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Gay and
Lesbian Legal
Issues and
HIV/AIDS

A Matter of Justice

This info sheet shows how gay men and lesbians deserve to be treated with equal respect, as a matter of justice, but also because in the context of HIV/AIDS, this would help reduce the spread of HIV and allow us to better care for those with HIV/AIDS.

This is one of a series of nine info sheets on
Gay and Lesbian Legal Issues and HIV/AIDS.

A History of Discrimination (Info Sheet 1)
The Links Between HIV/AIDS and Homophobia (Info Sheet 2)
Gay Men, Lesbians, and the Law (Info Sheets 3 and 4)
Impact of Stigma and Discrimination (Info Sheets 5, 6, 7 and 8)
A Matter of Justice (Info Sheet 9)


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A Universal, Concerted Effort

When it comes to preventing transmission of HIV, a universal, concerted effort is required. The relationship between the HIV epidemic among men who have sex with men and discrimination against gay men, bisexuals, and lesbians at the societal, programmatic, and personal levels has made this abundantly clear.

HIV Is Transmitted Because

HIV is transmitted among men who have sex with men not just because of unsafe sex. It is transmitted because homosexual or bisexual identity is not acknowledged, permitted, and supported as a natural development of human personality. It is transmitted because families, communities, and society tolerate or support, implicitly or explicitly, aggression, abuse, and violence against gay men and lesbians. It is transmitted because schools have failed to provide appropriate education and to cultivate supportive environments for gay and bisexual youth. It is transmitted because health-care providers and researchers have failed, because of insufficient awareness and inappropriate assumptions, to ask the right questions. It is transmitted because governments have been slow publicly to support programs directed specifically to men who have sex with men, and because politicians continue to attack the programs that currently exist.

The Importance of Protection

Preventing the transmission of HIV is complex. It is not simply a matter of knowledge, attitudes, and behaviours, important as correct knowledge, sustained motivation and, ultimately, safe behaviours are. Preventing the transmission of HIV is also about creating the environments in which people are free to acknowledge their sexual identity, to seek information and obtain information, to experience the support of peers and role models, to receive services that are appropriate to (rather than exclude) their experiences, to see themselves written into (rather than out of) culture, knowledge, and society. For gay and bisexual men and for lesbians, preventing HIV transmission requires preventing and eliminating discrimination based on sexual orientation, as called for by the International Guidelines on HIV/AIDS and Human Rights:

Anti-discrimination and protective laws should be enacted to reduce human rights violations against men having sex with men, including in the context of HIV/AIDS, in order, *inter alia*, to reduce the vulnerability of men who have sex with men to infection by HIV and to the impact of HIV/AIDS. These measures should include providing penalties for vilification of people who engage in same-sex relationships, giving legal recognition to same-sex marriages and/or relationships and governing such relationships with consistent property, divorce and inheritance provisions. The age of consent to sex and marriage should be consistent for heterosexual and homosexual relationships. Laws and police practices relating to assaults against men who have sex with men should be reviewed to ensure that adequate legal protection is given in these situations.

The Importance of Supportive Environments

In addition, there is a need for education, training, and programming that will change discriminatory attitudes in the community, at school, in the workplace, among professionals, and in research, in order to create environments that will decrease the risks to health, including HIV infection, among people who are not heterosexual, and that will support gay men, bisexuals, and lesbians with HIV/AIDS.

The fight against discrimination and for respect of the dignity of all people needs to be treated as seriously as science, medicine, and public health.

No Quick Fix

There is no quick fix or easy answer to the many problems raised by HIV/AIDS. While the impact on human rights cannot be the only consideration in designing public health policy, the fight against discrimination and for respect of the dignity of all people must be treated “as seriously as science, medicine, and public health,” recognizing that HIV and AIDS have disproportionately affected vulnerable populations, including gay men, at least in part because of their vulnerability and the discrimination they have been subjected to.

Prevention campaigns, public health measures, and the other interventions that have been undertaken to reduce the spread of HIV have been and continue to be important, but they often do not address the underlying problems that cause vulnerability to HIV. We must address these problems. Sometimes, this requires only minor changes in laws. Sometimes, it requires changes in attitudes that can only be achieved in the longer term. In all cases, it requires a commitment to fight HIV/AIDS, rather than the people most affected by it and their behaviours, and to fight bigotry and prejudice in society. It also requires recognition of the fact that discrimination, although it has diminished and although certain rights have been extended to gay men and lesbians, remains pervasive and that gay men and lesbians deserve to be treated with equal respect as a matter of justice and, in the context of HIV/AIDS, because this would help reduce the spread of HIV and allow us to better care for those with HIV/AIDS.

The information in this series of info sheets is taken from *Gay and Lesbian Legal Issues and HIV/AIDS: Final Report*, prepared by John Fisher, Ralf Jürgens, Anne Vassal and Robert Hughes for the Canadian HIV/AIDS Legal Network and the Canadian AIDS Society. Copies of the report and info sheets are available on the Network website at www.aidslaw.ca or through the Canadian HIV/AIDS Clearinghouse (tel: 613 725-3434, email: aids/sida@cpha.ca). Reproduction of this info sheet is encouraged. However, copies may not be sold, and the Canadian HIV/AIDS Legal Network must be cited as the source of this information. For further information, contact the Network (tel: 514 397-6828; fax: 514 397-8570; email: info@aidslaw.ca). **Ce feuillet d'information est également disponible en français.**

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