



Aids and Education ---A Legal Perspective

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Abstract:

The public schools play a central role in the debate over AIDS , The ability of students to attend school , the rights of teachers to continue teaching , and the role of schools in providing education to help stem the tide of new infection are all sources of controversy. Emotions run high when parents suspect that their children might be physically endangered or believe that they will be exposed to information that may undermine the parents beliefs and preference Education can be thought of as social vaccine for HIV/ AIDS. Its role in prevention and treatment of the disease can be there in many parts. This paper analyses many salient features related to educational policies.

Key words: School, Teacher, Parents, education

Introduction

Education is a fundamental right being essential prerequisite for exercise of most of the other human rights such as the right to vote on right to free speech. It is a powerful tool which ensures that those who are marginalized in society can live with honor and participate as citizens. It is a right which should be denied to none and provided equitably to all. In the context of HIV/AIDS education is even more important as the persons affected are mostly of lower uneducated strata of society.

It reduces discrimination against HIV positive children and adolescents which can end in additional drop out from schools. In many countries of Latin America, people with secondary education were found to be nearly 50%more tolerant towards HIV positive persons than those with only primary education.

According to global monitoring reports, educating girls saves especially by ameliorating HIV prevention¹ and care.

Young women account for more than 60%of young people living with AIDS. Educating young women reduces risk of infection by ensuring that they can demand then sexual and reproductive rights. Infect, they are more likely to know how HIV is transmitted and that usage of condom can reduce the risk of transmission.

Constitutional Rights

Individual constitutionally based rights with respect to participation in public education are not finally established. Although the united states supreme court has recognized in many cases that across to public education is of crucial importance for children, the court or refuses in San Antonio School District v Rodriguez to recognize such access as a fundamental right under the fourteenth amendment .In that case it rejected a challenge to school financing schemes that resulted in some school districts being better funded than others due to disparate property taxes.



Statutory rights

While the federal and state constitutions may provide a source of authority with regard to school attendance by children with the AIDS, statutory protections are more likely to be invoked successfully in particular cases, the two principal sources of statutory authority are discrimination on the federal and state levels and specific laws dealing with the education rights of disabled children'. In addition, public health laws in many states may limit school attendance by children with contagious conditions , although these may be preempted by the positive rights accorded by federal law.

Public school education on aids

Sexual activity and intravenous drug use by teenagers have been recognized as major potential sources of HIV transmission . Because symptomatic may take many years after initial infection to develop , most AIDS cases among young adults are probably due to HIV infection resulting from teen activities . consequently , public health officials have recommended that AIDS education be incorporated into the curriculums of elementary and secondary schools.

Factors for design of curricula.

1. The children orphaned by AIDS have emotional and psychological effects. Orphaned children drop out earlier than the no orphaned as the lack of resources due to the absence of parents becomes as constraint².
2. Quality and consistency of attendance need to be monitored. Schooling involves increase in stigma factor in the classroom. These are

again related to increase in school fee and escalation of stigma factor.

3. A strong general foundation in formal education serves as protective barrier to HIV infection. There is a negative correlation between HIV susceptibility and educational attainment.
4. The dominant explanation for the above correlation is that epidemic advances and people gain knowledge as well as skills , the more educated people are in better position to change the social behavior towards hiv.
5. T. Boler and A.Jellnane (2005)in *Deadly inertia; Across country survey of educational responses to HIV aids* have studied the problem of children's education in the control of epidemic , Boler and carrol have done work on *Addressing the educational needs of orphans and vulnerable children*⁶. In theses texts the approach is that unless a special pattern as done taking care of these children, the epidemic will continue to harass the society right from the bud level.
6. Concepts of safeguards are yet another landmark thought. The schools should not only teach, but the care of children and their protection from assaults of physical variety must also be included in proper design of educational pattern.
7. Alcohol and substance abuse are related to high risk sexual behavior. Moral teaching on abstinence and scientific notion of safe practices must also be part of the ideal patter



8 'Education on PEP (post exposure prophylaxis) which covers treatment given to exposed HIV infection by rape or injury must be covered. The benefits of circumcision as a means of reduction of the possibilities of contract by HIV/AIDS need to be emphasized so that the impeding factors are reduced.

9 Sign language , Braille and appropriate means must be provided to already disabled persons as they are prone to being affected through mischievous elements already

If all the issues discussed are covered and proper education at all levels are liberally imparted, there is no reason to doubt that the epidemic can be covered by the social vaccine of education more than any other vaccine.

Education is the singularly important factor which awakens the child to cultural values, prepares the youngsters for professional training and helps them to adjust to environment. In the famous case of against. Board of education (1954) the problem of disabilities was addressed. The seminal decision out flowed The discrimination notion. Separate educational pattern was planned for the disabled children , UN convention on rights of person with disability (2006) covers the disabled /disadvantaged fraction of society in general .hiv/aids can be treated as a special part of such deliberations³. The right to inclusive education must also cover the possibilities of sexual assault in advance women schools. It may be noted that the victims do not have any choice of the type of sexual intercourse they are subjected to. This is in itself an important factor for transmission of the virus. As far the governments of state and local

Municipal Corporation are concerned, education the most important responsibility. As such all the factors and parameters must be taken into consideration in preparing the curricula.³

Benefits of Integrated Education

Integrated education implies compulsory education for children increasing awareness of sex workers, drugs uses MSM cases and public at large regarding the epidemic. This also includes the persons attending the cases and the persons involved at home with the patients.

Schooling and ensure all the children have access to school is essential in communication of knowledge regarding HIV/AIDS.

Curricula must be better designed to impart education regarding the disease. The issues of comprehensive sex education, with awareness of youth friendly health services must be part of the programmed. Linkage between educations, health environment will surely help all the youngsters. The basic approach is to promote understanding and eliminate negative stigma. In

"Do not stop dreaming" by R.Tonel, issues of fear hysteria have been found to be dominant factors. How compassion and understanding have been thrown to way side has been discussed. These anecdotal points are part of integrated education.

Tenets of education policy

1. Build a data base
2. Review life skills/education curriculum.
3. Address needs of growing population



including learners.

4. Safeguard health and well being of learners /education sector personnel.
5. Provide and nondiscriminatory workplace.
6. Strengthen coordination all educated related HIV/AIDS propoganda.
7. At all levels including alternative adult and containing education, these parities must be carried out.

There is a disproportionate incidence of the disease in poor, uneducated women and children's; particularly orphaned the overwhelming burden is taken by poor countries making it evident that it is education that really matters. In this context, some of the following factors merit it further study and analysis.

1 .Augmented vulnerability

In many affected cases, the individuals are denied the right to freedom of association and access to information. Younger women are particularly deprived so that their capacity to negotiate in the matter of sexual activity is acutely undermined.

2. Stigmatization and discrimination

These factors obstruct the access to treatment affecting even employment, living and exercise of other rights. There also prevent the affected people from getting the advantage of health care facilities; there by the most needs are the persons who are denied facilities.

3 .Curtailment of effective response.

The probable cases of drug users, sex workers MSM^c variety effectively go underground, The fear of discrimination or harassment in the background of lack of education further worsens the situation.

It is worth noting that protection and promotion of human rights mitigate the social and economic impact of the pandemic. The vulnerability of HIV infected is reduced, adverse impact is lessened. Moreover, individuals and communities have greater ability to respond. The comprehensive policies need to cover cultural, social, economic, political aspects according to the international standards.

HIV and aids education in schools

The most common place for people to learn about HIV and aids is at school due to their a capacity and universality , schools area a crucial setting for educating young people about AIDS. As young people are at a high risk of becoming infected with HIV, It is vital that there are educated about hiv transmission before they are exposed to situations that put them at a risk of HIV infection . schools play a major role in shaping the attitudes ,opinions and behavior of young people and so are ideal environment for teaching the social as well as the biological aspects of HIV and AIDS

Members of the wider community can also increase their knowledge about HIV and AIDS through the school environment. Teachers who expand their understanding of the subject while planning lessons and receiving teacher training can pass this information on to adults as well as pupils and the same can



be said for children themselves once information about AIDS , they can tell' their parents or their friends what they have learned⁴.

HIV and AIDS Education in the workplace

Educating people of work is an important way of providing with vital prevention previously missed out on HIV and AIDS education . Furthermore, it is estimated that nine out of ten people living with HIV are working ,providing education in the work place in important for protecting those at work living with hiv, and for helping them to live healthy and stay in work.

Some occupations carry an increased risk of HIV infection making HIV and AIDS education in the workplace even more important for preventing the spread of the virus. Health care workers may be at higher risk of HIV transmission , for example from needles and other medical treatment while at work . HIV and AIDS education needs to be a priority in such environments, to ensure that health care workers take precautions that will "protect them from HIV infection."⁵

Some people may be more vulnerable to HIV and AIDS because of the life style of their work ,for example workers also who spend time away from home may be more involved in risky sexual behavior than those who spend the majority of the time at home with their families.

The international labour organization (ILO)works through the world on HIV/AIDS policies and programmes in the work place. The organization aims to protect against discrimination in labour laws . promote prevention initiatives within the work place , and supports those living with HIV by ensuring access

to social protection, treatment and care. However, work place HIV and AIDS education is not universal and as a result ,people are still unaware of the dangers of HIV .and those living with the virus are still subject to HIV related stigma and discrimination at work.

Several cases of discrimination in the workplace were noted in the following

- a) Badan Singh vs union of India (2002) – Delhi high court¹⁰¹⁻¹⁰⁶.
- b) Case against state bank of India (2002) Bombay high court.
- c) Case against New India Assurance co (2004) Bombay high court.
- d) Case against The chairman, state level 2006 police recruitment board & others.

E) South Indian inhabitant of number vs director general of polices, CISF & others (2004)Bombay high court

Education for all handicapped children

The education for all handicapped children act of 1975 (EACHA) conditions federal financial assistance to state and local education programs upon provision of a" free appropriate public education "to all disabled children within their jurisdictions .As described by the united states supreme court in Hoing v Deo the EACHA seeks to achieve this result by requiring the devising of an individualised education program for each disabled children ,children are considered disabled if they are mentally retarded , hard of bearing ,deaf speech or language impaired ,or have other health or learning impairments that require special education or related services if they are to obtain to education.⁶



The individualized educational program should be tailored to provide education inspite of the disability and a strong policy of "mainstreaming" is central to the EACHA .This means that disabled children are to be integrated into the regular school programs if it is possible do so without significantly disrupting the program for non-disclosure students or creating significant risks to such students.

The initial point of litigation under the EACHA concerns the question of whether children with aids are handicapped AIDS IN Deo v Belliveli Public School District No 118, a federal district cour tis illinois held that the answer depends upon the physical condition of the individual child .The court further held that no per se determination can be made since the particularised definition in the EACHA requires not only health impairment but also taht a child be capable of attending school only with special education or related services .the court also took the view that only a child whose physical capacities render him or her unable to participate in a regular classroom is to be considered handicapped

Rehabilitation act

The rehabilitation act of 1973applies to all virtually a; public school programs due to the widespread federal financial assistance given to public schools ,almost all public schools receive federal assistance through a variety of programs , including school lunch programs ,direct payments , to cover the cost s of education' dependants of military personnel , assistance to libraries and science programs , and early childhood

education grants. Taking note of the vast infusion of federal funds ino public school systems the lower federal courts have ruled that the employment policies of a school district are subject to the Rehabilitation Act even if the federal assistance upon which jurisdiction' is premised has no direct relation 'to the teacher pay roll.⁷

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Funding of AIDS education has been further complicated by amendments attached to federal appropriations measures at the insistence of conservative legislators that mandate that no federal funds are to be used that might " promote homosexuality" .the CDC reacting to this legislation has adopted regulations that prohibit federal funds from being spent on AIDS education materials that might be found offensive by some members of the community ,even if the matrialsare not targeted to those who might be offended,

The clash of strong constitutional values guarantees that the area of AIDS education will continue to see controversy and litigation. Among the



interests implicated are free exercise of religion, .parental privacy rights with regard to the education of their children ,freedom from censorship of speech , and state police powers in the area of public health . reconciling these interests in a contentious atmosphere of strongly held beliefs will be a difficult task for the courts and will bring into tight conflict the traditional authority of government to act for the general welfare and the never body of individual rights that has marked constitutional law development over the past forty years.

Conclusion

Policies of appropriate education must be adapted to the situation. What was taboo some years back has become accepted. From all angles of education, it is seen that awareness it arouses cannot be compared to any other mechanism,. It is the duty of the governments to make the public conscious of the damages, possibilities of mitigation and probability of extermination of the vile pandemic.

End Notes

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