

Policy Brief: HIV-related Travel and residence Restrictions

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"HIV is a disease which is NOT spread to the general public through casual contact, and a discriminatory policy that bans HIV-positive immigrants will NOT protect us from this virus."

--Dr. David Butler-Jones, past President of the Canadian Public Health Association

Executive Summary

HIV-related travel and residence restrictions are one of a discriminatory policy against people living with HIV/AIDS. To date, many countries have lifted such a restriction and increasingly countries are considering abolishing it. In 2010, The United States, Korea and Mainland China lifted their long-standing HIV-related travel ban. However, due the considerations of public health risk and additional economic burden, there are around 23 countries that still maintain the restriction on both short-term and long-term stays. Based on great quantity of research and evidences, it is proved that the restrictions cannot significantly contribute to HIV prevention and conversely violate people's human rights. Simultaneously, it results a more severe discrimination against people living with HIV/AIDS.

Therefore, the organizations and governments which agree on abolishing the restrictions should collaborate with each other to provide more convincing evidence and recommendations, and also affirm their positions to the discriminatory traveling and residence policy to support the fulfillment of the basic human rights of people living with HIV/AIDS.

Background

Since the first HIV/AIDS case was identified in 1981, there are more than 33 million people living with HIV globally nowadays and 2.6 million people became newly

infected in 2009 (UNAIDS, 2010). Countries throughout the world have made various prevention measures to curb the HIV epidemic within their countries. The HIV-related travel and residence restriction is one of them. Other commonly used terms referring to the restrictions are “HIV-related entry, stay and residence restrictions” and “HIV-specific travel and residence restrictions”. The latter is preferred by International AIDS Society (IAS) in their documents relating to this issue (IAS, 2009). In this policy brief, HIV-related travel and residence restrictions will be used.

What is HIV-related Travel and residence Restriction? “Such measures (the restrictions) include mandatory HIV testing for persons seeking entry to the country and the requirement that would-be entrants declare themselves to be uninfected (Joint United Nations Program on HIV/AIDS [UNAIDS], and International Organization for Migration [IOM], 2004).” Based on the maximum length of one’s stay allowed, the restrictions are categorized into short term restrictions and long term restrictions. Countries with short term restrictions have restrictions for stays of HIV-positive persons for less than 90 days. Several countries of this category require self-disclosure of HIV status or mandatory HIV testing. Countries with long term restrictions have restrictions for stays longer than 90 days, and disclosure of HIV status is mandatory when applying for some specific permits, such as residency permits, work permits and student VISA (The Global Database on HIV-specific Travel & Residence Restrictions¹ [GDHTRR]).

1 The Global Database on HIV-specific Travel & Residence Restrictions [GDHTRR]: The Global Database on HIV-Related Travel Restrictions is an initiative of the German AIDS Federation, the European AIDS Treatment Group and the International AIDS Society. Website: www.hivtravel.org

Current Facts on the Restrictions. Due to the concerns about an HIV epidemic from a public health perspective and the potential economic burden of additional medical treatment and care, people living with HIV/AIDS are refused access VISA permits in varying degrees.

To date, for a short-term stay, although some countries do not require HIV testing before entry, people living with HIV/AIDS can be expelled if an HIV-positive status is diagnosed. Countries like this include Taiwan, Egypt, Bangladesh, Brunei, Hungary, India, Jordan, Kazakhstan, Korea, Malaysia, Moldova, Mongolia, Oman, Panama, Qatar, Russia, Saudi Arabia, Singapore, Syria, Turkmenistan, United Arab Emirates, Uzbekistan, Yemen (GDHTRR). In addition, five countries deny visas to people living with HIV/AIDS for even short-term stay (UNAIDS, 2010). The maximum length of short-term stay without HIV mandatory testing in different countries varies. For example, in Bhutan, the maximum short-term stay is only two weeks whereas India it is six months.

Some countries with short term restrictions may issue a waiver under some special circumstances, such as attending HIV/AIDS conference or world events. However, there are several countries denying the issuance of such a waiver, such as Iraq (GDHTRR).

The long-term stay is usually for the purposes of study, work and permanent residency. Although there are more than 60 countries requiring an HIV negative status for entry permit, some countries are considering changing their policy. Based on the data of 186

countries collected by Deutsche AIDS-Hilfe e.V. (a Germany-based HIV/AIDS non-profit), as of June 2008, 66 countries had special entry regulations for people living with HIV/AIDS, and 14 countries either refused entry of HIV-positive persons or require disclosure of HIV status for short term stays (Deutsche AIDS-Hilfe e.V., 2008). As of today (Dec, 2010), there are 57 countries still have such restriction (UNAIDS, 2010). In early 2010, The United States, Korea, Mainland China lifted travel ban for people living with HIV/AIDS. The United States removed its long-standing HIV-related stay and residence restrictions In January 2010 and several other countries, including Namibia and the Ukraine, have recently pledged to take steps to remove such restrictions (UNAIDS, 2010).

Issue Analysis

Before the development of HIV-related knowledge and epidemiological research in public health field, an HIV-related travel ban was supported by many governments and official bodies. In the United States, in 1961, the health-related legal language changed to "aliens who are afflicted with any dangerous contagious disease" which nowadays referred to "communicable diseases of public health significance. (Fiona McKinnon & Ellen Kemp, 2006)" From 1987 to 2009, the United States had banned noncitizens with HIV from entering the country without a special waiver for nearly 22 years (Suzanne B. Goldberg, 1998). This year, when Chinese government decided to lift the HIV travel restriction, there was still opposite voice arguing that the "reasonless change of immigration policy" reflected the government's ignorance to domestic citizens' health well-being (China Review News, 2010). The rationale of this opposite voice was that

AIDS would result not only a severer HIV transmission globally but threaten the domestic public health.

In addition, there is an economic concern. Allowing the long-term stay of HIV-positive persons may bring a severe economic burden to a country's medical treatment and care system. For example, a supporter of maintaining the HIV-related travel ban pointed out that more than 150 HIV-positive persons, who attended the World AIDS Conference at Toronto, Canada in 2006, chose to remain in Canada and seek asylum. It is estimated that the cost of drugs alone for those people would run about \$1 million a year in the U.S. (Bob Roehr, 2007).

However, with the emergence of more research and evidence supporting lifting HIV-related travel ban, an increasing number of countries have changed their position on this issue.

First, it has been proven that the travel and immigration restrictions cannot significantly contribute to HIV prevention. According to current international health regulations, the only disease requiring a certificate for travelling is yellow fever, and there is no public health rationale for restricting liberty of movement or choice of residence on the grounds of HIV status (International Guidelines on HIV/AIDS and Human Rights [IGHAHR], 2006). “WHO first concluded in 1987 that screening international travelers was not an effective strategy to prevent the spread of HIV (WHO, 1987)” and conversely it would be impractical and wasteful (WHO, 1988). Based on the ways of HIV transmission, people only can be infected through specific behaviors (e.g.

bold transfusion and unprotected sexual practice) which can be prevented by many other public health strategies (e.g. civil citizens' health education). Simultaneously, “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 (UNAIDS & IMO, 2004).” In addition, the HIV-related restrictions may push more HIV-positive people come to one country with restriction by hide their HIV status, which increases the potential risk of public health. Studies based on experiences of HIV-positive people travelling to the U.S. under current policy have shown that laws restricting entry on the basis of HIV status have not been effective in keeping out HIV-positive people (IAS, 2007).

Second, mandatory HIV testing and travelling ban on people living with HIV/AIDS violate human rights. According to International Guidelines on HIV/AIDS and Human Rights (IGHAHR), “any restrictions on these rights based on suspected or real HIV status alone, including HIV screening of international travellers, are discriminatory and cannot be justified by public health concerns (IGHAHR, 2006).” In addition, according to the Universal Declaration of Human Rights (HDHR), “No one shall be subjected to arbitrary interference with his privacy...(HDHR, 1948).” Obviously the mandatory HIV test and disclosure of traveller's HIV status violate one's right to privacy.

Third, Economic impact of lifting HIV-related travel and residence restriction has been shown to be small and should not outweigh human rights responsibilities. A 10-year research program on the economic impact of HIV infection and coronary heart disease in immigrants was conducted in Canada from 1988 to 1998. The results shows: “the total cost of treatment of 484 HIV-related cases from 1989 to 1998 would be \$18.5 million. In comparison, CHD would develop in 2558 immigrants during the same 10-year period. The total CHD costs would be \$21.6 million. The economic impact of HIV infection in immigrants to Canada is similar to that of CHD. This comparison identifies an important shortcoming in current immigration policy: economic considerations can be arbitrarily applied to certain diseases, thereby discriminating against specific groups of immigrants (H Zowall, L Coupal, R D Fraser, N Gilmore, A Deutsch, & S A Grover, 1992).” Bedside, the contribution of international immigrants (labor and economic contributions) and the obligation of humanitarian should be taken into consideration.

Last but not the least, the policy of HIV-related travel and residence restrictions aggravates the discrimination against people living with HIV/AIDS. IAS argues that “short-term travel policies of any country, in which disclosure of HIV status is required for prospective visitors, treat HIV-positive people seeking entry on short term visas differently on the basis of their HIV-positive status. These are not only discriminatory, but also contribute to fuelling national and international stigma against people living with HIV/AIDS (IAS, 2007).”

Recommendations

Joining various forces for a common principle

To date, in addition to those countries lifting HIV-related travel ban, many international agencies and organizations agree on abolishing the HIV-related travel and residence restrictions, including World Health Organization (WHO)¹, the Joint United Nations Program on HIV/AIDS (UNAIDS), the UN Office of the High Commissioner for Human Rights (UNHCHR), and International AIDS Society, etc.

To urge more countries with HIV-related travel and residence restrictions to change their positions and develop recommendations to eliminate such restrictions, the International Task Team on HIV-related Travel Restrictions was set up in 2008, consisting of representatives of government, intergovernmental organizations and the United Nations such as UNAIDS and UNHCHR, civil society, including networks of people living with HIV, etc. Collaborating with each other, the task team issued a Report of the International Task Team on HIV-related Travel Restriction. In this Report, they pointed out their findings of the connections of the restrictions and other issues (e.g. public health, economic cost, refugees and asylum-seekers, discrimination, etc.). They also gave their five recommendations to the UNAIDS Program Coordinating Board, three recommendations to the Global Fund Board, and three suggestions to the civil society including people living with HIV/AIDS at global, regional and national levels respectively. Refer to the electronic resource to get the details of their findings and recommendations.

http://data.unaids.org/pub/Report/2009/jc1715_report_inter_task_team_hiv_en.pdf

(UNAIDS, 2008).

Affirming your position

In 2008, the Governing Council of the IAS affirmed the following positions towards the countries that impose HIV-related entry restrictions:

“The International AIDS Society will not hold its conferences in a country that imposes HIV-specific entry restrictions and/or requires prospective visitors to declare their HIV status on visa application forms or other documentation required for entry into the country (IAS, 2008).”

The organizations and governments which agree on abolishing the restrictions should also affirm their positions to the discriminatory traveling and residence policy to support the fulfillment of the basic human rights of people living with HIV/AIDS.

Recommended resources

The Global Database on HIV-Related Travel Restrictions: <http://www.hivtravel.org>
International Guidelines on HIV/AIDS and Human Rights (2006):
http://www2.ohchr.org/english/issues/hiv/docs/consolidated_guidelines.pdf

UNAIDS & IOM Statement on HIV/AIDS-related travel restrictions (2004):
http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/activities/health/UNAIDS_IOM_statement_travel_restrictions.pdf

Report of the International Task Team on HIV-related Travel Restriction(2008):
http://data.unaids.org/pub/Report/2009/jc1715_report_inter_task_team_hiv_en.pdf

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