

Conflicts in Rights of Disclosure of HIV Status in South Western Nigeria: the Health Care Provider's Perspective

Adebimpe Wasiu Olalekan

Department of Community Medicine, College of Health Sciences, Osun State University Osogbo Nigeria

Corresponding author: Adebimpe Wasiu Olalekan, MD. Department of Community Medicine, College of Health Sciences, Osun State University Osogbo. PMB 4494 Osogbo Nigeria

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SUMMARY

Introduction: Close interaction between clients and health care workers as regards disclosure, refusal of treatment and right to know status has been a subject of debate in legal and medical quarters. **The objective** of this study was to assess perceived rights of health care workers towards disclosure of HIV status in Lagos State in Southwestern Nigeria. **Methods:** This was a descriptive cross sectional study carried out among 260 health care workers using multistage sampling technique. Research instruments were semi structured self administered and pre tested questionnaires. Data was analyzed using the SPSS softwares. **Results:** Mean age of respondents was 39.3(+3.7) years. One hundred and eight four (70.8%) of the health workers studied said that it is the right of health care workers to know the HIV status of clients before commencement of treatments, and 36 (13.8%) agreed that health care workers have the right to refuse to treat or carry out procedure on known HIV positive clients. Twenty (7.7%) said that HIV positive health care workers should not be allowed to handle clients clinically, 72 (27.7%) believed that it is the right of HIV positive clients to know the HIV status of health care workers before attending to them, 36 (13.8%) of respondents has ever disclosed their HIV status to clients before carrying out procedures on them. Fifty six (21.5%) of respondents were willing to show their result results to a HIV positive clients who insist on knowing his or her HIV status, 84 (32.3%) believed that clients has the right to refuse a known HIV positive health care workers to treat or carry out some procedures. **Discussion:** There was no statistically significant association between readiness to disclose HIV status and believing that health care workers have the right to know the status of clients before given them treatment ($P < 0.05$). **Conclusion:** The need to balance out perceived rights of health care workers and clients would assist in provision of quality services to HIV positive clients.

Key words: Rights, stigma and discrimination, conflicts, health care workers.

1. INTRODUCTION

The scourge of HIV/AIDS infection has assumed occupational dimensions that may be regarded as another face of stigma and discrimination, even from the health sector. Clients with HIV often encounter a number of barriers when trying to access treatment, such as negative attitudes of health care providers and long waits at health care facilities. They often experience mistreatment and harassment in seeking delivery services in health facilities.

The government of Nigeria has the mandate to guarantee the fundamental human rights of her citizens including the right to health; the right to privacy and informed consent; the right to be free from torture and cruelty, inhuman or degrading treatment; the right to life, liberty and security of person; the right to dignity; the rights to non-discrimination, equal protection, and equality before the law; and the right to information (1). How well government has been able to do this leaves a lot to be determined.

Stigma and discrimination triggered by HIV and AIDS

epidemic could lead to significant human rights violations for persons living with HIV/AIDS (2). Stemming from fear of contracting HIV infection, discrimination adds to the daily struggles faced by the growing number of people living with HIV/AIDS in many parts of the world. Thus individuals living with HIV/AIDS need to know their rights and need to advocate for themselves whenever their rights are threatened. Situation is worsened by harms of a weak health care system, which does not respect patients' rights. In the early days of the epidemic, physicians who carry out seriously invasive procedures claim the "right to know" whether or not their patients are infected with HIV, including the right to screen patients for the virus (3). Conversely, patients undergoing seriously invasive procedures claim the right to know if their physician is infected with HIV. One could argue that a patient has exactly such a right-to-know on the general grounds of informed consent; that is, the patient is entitled to information not only about the risks of specific tests or treatments but about other dimensions

of health care that might also pose risks (4).

In 1991, the American Center for Disease Control (CDC) recommended that health care workers (HCWs) infected with HIV should be reviewed by an expert panel and should inform patients of their serologic status before engaging clients in invasive procedures (5). Despite studies confirming an infinitesimal level of risk of transmission from infected health care workers to clients, HIV infection alone may not justify restricting any health care worker's professional duties, regardless of the procedures performed as recommended by the CDC (5).

Health care workers may conceal their positive HIV status for the same fear of stigma and discrimination (6). The issues surrounding the management of the HIV-infected health care providers are complex and are made more difficult by the lack of relevant data and court precedents. The magnitude of risk of HIV transmission from health care provider to patient is still un-documented. Therefore, the questions raised regarding such risk cannot be answered by factual evidence at this time.

Many issues of litigations are however better left to the discretion of competent courts for interpretation so that the rights of both clients and health care providers would not be infringed upon. The objective of this study was to assess perceived rights of HIV positive clients and health care workers towards HIV status disclosure and service provision in Lagos State in Southwestern Nigeria.

2. METHODS

This is a descriptive cross sectional study to assess perceived rights of HIV positive clients and health care workers towards HIV status disclosure and service provision in Lagos in Southwestern Nigeria. Lagos was the former capital of Nigeria, mostly urbanized and with a prevalence rate of about 4% which is still around the average for Nigeria (7).

There were numerous health facilities in the state providing treatment, care and support to HIV positive clients, at various points within the hospital. Facilities with full services were usually being referred to as comprehensive sites, while stand alone sites provide some specific services usually through referral and tracking systems already in place. Eligible respondents were health care workers giving care to HIV positive clients, and at least for about one year.

Multi-stage sampling technique was adopted. Two of the three senatorial districts in the state were chosen by simple random sampling using simple balloting. In stage II, from an average of ten facilities per district, five facilities giving HIV care were chosen at random. In stage three, doctors and nurses were conveniently selected for this study among the list of cadres of hospital workers, and because they frequently come in contact with HIV positive clients, and even clients of unknown status. These include eligible health care workers within the facility including from referral units involved in HIV care such as voluntary counseling and testing (VCT) clinic, ART clinic, tuberculosis clinics, and prevention of mother to child transmission clinics.

Using the formular for calculation of sample size for population less than 10,000, a total of 260 health care workers were recruited into the study using a knowledge prevalence figure of 0.5 (8). Research instruments were semi

structured, self administered pre tested questionnaires divided into four sections, and administered by three trained assistants over a period of twelve visits. Eligible health care staffs on outside posting, core administrative and management staffs, interns and staffs that have spent less than one year in service were excluded from this study.

Study variables include background data about respondents, perceived rights of clients towards health care provider and vice versa as regards service provision and disclosure of HIV status. Data was analyzed using the SPSS software 13.0 after sorting out the questionnaires. Consistency of data entered was done by double entry and random checking. Data was presented in forms of frequency tables, while association between categorical variable was determined at a significant level of $p \leq 0.05$.

3. RESULTS

Table 1 shows that thirty six (13.8%) of respondents were in the age group of 20-29 years while 96 (37.0%) are in the age group of 30-39 years. Mean age of respondents was 39.3 (± 3.7) years, 52 (20.0%) were males, 208 (80.0%) respondents are married while 48 (18.5%) are single. Sixty eight (26.2%) are Doctors while 192 (73.8%) are Nurses by profession.

Table II shows that two hundred and forty eight (95.4%) of respondents had given care to HIV positive clients before.

Personal data	Frequency	Percentage
Age		
20-29		
30-39	36	13.8
40-49	96	37.0
50 and above	92	35.4
Sex	36	13.8
Male	52	20.0
Female	208	80.0
Marital status	208	80.0
Married	48	18.5
Single	4	1.5
others	68	26.2
Designation	192	73.8
Doctor		
Nurse		

Table 1. Socio-demographic Characteristics of Respondents

About 216 (83.1%) think they could be infected when caring for an HIV positive client. While 224 (86.2%) thinks that it is necessary to screen all clients for HIV before care, 252 (96.9%) think that universal precautionary measures should be taken on all clients. One hundred and eight four (70.8%) of the health workers studied believed that it is the right of health care workers to know the HIV status of clients before commencement of treatments, 36 (13.8%) agreed that health care workers have the right to refuse to treat or carry out procedure on HIV positive clients, 188 (72.3%) agreed that HIV positive clients could infect others including other clients.

Twenty (7.7%) believed that HIV positive health care workers should not be allowed to handle clients clinically, 72 (27.7%) believed that it is the right of HIV positive clients to know the HIV status of health care workers before attending to them, 36 (13.8%) of respondents has ever disclosed their HIV status to clients before carrying out procedures

on them. A majority of respondents believed that HIV positive clients have the right to life, right not to be stigmatized against and the right to mix and freely associate with other people.

About 157 (60.3%) of respondents knew his or her HIV status, fifty six (21.5%) of respondents were willing to show a HIV positive clients who insist on knowing health care worker's HIV status, 84 (32.3%) believed that clients have the right to refuse a known HIV positive health care workers to treat or carry out some procedures while 44 (24.6%) are now willing to always discuss and disclose his or her HIV status with clients. There was no statistically significant association between readiness to disclose HIV status and believe that health care workers have the right to know the status of clients before giving them treatment ($p=0.02$).

Right's variables	Frequency	Percentage
Had given care to an HIV positive before		
Think could be infected by these clients		
Thinks it is necessary to screen all clients before care		
Thinks preventive measures should always be taken	248	95.4
It is the right of HCWs to know HIV status of clients before commencing treatments	216	83.1
Agreed that HCWs have the right to refuse treat or carry out a procedure on a client if client is found positive	224	86.2
Agree that HIV positive clients could infect others including clients	252	96.9
HIV positive health care workers should not be allowed to handle clients clinically	184	70.8
It is the right of HIV positive client to know HIV status of HCWs before they attend to them	36	13.8
Has ever disclosed HIV status before carrying out procedures	188	72.3
HIV positive clients has a right to life	20	7.7
HIV positive clients has a right not to be stigmatized	72	27.7
HIV positive clients have the right to associate freely and mix with people	36	13.8
HCWs know his or her HIV status	240	92.3
Respondents is willing to show a HIV positive clients who insist on knowing HCWs HIV status	212	81.5
Clients has the right to refuse a known HIV positive HCWs to treat or handle their procedures	224	86.2
Now ready to be always discuss and disclose his status with clients	157	60.3
	56	21.5
	84	32.3
	44	24.6

Table 2. Perceived Rights of Clients and Health Care Workers

4. DISCUSSION

Most respondents in this study had been involved in care for HIV positive clients. Majority however believed that they could be infected by caring for an HIV positive client. This findings supports another study in which HIV/AIDs was found to be increasingly being viewed as an occupational transmitted disease for physicians despite the evidence that human immunodeficiency virus (HIV) is exceedingly hard to transmit in health care (1). In another study, health staffs are worried about occupational exposure, and they often have high levels of anxiety and fear when dealing with HIV-positive persons (9). Some physicians may overestimate their risk exposure and so become overly cautious in low or no-risk situations (10).

Four fifth of respondents in this study thinks that it was necessary to screen all clients for HIV before care, The main reason for this could be to ascertain the HIV status of clients with a view to prevent cross infections. This brings the ethical issue of compliance, with the principle of informed consent after voluntary confidential counseling and testing to limelight. Some hospitals, irrespective of what the law may permit, already screened their patients without specific informed consent (3).³

HIV/AIDS is a syndrome of grave magnitude, and HIV infection in a client or a health worker may be a risk source to clients being taken care of and other clients. The possibility of such infection led in the first instance to widespread discussion about the desirability and even perhaps the moral obligation to test all patients as they entered health-care settings, in order to allow health workers to exercise exposure - avoidance measures in the care of patients whether infected or not.

Almost all respondents in this study however believed that universal preventive measures should be taken on all clients. This is important as a result of common knowledge of the HIV window period, and that a significant percentage of clients may take longer time to seroconvert and should

not be taken as truly negative until proven otherwise. Apart from HIV, some other infections may be contracted from clients by health workers contact with bodily fluid of clients.

About three quarter of the health workers studied believed that it is the right of health care workers to know the HIV status of clients before commencement of treatments, about one tenth agreed that health care workers have the right to refuse to treat or carry out procedure on HIV positive clients. In a similar supportive study, physicians who carry out seriously invasive procedures claim the "right to know" whether their patients are infected with HIV, including the right to screen patients for the virus (3). Another study in Tanzania documented a wide range of discriminatory and stigmatizing practices, and categorized them broadly into neglect, differential treatment, denial of care, testing and disclosing HIV status without consent, and verbal abuse/gossip (11).

About three quarter agreed that HIV positive clients could infect others including clients. However only a little less than two thirds studied respondents knew his or her HIV status. Very few of studied respondents believed that HIV positive health care workers should not be allowed to handle clients clinically, about one quarter believed that it is the right of clients to know the HIV status of health care workers before attending to them, while majority also believed that clients also has the right to refuse a known HIV positive health care workers to treat or carry out some procedures. This finding supports a study in which patients undergoing seriously invasive procedures claim the right to know if their physician is infected with HIV (4). The claims and counterclaims by clients and health care workers, of right of rights to know each others status and right to be screened may have a lot of implications for the health system. Litigations are bound to arise which in this country takes time to get resolved and ultimately make clients to suffer more in accessing care. In addition, doctor-patient

relationship for example may be adversely affected and this may undermine trust in service provisions and within the health care system. Argument for health care worker's disclosure of status may suffice, but may not necessarily be strong enough to warrant disclosure by a health care worker to client since risk of contracting HIV infection may not be as high compared to other methods of transmission. However, authors felt that health-care workers should indeed offer information about risks in the course of medical care in response to patients' worries about HIV infection.

While the privacy of either suspected or confirmed HIV positive health care workers or clients could be jeopardized by this strained relationship, the health worker may be further stigmatized as some clients may not want to choose infected doctors or health care workers to treat them, and this may discourage the generality of health workers from going for HIV testing.

There is a need to strengthen the legal system into making legal interpretation of issues and decision on such matters of claims and counter claims to know HIV status without fear or favour to any of the parties concerned. This is also an argument for a review of training curriculum of health students on medico legal issues, as well as better involvement of more health care workers including doctors in medico legal issues and forensic medicine.

Emphasis should be placed on health care workers considering all clients as potentially being positive and negative ones being in the window period. In addition, the attitude of health care workers towards disclosure as discovered in this study also suggests a need to be more careful to avoid inter professional conflicts within the health systems, as well as between clients and their care providers.

In the modern day rapidly changing atmosphere of health care, the rights of the patient have been given prominence. Patient rights have recently become the center of national attention in the practice of medicine. However clients' autonomy may supersede all other rights while the health workers right also needs recognition. Autonomy can also be defined as the freedom and authority to choose one's own actions. It simply means having the ability to act on its own. It can also mean having freedom or independence. In medicine, respect for the autonomy of patients is an important goal though it can conflict with a competing ethical principle. Therefore, respect for a patient's autonomy is considered a fundamental ethical principle. This belief is the central premise of the concept of informed consent and shared decision making. As a patient, you have certain rights, some are guaranteed by federal law, such as the right to get a copy of your medical records, and the right to keep them private. Many countries and states have additional laws protecting patients, and healthcare facilities often have a patient bill of rights. Some countries have pushed for legislation of a patients' bill of rights to safeguard this autonomy.

Disclosures of HIV status can damage the privacy of persons living with HIV or AIDS and have other negative consequences such as stigma, discrimination, violence, and social isolation. Disclosure may also lead to serious economic harm, including loss of employment, insurance,

or housing. On the other hand, disclosure of information about HIV may be required for public

A typical approach taken by many laws is to establish a default rule that the privacy of HIV information should be protected and only disclosed under specified circumstances. Beyond these specified exceptions, disclosures of HIV information, whether intentional or negligent, will constitute a breach of privacy and may result in civil liability, criminal penalties, or other serious sanctions, such as suspension of medical license.

However discrimination remains, even within the scientific community where the risk of infection has resulted in reluctance to treat HIV-positive individuals (12). Aside from moral arguments, scientific evidence has not been able to support such a position. Healthcare institutions should develop specific policies to deal with such exposure for source health care professionals who refuse testing.

Direct denials of care on the basis of HIV status are often prohibited under general Anti-discrimination legislation or through disability or HIV-specific laws. Some countries have chosen to enact specific protections against discrimination based on HIV status in the health sector within national legislation or policy. Legal frameworks that address the workplace and occupational health and safety issues also may contribute to antidiscrimination protections. While antidiscrimination laws and policies provide a clear message that it is inappropriate to refuse to treat HIV-positive persons due to their HIV status.

It is thus important to go into more evidence based research that could reveal more facts and information on extent and nature of occupational exposure in patient-health care workers relationship, encourage health care workers to go for HIV testing, and encourage health care workers to be ethical in their practice and dealing with clients, and ultimately reduce possible litigation measures that could dent the image of the health sector.

5. CONCLUSION

Both HIV positive clients and health care providers have rights under the law as regards disclosure of test results to each other as conditions for service provision. Both should embrace counseling and testing of HIV, work towards reduction in stigma and discrimination and respect each others right. The legal system should be strengthened to address and interpret issues of rights between clients and their health care providers.

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