



Discrimination, Isolation, Denial: Travel Restrictions Against People Living with HIV

Introduction

A quarter of a century has elapsed since 1981, when a handful of cases with unexplained immune suppression and opportunistic infections were reported. That brief report foreshadowed a new tragedy in human history: the HIV and AIDS pandemic. Unknown at the time was that HIV had already spread widely among communities. Today, according to UNAIDS 2007 epidemic report, approximately 33.2 million people – about 1 in every 200 – are living with HIV worldwide. With so many people living with HIV, one way or another, everyone is affected by HIV and AIDS.

Over the years, treatment of HIV has advanced to the point that the virus is no longer a death sentence but now a manageable disease, if proper quality health care services are in place in countries. Knowledge of effective prevention is much more comprehensive and accurate, and access to voluntary counseling and testing (VCT), treatment and prevention services have improved in many countries. Yet still, in many countries, people encounter bias or discrimination with regard to both treatment and prevention services related to HIV. There is a need to ensure that comprehensive and accurate approaches in response to HIV are applied in every country. People, particularly in low and middle income countries, must have access to the information, treatment and support they need, and people living with HIV need access to VCT and antiretroviral therapy so that they can live long and positive lives. In fact, at present, there are many cases now of people who have lived with HIV for over twenty years.

When the HIV and AIDS epidemic was identified in the early 1980s, many countries established travel restrictions in an effort to prevent the virus from entering their borders. Such measures included mandatory HIV testing for persons seeking entry to the country and that would-be entrants declare themselves to be uninfected. Based on these mandatory tests and declarations, a number of countries have excluded from entry people living with HIV or people suspected of being infected. Restrictions have been imposed upon people wishing to enter the country for short-term stays such as for business or personal visits or tourism, or for longer periods such as for study, employment, refugee resettlement or for immigration.

Despite the medical advances that have made HIV a manageable disease, most countries still impose travel restrictions on people living with HIV and cite two main reasons – to protect the national public health and to avoid the economic costs of providing health care and social assistance to people affected by HIV and AIDS. Over the years, many United Nations agencies and programs, including the World Health Organization (WHO), UNAIDS, and the United Nations Office of the High Commissioner for Human Rights (UNHCHR), have strongly opposed the use of HIV and AIDS-related travel restrictions.

This document briefly describes HIV and AIDS-related travel restrictions, their impact and the arguments for and against their use. Recommendations concerning these restrictions are offered to provide guidance to campaigners and human rights advocates regarding how to address effectively public health and economic and human rights concerns.

Holistic approach needed

In response to God's gracious and inclusive love for all of humanity, churches, civil society and government are called to model acceptance for all and ensure

Laws restricting travel for people living with HIV:

- Fuel stigma and demonstrate a discriminatory practice, especially targeting people who are marginalized and vulnerable;
- Have no reasonable basis in science, public health and medicine; HIV is not a highly infectious disease; and people living with HIV pose no grave threat by traveling to other countries;
- Further isolate people living with HIV, making them afraid to share their status and receive the treatment and care they need.

that all receive support and care. Certain vulnerable people who may be prone to high-risk behavior (persons with drug dependencies, prisoners, refugees, migrant populations, internally displaced persons, men who have sex with men, sex workers of both sexes) require particular attention, compassion, trust and accompaniment – not isolation and discrimination.

In November,

2006, I received invitation from USAID Global Women's Coalition to the USA to speak on Capitol Hill on 1st December, 2006. I applied for visa and one of the questions in the forms was asking if I had a communicable disease of human concern and what came to mind was untreated TB or anything like bird flu. Knowing that HIV cannot be transmitted by mere social interaction I indicated that I did not have a communicable [disease] that would be a threat. I was issued a multiple entry three year visa.

Whilst in Washington DC I spoke on Capitol Hill and had some media interviews. After one week I returned home and the very day of my arrival I received a call from the embassy indicating that I need to present my passport at the embassy for some changes. The lady I found explained that I had misinformed them by indicating that I did not have a communicable disease when filling in the form. She mentioned that they found out that I was HIV positive from a radio interview I had done whilst in the United States and also mentioned that they were aware that my only surviving child, a boy, was also positive. I explained to the lady that my not affirming to the question wasn't malicious. I was on an advocacy trip on issues related to HIV. How could I be a threat to those I interacted with? The visa was, however, cancelled.

In May 2007, I was accepted to attend a Global Women's Leadership work-
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Nature of HIV and AIDS-Related Travel Restrictions

Approximately 106 countries¹ have some sort of HIV and AIDS-related travel restrictions which usually take the form of an administrative instruction or law that requires people to indicate their HIV-free status before entering or remaining in a country. Some countries require people to undergo an HIV test whereas others require an "HIV-free" certificate or simply ask that people declare their HIV status (see restrictions country by country at www.eatg.org/hivtravel). Restrictions may single out HIV and AIDS; may include HIV and AIDS among excludable communicable or contagious conditions; or may leave discretion to immigration officials to exclude a person living with HIV. Many receiving countries require that the testing be done, at the expense of the traveler, in the country of origin. While some countries will offer visas and visa waivers to people living with HIV, many countries will deny visas or even deport people who test positive for HIV, or who disclose an HIV positive status.

For example:

Since 1987, non-U.S. citizens living with HIV have been banned from entering or transiting through the U.S. without a special waiver. This restriction applies to those seeking short-term entry and also to those that seek longer term visas, including residency status. The ban followed U.S. Congress' addition of AIDS to the Public Health Service list of "dangerous, contagious diseases for excluding persons from the United States".

On World AIDS Day 2006, US President George W. Bush announced that he planned to implement a permanent categorical waiver that would allow people living with HIV to enter the United States for short stays. This promise has not been fulfilled; rather a proposed policy from the Department of Homeland Security would add further restrictions.

This means that non-US citizens living with HIV must declare their HIV-status on visa application forms and upon entering the United States. If people declare themselves as HIV-positive, there is a high chance that they will be denied a visa. Unless a leading government authority appeals for a special waiver, the person may or may not be allowed to enter or transit through the United States. Once a person's HIV status is officially declared, his or her name remains on US immigration lists permanently as HIV-positive. Visitors who arrive in the U.S. and declare they have HIV, or are carrying antiretroviral drugs in their luggage, are usually questioned about the nature of their visit and then allowed to enter the country.

Not only do these underlying laws discriminate and infringe on people's civil rights, they also serve to isolate individuals living with HIV and further stigmatize

¹ Quick Reference a booklet by the German AIDS Federation. 193 countries are included in this survey. It found that 106 countries (out of 170) have special regulations. However, the list of countries with HIV-related travel restrictions is always changing and sometimes is contradictory or unavailable.

those affected by the disease. Because of such discriminatory laws, international conferences on HIV and AIDS have not been held in any country that denies entry to people living with HIV.

Exclusionary policies and legislation in other countries

The International Guidelines on HIV/AIDS and Human Rights, issued in 1998 by the United Nations, states: “There is no public health rationale for restricting liberty of movement or choice of residence on the grounds of HIV status (...). Therefore any restrictions on these rights based on suspected or real HIV status alone, including HIV screening of international travelers, are discriminatory and cannot be justified by public health concerns.”²

Regrettably, this guideline has not been followed by many countries and officials.

At least 106 countries have some form of HIV-specific travel restrictions, 13 of which ban people living with HIV from entering for any reason or length of time. About 20 countries have particularly rigid policies requiring proof of HIV-negative status before allowing anyone to enter for any reason.

According to Deutsche AIDS-Hilfe e.V. studies on HIV-related travel regulations: currently there are 13 countries that bar people living with HIV from entering. These countries are Armenia, Brunei, China (although the country has proposed lifting its ban), Iraq, Qatar, South Korea, Libya, Moldova, Oman, the Russian Federation, Saudi Arabia, Sudan and United States of America. Under current U.S. law, foreigners living with HIV are not permitted to immigrate to the United States, or even visit temporarily, unless they qualify for narrowly defined waivers. (The United States Senate is currently debating lifting travel restrictions on people living with HIV).

Here are a few examples of countries where HIV tests are required for at least some individuals:

- *Belgium*: Non-European Union nationals intending to study or obtain a work permit must undergo an HIV test by a Belgian-approved doctor in their country of origin. No visas are granted to people who are HIV-positive.
- *Russia*: No HIV-positive people are allowed entry into the country. Although proof of HIV status is not usually requested for tourist or transit visas, an HIV test is required for stays of longer than three months. If the test is positive, the person is deported.
- *South Africa*: Tests are required for all mine workers, at all levels of employment in that sector. This often serves as a de facto barrier to entry to South Africa by migrant or other workers.
- *United Kingdom*: Anyone who does not appear to be in good health may be required to undergo a medical examination (including an HIV test) prior to being granted or denied entry.

Australian Former Prime Minister John Howard made statements in April 2007 suggesting that Australia may tighten travel restrictions for people living with HIV who wish to enter the country. After touring Melbourne in Australia’s Victoria province,

shop in HIV/AIDS in Washington DC and I reapplied for the visa in June. It took one month to get a waiver when normally a visa takes days. This time I was issued a three months visa single entry. When I was applying for a UK visa I was asked to explain why the US cancelled my visa and I had to disclose my status. I have no problem with disclosure but under such circumstances I actual feel am treated differently, and it is offensive that one has to declare their status to be allowed into a country.

When I was interviewed by KIRO 7 Eyewitness News, while in the States, on my second visit, I repeatedly mentioned that my entering any nation doesn’t necessarily put any one at risk. How can we as a global community promotes human dignity and at the same time decide who comes into our countries not on the basis of their being human but HIV status?

Rev. Annie Kaseketi, a minister of the Word of God living with HIV, a member of ANERELA+ and Apostolic Church in Zambia. Used with permission.

2 The International Guidelines on HIV/AIDS and Human Rights (Office of the United Nations, 1998)

The first time I

traveled to the United States of America was in June 2001. I was part of the Swaziland delegation to UNGASS. When applying for the visa I was asked about my status. I was tempted to say I am negative, but then I would have been lying. Besides the whole of Swaziland knew I was living with HIV. I was asked to produce a letter from my doctor to say I would not fall ill while in New York. I got the letter with some resistance from my doctor. His argument was how can he know, how could he predict? I was also asked to sign a statement to say I had enough money to buy medication in case I fell ill. In the end I was granted a three month visa. I later learnt that a fellow person living with HIV went through the same. Everyone else in the delegation was given a ten year visa. These are people who have not known about their status or who knew but were not open about it. Our crime was being HIV positive and being open about it. The international travel restrictions are as if HIV is airborne. They promote secrecy and in those situations transmission continues. We are human beings, not statistics, and we are ready to join hands to respond to HIV and AIDS as equal partners.

Gcebile Ndlovu: International Community of Women Living with HIV/AIDS, Swaziland at the ICRW Symposium at the XVI International AIDS Conference Toronto, August 12, 2006

where HIV incidence rates are on the rise, Mr. Howard said: "I think we should have the most stringent possible conditions in relation to that nationwide, and I know the health minister is concerned about that and is examining ways of tightening things up." This statement was met with great protest by AIDS activists and health experts alike. This matter is still under debate in Australia.

Rev. Christo Greyling from World Vision International and also Chair of the ANERELA+ Board recently faced such stigma and discrimination when he was trying to relocate in Asia: "I found in how many countries I would not be allowed to get a work permit because of my HIV status – despite the fact that I will be working against the spread of HIV and to defeat stigma and discrimination and have an undetectable viral load, and that I will not be a liability to any government, since I am covered by a global medical insurance."

The full list of countries with travel restrictions can be viewed at: www.eatg.org/bivtravel/ or www.aidsbilfe.de.

Travel Restrictions and Discrimination

One of the most difficult obstacles to addressing the HIV pandemic is that of stigma and discrimination. The stigma associated with HIV and AIDS not only can make life for people living with HIV and AIDS more difficult; it also facilitates the further spread of HIV by making people afraid to seek testing because of the negative repercussions they will face from a positive diagnosis. Stigma and discrimination come in many forms and can include everything from being ostracized by communities or families to not being allowed to work in certain settings.

Stigma and discrimination have proven to be terrible barriers to effective care, support and treatment for people living with HIV and AIDS. The travel restrictions that many countries place on people living with HIV and AIDS are not only discriminatory by hindering positive people from travel to certain countries and affecting their work, livelihood and human rights, they perpetuate stigma and discrimination that lead people to hide their status and not seek the care they need.

As noted before, these discriminatory restrictions have no real public health basis. UNAIDS/International Office for Migration have stated:

HIV/AIDS should not be considered to be a condition that poses a threat to public health in relation to travel because, although it is infectious, the human immunodeficiency virus cannot be transmitted by the mere presence of a person with HIV in a country or by casual contact (through the air, or from common vehicles such as food or water). HIV is transmitted through specific behaviors which are almost always private. Prevention thus requires voluntary acts and cannot be imposed. Restrictive measures can in fact run counter to public health interests, since exclusion of HIV-infected non-nationals adds to the climate of stigma and discrimination against people living with HIV and AIDS, and may thus deter nationals and non-nationals alike from coming forward to utilize HIV prevention and care services. Moreover, restrictions against non-nationals living with HIV may create the misleading public impression that HIV/AIDS is a "foreign"

problem that can be controlled through measures such as border controls, rather than through sound public health education and other prevention methods.³

According to current international health regulations, the only disease which requires a certificate for international travel is yellow fever⁴. Therefore, any other travel restrictions based on suspected or real HIV status alone, including HIV screening of international travelers, are discriminatory and cannot be justified by public health concerns.

The International Covenant on Civil and Political Rights provides that “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks”.⁵ The right to privacy encompasses obligations to respect physical privacy, including the obligation to seek informed consent to HIV testing and privacy of information, and the need to respect confidentiality of all information relating to a person’s HIV status.

While there has been no compilation of data regarding the number of people affected by HIV-related travel restrictions, or the manner in which they are affected, there are many incidences of people being denied entry or having their visa revoked because of their HIV status, and of people who have hidden their status in order to travel.

Recent evidence also suggests that the restrictions in fact have a direct negative impact on individual health. According to a 2006 Brighton study, among HIV patients traveling to the USA without the waiver visa, nearly half did so with insufficient planning and advice. A significant minority stopped their medication in an unplanned manner and thus incurred the risk of developing drug resistance. The most striking - and worrying - finding of the Brighton study was the way people traveling to the US without an HIV waiver managed their drugs. Of the 83 respondents on HAART who traveled to the US, 10 (12.5%) stopped their drugs for the duration of their stay, five chose to take treatment interruptions prior to leaving for the States, and five had problems with mailing their drugs. Dr Duncan Churchill, co-author of the Brighton study said, “We found that people either stopped HAART themselves because of the trip to the States or they attempted to mail their drugs, which was often problematic.”⁶

Travel restrictions make travel and work very difficult for people living with HIV, and also affect migrant or asylum seeking populations. These restrictions strongly discourage individuals from getting tested for HIV or from being open about their HIV positive status. These laws must change if people living with HIV are receiving the care they need to live positive and productive lives and remain free from discrimination. It is quite evident that persons living with HIV pose no danger to the health and economy of any country.

3 UNAIDS/IOM (International Organization for Migration) Statement on HIV/AIDS-related Travel Restrictions, June 2004.

4 50 WHO International Health Regulations (1969).

5 Article 17 of the International Covenant on Civil and Political Rights.

6 Knowledge, attitudes and health outcomes in HIV-infected travelers to the USA; Brighton study Volume 7 Issue 5 Page 345-345, July 2006.

If you show

special attention to the man wearing fine clothes and say, “Here’s a good seat for you,” but say to the poor man, “You stand there” or “Sit on the floor by my feet,” have you not discriminated among yourselves and become judges with evil thoughts?

James 2:3-4 (New International Version)

What is being done/said so far

The Global Fund Developed Country NGO Delegation to the Global Fund Board, in its email sent to the Executive Director and Board Chair and Vice-Chair on 1 November 2007, stated that travel restrictions directly affect the implementation of the Global Fund's principle of partnership, and contradicts the Global Fund's support for non-stigmatizing, evidence-based interventions in the fight against the three diseases.

In 2004, the International AIDS Society and AIDS 2006 (Toronto) co-organizers recognized that application forms for Canadian visas required prospective visitors to Canada declare their HIV-positive status. The International AIDS Society together with Canadian partners, through a working group convened by the AIDS 2006 Toronto Local Host, engaged the Canadian government to remove the disclosure requirement. In 2005, the Canadian government amended this policy, permanently removing the requirement for short-term visa applicants to disclose their HIV status.

In 2008, UNAIDS set up an international task team to heighten attention to the issue of HIV-related travel restrictions (both short-term and long-term) on international and national agendas and move towards their elimination. The group includes representatives of governments, inter-governmental organizations, civil society groups, the private sector and networks of people living with HIV. "Travel restrictions based on HIV status again highlight the exceptionality of AIDS, especially short-term restrictions," said UNAIDS Executive Director Dr Peter Piot during the first task team meeting which was held in Geneva. The focus of the Task Team is to increase attention to the issue of HIV travel restrictions internationally, regionally and nationally. Their work aims to, where possible, influence governments that have HIV-related travel restrictions relating to entry and short-term stay to remove such restrictions, and spur longer term action to move towards the elimination of all HIV-specific travel restrictions.

At the United Nations High Level Review on AIDS, civil society organizations presented a letter to the UN missions and heads of state of countries that impose travel restrictions on people living with HIV demanding "urgent attention and leadership" in removing such restrictions.

What can you do?

Entry and residence regulations for people living with HIV and AIDS differ from country to country. This results in a high degree of insecurity. Relevant information is often difficult to obtain. Laws and their application are altered according to policy and prevailing trends, sometimes quite arbitrarily. Being able to stay in foreign countries without restriction is something more or less taken for granted by most peoples today – an important element of the quality of life in a mobile society⁷. Yet in the majority of the world's countries, people living with HIV are refused this right. The more vocal people across the world are in protesting these unfair and discriminatory laws, the faster they will change.

The EAA encourages people of faith, civil society and concerned global citizens to call on governments that have regulations that restrict people living with HIV from traveling into or through their countries to abolish restrictions on the entry

7 Quick Reference, 5th edition, foreword, page 3, authors: Peter Wiessner and Karl Lemmen, Deutsche AIDS Hilfe, Berlin, July 2006.

It is ironic that

for many years the headquarters of the United Nations has been located in a country that does not allow people with HIV to enter. We need to hold the UN and its member states to higher standards than this - we are trying to serve these countries, not to burden them. *UN+ Member.*

http://unplus.org/index.php?option=com_content&task=view&id=79&Itemid=73

http://unplus.org/index.php?option=com_content&task=view&id=79&Itemid=73

or stay in the country of people living with HIV and AIDS. There are a number of actions you can take within your community:

- **Raise awareness**

Many people are not aware that travel restrictions for people living with HIV even exist, much less the specifications of the laws in their respective countries. Start by finding out about the travel and visa restrictions of your country, and then do your best to educate your community. This can mean having a day at church where HIV travel and visa restrictions are discussed, or giving presentations in local schools or community centers. If allowed, you can also create flyers and posters with relevant information and post them in public spaces. You can download the talking points developed by the Civil Society Task Force at: <http://www.e-alliance.cb/media/media-7298.doc>

- **Reach out to media to cover the issue**

Media attention on travel restrictions will help raise the profile of the issue and draw the attention of government officials to address the matter. Have your church or organization make a statement or campaign on the issue that can be covered in the local media. Write opinion pieces for your local newspaper; arrange interviews at your local radio and TV stations to discuss the existence and impact of such discriminatory laws. You can also arrange a media briefing and encourage media to further investigate the story. Develop a media toolkit on HIV travel and visa restrictions to help journalists understand the issue and report it accurately. You can use and/or adapt this background paper on HIV-related travel restrictions.

- **Advocate with your government**

Create a letter writing campaign to officials in your government. You can advocate at all levels of government, from your local representatives all the way up the President or Prime Minister. As appropriate, organize prayer services promoting human rights and protests against these discriminatory laws. Work together with other religious communities, civil society organizations and networks of people living with HIV. Adopt resolutions in parish Councils and Assemblies. Make sure you let the media know about your plans.

- **Pressure the embassies of countries that have HIV-related travel laws**

Work together with other organizations and networks to advocate with the foreign embassies of countries that have HIV-related travel restrictions against people living with HIV. Arrange meetings with embassy officials, letters and petitions challenging their restrictive travel policy. Encourage your government to lobby their counterparts to address such discriminatory laws. If possible, arrange, together with officials from your government, public hearings and invite representatives of foreign embassies of countries with HIV-related travel restrictions.

- **Don't hold international conferences in countries with HIV-related travel restrictions**

Inform organizers of conferences you are invited to about the HIV-related travel restrictions of the host country and encourage them to raise this as an issue with the government – or even to change venue. If you are planning an international conference, consider choosing a country that doesn't have travel restrictions related to HIV and AIDS.

Further Reading

GNP + NA: US Travel Restriction on People Living with HIV/AIDS:
<http://www.gnpna.org/pages/aded.htm>

UN Plus: UN Plus statement on travel restrictions:
http://www.unplus.org/index.php?option=com_docman&task=doc_details&gid=23

International AIDS Society: IAS Policy Paper – Banning Entry of People Living with HIV/AIDS document at:
<http://80.80.232.228/Default.aspx?pageId=156>

European AIDS Treatment Group: Updated list of countries, collected by the German AIDS Federation, that have some sort of HIV-related travel restrictions:
<http://www.eatg.org/bivtravel/>

Global Health Council. End Restrictions on Travel to the U.S. by People Living with HIV. Policy Brief, November 2006:
http://www.globalhealth.org/images/pdf/publications/travel_ban.pdf

Gay Men's Health Crisis. HIV Immigration & Travel Bar:
http://www.gmbc.org/policy/federal/immigration_travel.html



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