellant was being harassed by police under Regulation 236(b) of UP Police Regulation, which permits domiciliary visits at night. The Supreme Court held that the

Regulation 236 is unconstitutional and violation of Article 21. It concluded that the Article 21 of the Constitution includes "right to privacy" as a part of the right to "protection of life and personal liberty". The Court equated 'personal liberty' with 'privacy', and observed, that "the concept of liberty in Article 21 was comprehensive enough to include privacy and that a person's house, where he lives with his family is his 'castle' and that nothing is more deleterious to a man's physical happiness and health than a calculated interference with his privacy". 3. *Gobind v. State of M. P.* (AIR 1963 SC 1295) This is another case on domiciliary visits. The Supreme Court lay down that ".....privacy-dignity claims deserve to be examined with care and to be denied only when an important countervailing interest is shown to be superior. If the Court does find that a claimed right is entitled to protection as a fundamental privacy right, a law infringing it must satisfy the compelling State interest test....." 4. *State v. Charulata Joshi* (1975) 2 SCC 148 The Supreme Court held that "the constitutional right to freedom of speech and expression conferred by Article 19(1) (a) of the Constitution which includes the freedom of the press is not an absolute right. The press must first obtain the willingness of the person sought to be interviewed and no court can pass any order if the person to be interviewed expresses his unwillingness". 5. *District Registrar and Collector v. Canara Bank*, (2005) 1 SCC 496: AIR 2005 SC 186 It was held, that "exclusion of illegitimate intrusions into privacy depends on the nature of the right being asserted and the way in which it is brought into play; it is at this point that the context becomes crucial, to inform substantive judgment. If these factors are relevant for defining the right to privacy, they are quite relevant whenever there is invasion of that

right by way of searches and seizures at the instance of the State." If one follows the judgments given by the Hon'ble Supreme Court, three themes emerge:⁹(1) That the individual's right to privacy exists and any unlawful invasion of privacy would make the 'offender' liable for the consequences in accordance with law;(2) That there is constitutional recognition given to the right of privacy which protects personal privacy against unlawful governmental invasion;(3) That the person's "right to be let alone" is not an absolute right and may be lawfully restricted for the prevention of crime, disorder or protection of health or morals or protection of rights and freedom of others;

Right to confidentiality vs. right to information

Suppose in clinical practice doctor comes across a patient suffering from HIV/AIDS, should a doctor reveal this information to his/her spouse or fiancée. If a doctor tells them that the patient is suffering from HIV/AIDS he is infringing the right of the patient to confidentiality and privacy. He is breaking the ethics of confidentiality but on the other hand if doctor do not inform them he/she may be charged for withholding the information which may not only adversely effect the health but also may lead to suffering or death. An HIV positive man, an HIV negative sexual partner, and HIV transmission occurs. The problem with this occurrence of HIV transmission is the HIV negative partner had no idea her sexual partner was infected with HIV. The infected lover neglected to disclose his HIV positive status. The newspaper story goes on, detailing the court trial that followed. The HIV positive partner has been arrested and is being prosecuted for HIV transmission infecting a partner without disclosing his positive status. This

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scenario is occurring with increased frequency around the world. And as the number of cases grows, the debate surrounding the criminalization of HIV transmission grows as well. Some feel that transmitting HIV to a sexual partner without disclosing should be prosecuted like any other crime. Others believe it is a crime of morality and should be dealt with sternly and without mercy. However, there are people concerned about convicting those who infect others even if the positive person deliberately withheld his or her HIV status. They feel that only rarely is HIV transmission done to harm another. Their belief is that disclosure doesn't happen for one of two reasons; the infected person has no idea they have HIV or they are afraid to disclose, fearing prejudice and retribution from the community. So what should a doctor decide in conflict between Right to confidentiality v. Right to information? An HIV infected man in Canada is being tried for first degree murder and sexual assault because he had sex with several women without disclosing his status. Two women from Toronto became HIV infected by the man and have since died of AIDS complications. A judge from the province of Ontario has ruled that the HIV positive man will stand trial for first degree murder in the case of two women with whom he allegedly had unprotected sex without disclosing his HIV status. Both women have since died from AIDS complications. The confidentiality of all HIV positive people could be at stake. This man's identity and HIV status has been released to the public, in a direct violation of what many experts believe to be the man's right to confidentiality. Will this decision by the RCMP affect other court cases in Canada and around the world? Will officials be more willing to release the HIV status of people in the name of public interests or safety?

Pros

By releasing the man's name, photo, and HIV status, theoretically women and men he may encounter in the future will be aware of his HIV status and could take the proper precautions in the event of any sexual contact.

Cons

Disclosing this man's HIV status, name and photo jeopardizes every HIV positive person's right to confidentiality. Where will the line be drawn? When will it be judged to be ok to violate someone's right to confidentiality? Eventually, the confidentiality of all medical records, HIV positive and negative alike could be in jeopardy. Right to information is an act which was formulated in the year 2005 and states that There is an exemption to right to information mentioned in Section 8(e) and (j) given in right to information act which states as follow: 8. 8.(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—(e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information; In the above sub-clause it is mentioned in fiduciary relationship. Fiduciary relationship is shared by a doctor and a patient, a lawyer and his client in whom the former is not supposed to disclose the personal information of the patient or client without his consent. But it also states that it can be in public interest. Similarly (j) also states that personal information which has no relation ship with public interest. So both the sub-clause refers to public interest, but they also stress upon personal information. Therefore both the rights are contradictory to each other and decision can be taken only by seeing circumstantial situation that whether <https://assignbuster.com/right-to-confidentiality-of-hiv-patients-law-general-essay/>

right to confidentiality has been violated in public interest or not. If it is not violated in public interest the violator is liable for punishment under infringement of right to personal liberty ie. Article 21. An

Legal issues arising in context of hiv/aids:

1. Discrimination: India has 2.5 million HIV/AIDS patients who more often than not have to battle discrimination and social ostracism at various levels. It's often seen that HIV patients do not get equal opportunity at any field for instance removing someone from a job because they are HIV positive is interpreted as a violation of their right to equality and even livelihood - both constitutionally protected fundamental rights. India's law ministry is soon expected to clear the draft of a bill that aims to prevent discrimination against HIV patients in a country that has one of the highest numbers of people afflicted with the disease. But activists and health officials say this has come after many delays and hiccups. K. Sujatha Rao, head of the National AIDS Control Organisation (NACO), which forms policy and implements programmes for the prevention and control of HIV and AIDS in the country, said by the end of this month the law ministry will send it to the cabinet for approval. The bill aims to ensure equal rights for HIV positive people so that they don't face discrimination at work, healthcare centres, in education and other settings. There was a big protest by NGOs and people living with HIV on Dec 1, 2008, in front of the law ministry's office that made it return to the original bill. In January this year, the law ministry came out with the second draft, which removed all the controversial points. The law ministry then passed the final draft to NACO, which again had some problems with some of the clauses and therefore had to rewrite it again.

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Finally, after seven months of intense deliberations, the law ministry is believed to have given the go-ahead. The bill also provides for a safe working environment for healthcare workers, protection for risk reduction programmes, special provisions for women, children and young people. It recognizes the right of children and young people to access healthcare services and information in their own right.

2. access to treatment: The right to health and life, guaranteed by most Constitutions across the world and reiterated by international documents, has emerged as an important issue in the HIV/AIDS scenario. This is all the more so because of the ongoing extensive research and development for a cure for AIDS, which when invented will save the lives of millions across the world. But millions of people living with HIV/AIDS (PLWHA) will not live to access it until the anti-retroviral therapy available in the market today is made available to them so that they can live longer. And, therefore, at the crux of the matter is the indisputable fact that the right to health, the right to life and the right to have access to technological advances have to be treated as one. This stand has been reiterated in various judgments of the Supreme Court of Venezuela, one of them being the case of Cruz Bermudez, et al v Ministerio de Sanidad y Asistencia Social (hereafter referred to as MSAS) (July 17, 1999). The Plaintiffs alleged that they were treated in a discriminatory way because the required medical treatments were not provided. Though the doctors at MSAS's hospitals had prescribed anti-retrovirals, no anti-retroviral had actually been dispensed to the patients. The discrimination was alleged to be derived from the health crisis (HIV/AIDS) in comparison to the treatment given to people suffering from other diseases (cancer, renal

insufficiency, diabetes, etc.), who receive the pertinent medical attention and the required medicines. They contended that they were being discriminated against and ill-treated in several hospitals operated by the MSAS and that the treatment they had received was degrading and irregular, which endangered not only their lives, but also the lives of the general population, thus, violating their right to life. The main argument of the plaintiffs was that they did not have access to treatment to treat their HIV infection. This inaccessibility of treatment violated their right to have access to scientific and technological advances, right to health and right to life. They also alleged a violation of their right to liberty and security, as well as the right to equal treatment and non-discrimination. Right to information establishes the right of every person to obtain a similar treatment to that given to any other person in similar circumstances. Because the insufficiency of resources in the sanitary administration affected all the poor people who were sick in the country and it was not proved that sick people with other diseases than AIDS were treated in a different way by the competent authorities, the Court rejected the allegation of the right to equal treatment and non-discrimination. It is heartening to note that courts can and do deliver such positive judgments directing the government to make the necessary budgetary provisions that priorities the rights of citizens over monetary concerns. However, thus far Indian courts have refused to pass judgments on the fiscal policies of the State, on the ground that this would impinge on the principle of separation of powers. But given the HIV/AIDS scenario and the high costs of anti-retroviral drugs, will the courts continue to remain silent spectators? Is the Indian government waiting for the courts

to breach the line they have so far refrained from breaching and direct them to make the necessary budgetary provisions so as to make the fundamental rights to life and health a reality not just for PLWHA but the Indian public in general? These questions are yet to be answered by Government. 3.

Criminalization of sex-workers: In the current climate of criminalization of sex work, possible HIV infection is just one of the many risks sex workers have to deal with. HIV prevention work with high-risk groups is often aimed at preventing the spread of HIV amongst the general population and not necessarily on risks faced by sex workers. This is largely a consequence of viewing sex workers as vectors of disease and preventing them from infecting their clients. Increasingly, questions regarding clients' responsibility for practicing safer sex and the protection of sex workers against infection have been raised. The majority of sex workers in SouthAfrica, we might assume, are young women between the ages of twenty and thirty. As a result of their particular and marginalized status in society, they are often more vulnerable to acts of violence than is generally admitted to. Therefore, issues facing sex workers are inextricably related to the fight against violence against women, struggles for basic human rights and for decent working conditions, particularly for the poor who work in informal sectors.

HIV/AIDS Bill and latest developments

The rights-based approach forms the basis of the HIV/AIDS Bill (1). This health legislation is the outcome of a consultative process involving the experiences of the vast community of persons working on HIV in India at every turn, including persons living with HIV/AIDS, vulnerable communities, health care workers, NGOs, workers and employers, women's and children's

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groups, representatives of the AIDS bureaucracy within government, and lawyers. It embodies principles of human rights and seeks to establish a humane and egalitarian legal regime to support prevention, treatment, care and support efforts vis-à-vis the epidemic in India. The Bill touches upon the most critical legal aspects of HIV/AIDS: discrimination, the right to a safe working environment (particularly in the context of health care delivery), informed consent, confidentiality, free and wide access to information and treatment, the creation of " safe havens" within which vulnerable (and criminalised) populations can get access to life-saving health services and innovative grievance redress mechanisms. All these issues were informed by the inputs of participants in the consultative process. The draft law gained perspective due to their comprehensive feedback. Some provisions in the Bill reflect changes in law that are apparently unrelated to HIV — the compulsory registration of marriages, the provision of maintenance, the right of residence for women and the establishment of sexual assault crisis centres, for example. These provisions arise from an understanding, which was enhanced through the consultative process, that women face increased neglect, discrimination and a vicious cycle of violence that not only leaves them vulnerable to HIV but that intensifies if they are HIV-positive. The Bill fundamentally recognizes the intricate link between discrimination, HIV testing and confidentiality and accordingly makes ethical principles of medical practice legally binding. This framework is qualified with exceptions. For instance, while recognizing the right of HIV-positive persons to confidentiality, which allows them to determine when they can reveal their status, the Bill also provides for a strict partner notification protocol in

exceptional cases, when a sexual/ needle-sharing partner is at substantial risk of infection. At the heart of the legislation is the understanding that HIV/AIDS can have immeasurable adverse impacts on a life, a family, and a community. Therefore it is first and foremost an anti-discrimination legislation. The Bill prohibits discrimination based on a person's HIV status or even their association with HIV. It extends the guarantee of equality enshrined in the Constitution to all sectors, including the private sector.

Change is on the cards: Developments

A three-year process of intensive research and extensive consultation will hopefully soon culminate in the introduction of the HIV/AIDS Bill 2006 in Parliament. Presently, the union health ministry has sent the Bill for feedback from the state and union territory governments and responses are awaited (2). The health minister recently announced that the Bill would be introduced in the 2007 Budget Session of Parliament. The presence of HIV/AIDS has led to the unraveling of many sad accounts of inhumanity that reflect the small-mindedness of human nature and attitudes. But this distress has also given us an opportunity to reconsider and correct the ills. Among the many shortcomings that must be rectified, of vital importance is our health system, its insufficiency, and the inequity it perpetuates. We hope the HIV/AIDS Bill is also seen as a precursor to greater health reform across the board and that it presses the state to deliver on its promise to invest seriously in this sector. The authors were part of the core team that drafted the HIV/AIDS Bill and carried out civil society consultations and interactions with the government regarding the proposed law.

CONCLUSION

HIV & AIDS two words that have become synonymous with today's predicament as it has become the bane of the society and because of that many new concerns have risen and all this is because we lack correct information on this subject which has given rise to stigmatization and discrimination. It is our ongoing endeavor to try and disseminate correct information which will try and dispel the stigma associated with HIV. This issue addresses discrimination but the question still remains unanswered whether health care workers should disclose their HIV positive status to patients and employers or not. The various laws and guidelines suggest that disclosure should be made only when there is a significant risk of transmission of HIV virus from the health care worker to the patient but a balance has to be maintained between the individual and public interest. This is the dilemma, one that needs to weigh the life and health of the patient at one end and the livelihood of the health care worker on the other.