of murder therefore abortionist and one who abets may be prosecuted.

Conclusion :

This is a deep rooted problem the removal of this practice in Indian society is a serious challenge. With political will, self regulation of medical practitioners, educating the police officers at S.I cadre, education campaigns, effective legal implementations and the attention of media we can remove the prejudices against the girl child.

THE PLIGHT OF HIV/AIDS PATIENTS AND REMEDIAL MEASURES

By

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All over the world and throughout India, HIV/AIDS have shown themselves capable of bringing out the best and the worst in people. They trigger the best when in solidarity individuals group together to combat denial and to offer support and care to individuals infected and affected by the epidemic[1].

They bring out the worst when people are stigmatized, ostracized and treated badly by their loved ones, their families and their communities. Such actions infrequently result in discrimination and the abuse of Human Rights. Recently Peter Pit, Executive Director of UNAIDS, has drawn attention to the ways in which HIV/AIDS related stigmatization and discrimination make prevention difficult by forcing the epidemic out of sight and underground. In a statement to the plenary of the world conference against racism held in Durban he observed, "HIV stigma comes form the powerful combination of shame and fear. Shame because the sex or drug injecting that transmit HIV are surrounded by taboo and moral judgment and fear because AIDS is relatively new and deadly disease responding to AIDS with blame or abuse for the people living with AIDS simply focuses the epidemic underground, creating the ideal conditions for HIV to spread. The only way of making progress against the epidemic is to replace shame with solidarity and fear with hope."

Sources of stigmatization and discrimination

To understand the way in which HIV/AIDS related stigma and discrimination appear and the contents in which they occur, we first need to understand how they interact with the pre–existing stigma and discrimination associated with sexuality, gender, race and poverty. HIV/AIDS related stigma and discrimination also interact with pre- existing fears about contagion and disease. Early AIDS metaphors as death, as horror, as punishment, as guilt, as shame, as otherness have exacerbated these fears, reinforcing and legitimizing stigmatization and discrimination[2].

HIV/AIDS related stigma and discrimination are not closely related to sexual stigma. It is also linked to gender related stigma. The impact of HIV/AIDS related stigma and discrimination on women reinforces pre-existing economic, Educational,

1. *Peter Aggleton, Richare Parkar, Mirima Malawe* (2001) stigma and discrimination and HIV/AIDS in the lation America.

2. *Richard Parkar* and *Peter Aggleton* (2002) HIV/AIDS related stigma and discrimination conceptual frame work an agenda for action.

Cultural and Social disadvantages and unequal access to information and services.

HIV/AIDS epidemic has developed during a period of raped globalization and growing polarization between rich and poor. New forms of social exclusion associated with these global changes have reinforced per-existing social inequalities and stigmatization of the poor, homeless, landless and jobless.

HIV/AIDS stigmatizes women and men in gender specific way there by compromising their Human Rights. Women tend to be blamed as vectors of the epidemic to their partners and children and HIV infection in women also serves to reinforce unequal sexual stereo types where by women are labeled "Promiscious" and morally unworthy. Societal ostracism for HIV positive women are caretakers of HIV positive people includes not being able to access water directly from the well that is shared by the whole village, loss of employment, public and in discriminate disclosure or other women in the family[3]. Vulnerable groups such as sex workers are subjected to further marginalization, public censure and abuse. The women and especially sex workers face greater personal stress and social isolation, as well as discrimination in accessing services such as health care, education, access to accommodation and in their enjoyment of other rights HIV/AIDS tends to be concerned with a few key issues[4]. The first discrimination of the grounds of HIV status in the fields of employment, Health Education, Housing.

Employment and work place context:

Discriminatory practices as pre-employment screening, denial of employment to individuals who test positive termination of employment of people living with HIV/AIDS and stigmatization of PLHAS who are open about their serostatus have been reported from developed and developing countries[5]. There have been reports of works refusing to work next to those with HIV or AIDS or those perceived to PLHAs. Schemes providing medical assistance and pensions to employees have come under increasing pressure in countries seriously effected by HIV/AIDS and some employees have used this as a reason to deny employment to PLHAs. Few companies have developed strategies to combat stigma and discrimination or defined their responsibilities. Toward employees with HIV/AIDS[6]. In South Africa constitutional Court explored the concept of medical fitness as a strategy to assess an HIV positive employee or applicant's qualification to work or continue to work[7] because HIV/AIDS is a progressive disease of the immune system, there are several stages in the course of an untreated HIV infection.

An HIV Positive teacher who was barred from the classroom and reassigned to an administrative position filed a discrimination action against the school. The Court weighed the hardships of the employee and the employer and held that the mere theoretical risk of transmission of HIV was insufficient to overcome the fact that the petitioner was still capable of teaching and denial of employment would amount to irresponsible harm[8].

In India HIV specific anti-discrimination judgments have primarily dealt with

3. UNIFEM (2000) community based Research. Gender discriminations of HIV/AIDS in India.
4. UNAIDS (2003) World AIDS campaign – a conceptual frame work and basic for action HIV/AIDS stigma and discrimination.
5. *Canadian specific Ltd. v. Canadian Human Rights Commission* 1990 and *specific western Air lines Ltd v. Peter Berterlson* 1989.
6. Bharat Shalini, India (2001) HIV and AIDS related discrimination stigmatization and denial UNAIDS-best practices key material.
7. *Jacques Charles Hoffman v. Suth Affrican Air Ways* (2000) Sept. 28th.
8. *Inear Chalk v. United States District Court Central District* 1987

employment in a land mark case in employment case *Mr. MX v. M/S.ZY and others*[9]. In this case the Bombay High Court held that it is arbitrary, unjust and unlawfull to dismiss a worker on the ground of having HIV/AIDS who is still qualified and fit to perform the requirements of the job and who does not pose a risk to others on the job. The Court has also acknowledged that mandatory pre-employment testing is not acceptable. This case is a protection of constitutional right (Article 21of the constitution)

Health Care Context:

There have been many reports from health Care settings of HIV testing with out consent breaches of confidentiality and denial of treatment and care Health care settings were a major source of discrimination and stigma, but these informants nearly always placed the greatest blame elsewhere.

In India, discrimination is particularly rampant in the Health Care sector. PLHAs are often refused treatment and surgery[10], denied admission to hospital and charged additionally for basic services. PLHAs have also been subject to mandatory preadmission testing and consequently stigmatized by having their hospital beds tagged with HIV Positive or being isolated in special wards with a lower quality of care[11].

Discrimination in health care is critical to address for a variety of reasons. most important the right to health is enshrined in most constitutions as an aspect of the right to life thus any barrier to equal access to health care that can be overcome must be dealt with by the state[12]. Several countries have polices and guidelines, which promote the health care workers 'duty of care' and prohibit discrimination of any kind against HIV Positive Patients[13]. One of the strategies many countries have used to Pre-empt discrimination in health care has been to mandate the use of universal precautions by all health care practitioners irrespective of the patient serostatus. This type of policy also culminates the need for mandatory testing before admission to a Hospital.

PLHAs: face discrimination in accessing public spaces and services and will often face travel and migration restrictions. They also face discrimination with in private spheres like homes and community spaces. Social rejection and ostracism are common experiences. PLHAs are often displaced from their homes owing to pressure form other family members and neighbour. Denial of property and inheritance rights renders many PLHAs and their survivors destitute, a discriminatory practice that many women living with HIV/AID face. Law may not be able to eliminate entirely the stigma associated with HIV/AIDS anti-discrimination legislation has the potential to influence societal attitude and encourage more sensitive approaches toward people with HIV/AIDS[14].

In India HIV specific anti- discrimination judgment has primarily dealt with health care. In case of *Lucy D'Souza v. State of Goa*[15]. The Court held that if a person tests positive for HIV, the Government may isolate such problem in the interests of health care.

9. AIR 1997 Bom. P.No.406.
10. This information is based on news reports and Aneedotal data collected
11. *North shore University Hospital v. Rosa*, 194 AD and 727 (New york Court of APP).
12. *Hill v. Community of Damien of Molokai*, 911 P 2d 861 and *Stewart B me Kinney found ine v. Town Plan and Zoning Commission,* 790F Supp. 197 "this is also true in terms o housing in the U.S. Discrimination in access to housing for PLHAS has been found to be a violation of the right to life.
13. *Bragdon v. Abbptt*, 118 S.ET. 2196 extended the duty to treat HIV – Positive patients to private clinics as well as public Hospitals.
14. Lawyers collective HIV/AIDS unit 2007 legislating an epidemic Universal Law Publications, India.
15. AIR 1990 Bom. P. No.355.

The individual's right to liberty must be balanced against the public interest. However, it has also been held that every doctor whether at a Government Hospital or private Hospital has the professional obligation to extend his services with due expertise for protecting life without discrimination.

This is a fundamental principle of health care included in the I.M.C Regulations Act 2002. This act says' No physician shall arbitrarily refuse treatment to a patient', except for good reason, and in the case of an epidemic.

Family and Community Context:

The family is the main source of care and support for people living with HIV/ AIDS in most developing countries. However, negative family responses are common. Infected individuals often experience stigma and discrimination in the home and women are often more likely to be badly treated than men or children. Negative community and family response to women with HIV/AIDS include blame, rejection, and loss of children and home. Since HIV/AIDS related stigma discrimination reinforce and interact with pre-existing stigma and discrimination a family may reject PLHAs not only because of their HIV status but also because HIV/AIDS is associated with promiscuity, homosexuality, and drug abuse.

In many cases HIV/AIDS related stigma and discrimination has been extended to families, neighbors and families of PLHAs. The secondary stigmatization and discrimination has played an important role in creating and reinforcing social isolation of those effected by the epidemic such as the children and partners of PLHAs.

In societies with cultural system that place greater emphasis on individualism, HIV/ AIDS may be perceived as the result of personal irresponsibility and thus individuals are blamed for contracting the infection. In contrast in societies where cultural system place greater emphasis on collectivism, HIV/ AIDS may be perceived as bringing shame on the family and Community.

HIV/AIDS related stigma and discrimination in families and Communities is commonly manifested in the form of blame, scapegoating, and punishment. Communities shun or gossip about those perceived to have HIV or AIDS. In more extreme cases it has taken the form of violence.

Article 15 of the Indian constitution elaborates on the principle of equality enunciated in Article 14 by prohibiting discrimination on the grounds of religion, race, sex, cast or place of birth. Similarly Article 16 provides for equality of opportunity in public employment. Aside from these provisions in the constitution both the equal remuneration Act and the people with disabilities Act give effect to the mandate of Article 14.

Proposed steps for reducing stigma and discrimination:

1. Organize stigma and discrimination reduction work shops in our offices and promote awareness of the ILO work place policy on HIV/AIDS. The most effective work shops include people living with HIV/AIDS.
2. Support the establishment of an association of employees living with HIV/AIDS.
3. Use tools to measure stigma discrimination, such as the PLHAs stigma index, to know our epidemic and response in terms of the harmful impact that stigma discrimination are having on the HIV response and need to address them in national response.
4. Promote Laws supporting the rights of people living with HIV/AIDS and legal measures against domestic violence, which can be a consequence of HIV stigma. Enforcement of existing Laws is also critical.

5. Promote meaningful participation of people living with HIV, as well as legal, Human Rights and other groups in planning and policy making processes related to sigma and discrimination reduction.

6. Promote stigma and discrimination reduction efforts not only in health, but in education, justice, and other areas.

7. Facilitate the incorporation of sigma discrimination reduction activities in to funding proposals (Eg: Support work shops on proposal - writing for stigma and discrimination reduction and or provide guidelines/suggestion for incorporating stigma and discrimination reduction in to proposals)

8. Facilitate international technical support, and cultivate domestic technical support, to assist implementing partners in designing, implementing and evaluating stigma and discrimination reduction programmes.

Recommendations:

(a) All persons have the Right to equality and enjoy the equal protection of laws.

(b) Discrimination against PLHAs in the health care sector represents a direct threat to their right to life and legislative protection against such discrimination in public and private institutions should be introduced .

(c) An employee, worker or pupil can not be dismissed, removed, terminated or denied simply in the basis of HIV status.

(d) No person should be discriminated against in accessing employment health education and other service based on their HIV status.

Conclusions:

The above are not the only setting in which HIV/AIDS related stigmatization and discrimination take place. It should be clear that responses in one setting (health care setting) may have consequences for the way in which people react to others (at the employment and the work place or in the family and community) we need to examine more closely the fields in which stigmatization occurs, the forms that HIV/AIDS related discrimination takes, individual, social and institutional determinants and the responses which give use to stigmatization.

Only by understanding more about such processes will it be possible to develop the kind of programs and interventions that will be success full in preventing HIV/AIDS related stigma and its negative consequences.

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