



MEDIA TOOLKIT 2021-2023

ROLE OF MEDIA IN ENDING CRIMINALISATION OF HIV



Promoting Positive Outcomes in Law and Policy

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Background

The criminalization of HIV transmission constitutes a central pillar of many national governments' response to the HIV/AIDS pandemic. Governments sought to protect populations from transmission of the virus in service of their public health response to the pandemic. Over time, medical advances and scientific developments led to questions regarding the efficacy of such laws. It is now accepted that the effect of criminalizing HIV transmission is so grave and contrary to human rights and the rule of law that repeal of such laws is the only appropriate remedy.

Purpose of toolkit

The purpose of this media toolkit is to help health journalists and advocates understand HIV criminalisation in Zimbabwe and adequately engage with the various facets of arguments and viewpoints on the subject matter. Journalists and advocates are key stakeholders in promoting public health goals and the advancement of rights and freedoms of those infected and affected by HIV.

What is “media and why is important?”

Media (also sometimes called *press*) is the collective term for mechanisms and creators of mass communication (e.g., broadcast TV or radio; newspaper, magazine or book publishing; and the Internet, including social media).

Media can be a powerful tool for getting your message across to a wider *audience* (who you want to reach with your message, including potential supporters and allies of your campaign or issue) as well as for putting pressure on the *targets* of your campaign (the people in power, such as leaders of institutions or law enforcement officials, who may stand in the way of the change you want made).

The media has an obligation to be fair, impartial and ensure their report reduces the harm caused by the HIV/AIDS pandemic. Sensationalist reporting can result in stigma, discrimination and oppression. Negative stereotypes must be confronted and the media has a duty to reduce society's prejudices against PLWHA's. Resorting to dramatic headlines and smear articles which present PLWHA's as pariahs who are both morally and criminally reprehensible only serve to further marginalize an already vulnerable population.

The media must highlight the problem with criminalizing HIV transmission and make society aware of the drawbacks of such overbroad pieces of legislation. The constitutional and human rights implications must be brought to bear so people can enforce their entitlements. The real impact and tragic outcomes from such laws must be highlighted and it can only be through a human rights based approach that people can have a fair and balanced view of such a law.

What is happening?

Zimbabwe is on the verge of decriminalising HIV transmission through the Marriages Bill Section 53 (2)

Marriages Bill

Section 53 of the Marriages Bill will result, if enacted, in a repeal of section 79 of the Criminal Law Code. This will end all arrests and criminal prosecutions for the transmission of HIV, whether deliberate or otherwise. In light of the provisions of domestic and international law, it is apparent that the repeal of section 79 would be commendable in that it is in line with the Constitution of Zimbabwe, international law as well as the rule of law. It promotes the human rights aspirations espoused in chapter 4 of the Constitution and results in the enjoyment of fundamental freedoms.

What is HIV criminalisation?

HIV criminalisation is the unjust application of criminal laws against people living with HIV on the sole basis of their HIV status. This includes the use of HIV-specific criminal laws as well as general criminal provisions as applied to HIV transmission, potential or perceived exposure and non-disclosure of an individual's HIV-positive status.

2019 data from HIV Justice Worldwide indicates that Zimbabwe has the highest rate of prosecutions relating to HIV criminalisation in sub-Saharan Africa and the sixth highest globally.



Why do HIV criminal laws exist?

HIV criminalisation is a global phenomenon. In many parts of the world, these laws were enacted at a time when HIV treatment through antiretroviral therapy (ART) was not widely available and not as effective as it today. Like in Zimbabwe, many countries looked to the criminal law with the hope that punishing behaviour that spreads HIV would be an effective way to prevent HIV.

In some countries, these laws were also enacted with the stated intention to protect women and vulnerable populations from becoming infected with HIV.

Today, many of these laws remain on the books despite that so much has changed.

What has changed?

As is explained in more detail below –

- ART is safer, more effective and more accessible today. People living with HIV can live long and productive lives.
- There is also a growing body of evidence that shows that these laws do not prevent HIV.

- In fact, HIV criminalisation has been shown to be a barrier to encouraging behaviours that do prevent HIV, including accessing voluntary HIV testing, prevention and treatment services.
- HIV criminalisation in Africa has also not protected women but instead been applied against women living with HIV, exacerbating stigma and vulnerability to abuse.

HIV criminalisation does not make sense in today's context.

Criminal Law Code

In Zimbabwe, section 79 of Criminal Law (Codification and Reform) Act [Chapter 9:23] [hereinafter referred to as the Criminal Law Code] creates the offence of deliberate transmission of HIV. The Criminal Law Code contains the bulk of Zimbabwean criminal law. The criminal law protects society by empowering the state to prosecute individuals for criminal conduct. Section 79 has been the basis for criminal prosecutions against people living with HIV and AIDS (PLWA's). This had the effect of enhancing stigma associated with HIV whilst harming public health responses to the HIV and AIDS pandemic.

Section 79 provides as follows:

79 Deliberate transmission of HIV
(1) Any person who
(a) knowing that he or she is
infected with HIV; or
(b) realising that there is a real risk
or possibility that he or she is infected
with HIV;
intentionally does anything or permits
the doing of anything which he or she
knows will infect, or does anything which
he or she realises involves a real risk or
possibility of infecting another person
with HIV, shall be guilty of deliberate
transmission of HIV, whether or not he or
she is married to that other person, and
shall be liable to imprisonment for a

period not exceeding twenty years.

(2) It shall be a defence to a charge under subsection (1) for the accused to prove that the other person concerned—

- (a) knew that the accused was infected with HIV; and*
- (b) consented to the act in question, appreciating the nature of HIV and the possibility of becoming infected with it.*

This section creates a specialized crime in respect of HIV transmission. Other sexually transmitted infections (STI's) are covered by the general crime of deliberate transmission of a sexually transmitted disease in section 78 of the Criminal Law Code. It covers the entire range of STI's, except for HIV. This offence carries a sentence of up to level fourteen fine and/or imprisonment not exceeding five years.

Case Study: Samukelisiwe Mlilo

Samukelisiwe Mlilo is a woman living with HIV who was charged with criminal HIV transmission under section 79 of the Zimbabwe Criminal Code.

Like many women, Ms Mlilo learnt of her HIV status during her pregnancy when accessing antenatal care. In the beginning, it was difficult for her to accept her HIV status. She described how her abusive home environment made it difficult to disclose her diagnosis to her husband at first:

"We were always fighting. He became violent and was physically abusive. This made it difficult for me to disclose my status."

She however did disclose her diagnosis to her husband and they reached a decision together on measures they would take to prevent HIV transmission to the child. Their relationship continued and her husband supported the child despite ongoing physical abuse.

The following year, Samukelisiwe Mlilo reported her husband's abuse to the police. She sought a protection order from her husband and separated from him. Ms Mlilo discovered that she was pregnant with her husband's second child shortly after their separation. Her husband accused her of being unfaithful and denied the child was his. He continued to harass her despite the protection order. It was then that her husband reported Ms Mlilo to the police for "deliberate transmission of HIV" to him, claiming that she had failed to disclose her HIV-status.

Ms Mlilo was unrepresented during her trial. She was convicted of deliberate transmission and sentenced to imprisonment, leaving behind her breastfeeding infant and other children.

"There was no one to take care of my children. Truthfully, it was an extremely difficult time," she said.

Further to the consequences of her conviction, Samukelisiwe Mlilo suffered social ostracisation and abuse following sensational press coverage.:

"It was difficult, especially when the case was covered in the papers. I could not work. I could not face my co-workers. I requested for emergency leave which was denied. ... People were calling me names. It was indeed a difficult time."

Samukelisiwe Mlilo's case illustrates that prosecution of these crimes creates a disincentive for people to get tested and to know their HIV-status:

"I found myself in this situation because the law requires women to be tested when presenting for antenatal care. If I had not been a woman, I would not have been tested. I would have just gone untested like my husband and not know my status," she said.

A snapshot of challenges posed by Section 79

1. The words "deliberate transmission" are misleading

The title implies that the criminal law applies only to cases where a person living with HIV intentionally does something with the aim of infecting another person with HIV and does in fact infect them with HIV.

But the content of the law and how it has been applied is actually much broader.

Section 79 has been applied to:

- cases where no actual HIV transmission occurred;
- cases where there is no proof that the accused person was the one who caused the transmission of HIV;
- cases where the accused had no intention to infect the other person with HIV; and
- cases where there is not even proof of intentional conduct.

Arguably, the criminalised conduct should in the very least be something that objectively carries a "real risk or possibility" of HIV transmission.

But, all publicly available cases indicate that courts have not considered this issue at all. And people have in fact been convicted for conduct that poses a scientifically minimal or negligible risk of HIV transmission.

2. The offence can apply to “any conduct”

Section 79 has been applied to **sexual conduct** such as consensual sexual intercourse between married adults.

But also to **non-sexual conduct** like breastfeeding.

3. People who don't know their HIV-status can be convicted

People who have never had access to an HIV test or who don't know they are HIV-positive can be convicted for HIV transmission (and possibly HIV-exposure) if there is merely a “reason to believe” that they might be HIV-positive.

4. 20 years' imprisonment

In short, it is possible that a person who isn't even aware of their HIV-positive status can go to prison for 20 years if a court merely assumes that they exposed someone to HIV, even if there is no actual HIV-transmission, no intent, and not even any proof that their conduct even posed a realistic risk of transmitting HIV.

Someone who is on HIV treatment and takes precautions like using a condom during sexual intercourse can similarly be convicted under section 79.

Section 79: Challenges Explained

Section 79 of the Criminal Law Code limits public health responses to HIV and AIDS for the following reasons:

1. Overbroad

Whilst this law seeks to prevent *deliberate* transmission, it actually creates a crime of *potential* exposure. One need not transmit the virus to be found guilty of the offence. The possibility of exposure is itself sufficient for a person to be found guilty of deliberate transmission. As such, the law is too broad. It covers even those who do not transmit the virus, and as will be shown later, those who *could* not transmit the virus. It criminalizes *anything* that *could* lead to transmission. This could include mother to child/parent to child transmission. Whilst the law has not been used in this way, this highlights the nature of the law. Since HIV is transmitted sexually, every sexually active adult could conceivably

realise a real risk or possibly of being seropositive, more so when one considers that safe sex is not 100% effective. Thus, this law so broad that it has the effect of potentially criminalizing all whilst protecting none.

2. Unscientific

It is important to note that the fact of being HIV positive is not consistent with high levels of virus transmissibility. Put differently, medical science has provided conclusive evidence that transmissibility is not a natural corollary of seropositivity. Levels of infectiousness are influenced by a person's viral load and such factors as time since infection, use of anti-retroviral medicine, forms of sexual activity and general bodily health.

In cases where the virus is undetectable, the likelihood of transmission significantly lowered. However, one could still face prosecution for deliberate transmission even if they are not in a state in which they can transmit the virus. In this instances, section 79 only serves to prosecute people for the fact of being HIV positive. The law conflates seropositivity with high levels of transmissibility and does not acknowledge the noble work by PLWHA's and achieved through public health responses to use treatment as prevention. This ignorance to scientific reality and the levels of transmissibility levels renders this law unjust and contrary to the rule of law.

3. Factual and Moral Ignorance

Section 79 is oblivious to the whether the person charged had actual knowledge of their serostatus. It ignores factual and thus moral ignorance. Whilst ignorance of the law is famously not an excuse, factual ignorance must be considered in modelling the criminal law. Section 79 is not concerned with actual intentionality and makes it a crime of negligence to expose another when there is a real risk or possibility of infection. In this way, the law treats HIV as though it has a unique set of symptoms for which one reasonably

suspect infection. Whilst other diseases may have more discernible symptoms for which ailment can be reasonably suspected, HIV and AIDS constitutes a syndrome. The virus manifests in different ways depending on each individual's immunity and peculiar vulnerabilities. This renders the fact of realizing a real risk or possibility as conjectural. Many people suffer opportunistic infections without every realizing that such infections are indicative of HIV infection since they syndrome of its symptoms is broad. A law which punishes people in such circumstances is not reasonably justifiable in a democratic society.

4. Stigma and Discrimination

Section 79 has a chilling effect on awareness of one's serostatus. It means most people are not only gripped by fear of a debilitating chronic illness, but also haunted by the prospects of prosecution from current and former partners. Moral judgment for acquiring HIV has always been high due to the sexual connotation associated with the disease. Criminal sanction adds another form of stigma to a disease which has already been deemed morally repugnant. This constrains effective public health responses since it induces reluctance to undergo voluntary counselling and testing.

Section 79 is specifically applicable to all person including married couples during the subsistence of the marriage. Women are often the first to learn of their serostatus during pre-natal procedures. This makes the section easily amenable to weaponization against women as the primary victims of prosecution after they became aware of their serostatus.

5. Unrealistic burden

Even though section 79 creates the impression of protecting the uninfected through an obligation of partner notification, this is at odds with the vast majority of people's sexual experiences. These often occur with

more spontaneity and passion without the opportunity for a comprehensive discussion serostatus. Since safe sex is not 100% effective, this means that nearly every sexually active adult carries the same burden of a pre-sexual notification of the existence of the real risk or possibility of HIV infection. Such universalist implications reduce the explanatory power of such notifications since they are required no matter the actual serostatus and levels of transmissibility. It means the law is more likely used against those whose serostatus is known, allowing for arbitrary implementation of law.

Section 79 and the Constitution

Section 29 of the Constitution of Zimbabwe requires that the State takes all practical measures to ensure the provision of basic, accessible and adequate health services throughout Zimbabwe. The Constitution also contains rights to dignity, equality healthcare, privacy, and also contains special rights of women. The right to dignity is a foundational right which is so important that it is absolute. Dignity relates to human worth, respect and the treatment commensurate with the sanctity of life. The South African Constitutional Court described dignity and the right to life as the most important of all human rights.

The right to equality requires all protections and benefits of the law to be applied equally and demands equal treatment of all persons. The right to healthcare includes basic health care healthcare services for chronic illnesses such as HIV and AIDS. The right to privacy includes a protection against having one's health condition disclosed whilst the rights of women demand eradication of all laws and customs with a discriminatory effect on women.

It is abundantly clear that section 79 of the Criminal Law Code fails the test of constitutionality. It does not prevent the spread of diseases and vitiates the dignity of person living with HIV (PLHIV). It exposes them to public trials in which their health condition is exposed

and constrains them from accessing medical assistance due to the heightened exposure and resultant stigma. This works against public health responses and unfairly targets women since they often learn of their serostatus first and suffer criminal prosecution as a result.

Since section 79 is patently overbroad and unconstitutional for curtailing the rights of women and discriminating PLHIV, its repeal is not only in line with the rule of law, but is also consistent with the process of aligning laws to the Constitution.

Section 79 and International Law

The Constitution of Zimbabwe states that international law and all treaties and conventions to which Zimbabwe is a party must be considered in enforcement of human rights. Zimbabwe is a signatory to the African Charter on Human and People's Rights (African Charter), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention of the Elimination of All Forms of Discrimination against Woman (CEDAW).

The African Charter contains rights to health and non-discrimination. The ICCPR contains the right to equality whilst the ICESCR provides a right to the highest attainable standard of physical and mental health. CEDAW differentiates between formal equality, which is achieved through equality of rights, opportunities and responsibilities; and real equality which requires transformation of cultural and social norms to address the legacies of inequality. It notes that discrimination can either be deliberate or non-deliberate, that is to say, either as a result of a measure's purpose or effect. but still have a discriminatory effect. In terms of CEDAW, the state is required to eliminate all forms of such discrimination.

Section 79 of the Criminal Law Code is one such provision whose effect is patently discriminatory. It targets women as the partners with primary knowledge of their serostatus due to pre-natal medical care. It reifies stigma and discrimination against PLHIV in general and women in particular. This provision is contrary to the rights of equality, non-discrimination and health. It conflates the possibility of seropositivity with the criminal culpability for actual transmission. This is not only against the rule of law but contrary to the state of Zimbabwe's obligations under international law.

What do the experts say?

Public health and human rights experts across the world do not support HIV criminalisation.

1998

The **Office of the High Commissioner for Human Rights (OHCHR)**, together with the Joint United Nations Programme on HIV/AIDS (**UNAIDS**), recommended in the *International Guidelines on HIV/AIDS and Human Rights* that countries should not create or enforce HIV-specific criminal laws but only in exceptional cases apply general criminal law, while ensuring fair trial principles and the tenets of criminal law are upheld.[7]

2008

UNAIDS and the United Nations Development Programme (**UNDP**) expressed concern with overbroad HIV criminalisation and its tendency to be disproportionately applied to already marginalised groups. UNAIDS and UNDP recommended that States repeal HIV-specific criminal laws and limit the application of general criminal law to cases of 'intentional transmission of HIV', paying careful attention to ensure that the law is not applied inappropriately. Instead of a coercive and punitive approach to HIV, UNAIDS and UNDP called for States to adopt a human rights-based approach that embraces positive and empowering prevention efforts and confidential HIV testing and counselling.[8]

How are laws being reformed in the region?



While there exist many bad laws across the world, efforts to address outdated HIV criminal laws are nevertheless gaining momentum. In the African region, some key milestones of progress are noted below.

- 2010** The **United Nations Special Rapporteur** on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health stated that criminalising HIV transmission and exposure infringes many human rights, including the rights to privacy and equality, the prohibition against discrimination, and the right to health.[9]
- 2012** The **Global Commission on HIV and the Law** recommended that countries repeal laws that specifically criminalise HIV exposure, transmission and non-disclosure. The Global Commission stated that "the threat of prosecution neither empowers people living with HIV to avoid transmission nor motivates [people] to protect themselves." [10]
- 2013** **UNAIDS** called for an end to over-broad criminalisation of HIV, stating that it raised serious human rights and public health concerns [11].
- 2015** The **World Health Organisation** raised concern on the adverse effect of HIV criminalisation on sexual and reproductive health and rights and women's rights in particular.[3]
- 2016** In its concluding observations to the State reports of Canada in 2016 and Tajikistan in 2018, the Committee on the Elimination of Discrimination Against Women (**CEDAW Committee**) expressed concerns about the violations of women's rights through HIV criminalisation and recommended reforms.[12]

In 2016, the **United Nations Committee on Economic, Social and Cultural Rights** identified the criminalisation of HIV non-disclosure, exposure and transmission as a threat to sexual and reproductive health and rights.[13]
- 2017** In 2017, the **African Commission on Human and Peoples' Rights** stated that overly broad criminalisation is prone to violating human rights to liberty, security, health, privacy, access to justice and non-discrimination.[14]

- 2001** In **South Africa** the Law Commission rejected HIV criminalisation stating that "statutory intervention is neither necessary nor desirable".[15]
- 2008** A Model Law on HIV in Southern Africa developed by the **Southern Africa Development Community Parliamentary Forum (SADC-PF)** rejected HIV criminalisation.[16]
- 2011** **Sierra Leone** passed legislation to limit the scope of an HIV criminal law by explicitly recognising a number of defences.[17]
- 2012** The **East African Community HIV and AIDS Prevention and Management Act** rejected coercive and criminalising approaches to HIV. [18]
- 2015** In **Kenya**, the High Court held that an HIV criminalising law was unconstitutional for, amongst others, being vague and overbroad. [19]

Member states of **SADC** unanimously adopted a motion calling on member states to consider rescinding and reviewing laws on HIV exposure, transmission and non-disclosure and reiterated the critical role of Parliamentarians in enacting laws that are human rights-affirming and evidence-based.
- 2016** The **Malawi** High Court held that the application of a general public health law to prosecute HIV exposure had violated fair trial rights and questioned the constitutionality of the law.[20]
- 2017** The Malawi Parliament rejected HIV-specific criminal laws proposed in new HIV legislation. The HIV Act rights based approach to HIV.[21]
- 2018** The **Democratic Republic of the Congo** repealed a law criminalising HIV.

How can science guide the reform of Section 79?

The scientific community's understanding of HIV transmission, treatment and prevention has advanced significantly since section 79 was enacted.

In June 2018, at the International AIDS Conference in Amsterdam, a group of twenty eminent scientists from across the world (including from sub-Saharan Africa) released the first ever global "Expert Consensus Statement on the Science of HIV in the Context of Criminal Law" (Expert Consensus Statement).[22]

With the objective to limit unjust prosecutions and convictions, the Expert Consensus Statement analyses the best available scientific and medical research data on HIV transmission, treatment effectiveness and forensic evidence, described in a way that enables application in legal contexts.

The Statement provides insight on three broad themes that have a critical impact in assessing section 79 of the Criminal Code:

1. Understanding the risk of HIV transmission

In many court cases, scientific understandings of HIV and of the possibility of HIV transmission have been ignored and misinterpreted. The risk of HIV transmission is often grossly exaggerated and courts have not appreciated the complexity of HIV transmission dynamics. Courts may, for example, assume transmission risk where there is very little or no transmission risk at all, for example, in conduct such as spitting, biting, or sexual intercourse where a person either uses a condom or has an undetectable viral load.

The Expert Consensus Statement explicitly states that its purpose is not to inform public health messaging but rather to clarify scientific evidence of *absolute risk* in individual acts as should be applicable in criminal cases.

The Statement clarifies that, in fact, "HIV is not easily transmitted' being a 'relatively fragile virus". For example, in sexual intercourse, the Statement describes the per-act possibility of transmission as zero to low, with estimates ranging from 0% to 1.4% per act. The possibility of transmission per act will vary from that figure depending on the absence or presence of intervening factors. For example, correct condom use prevents HIV transmission. Where an individual living with HIV is on effective treatment, their HIV viral load will be reduced, which in turn reduces the possibility of HIV transmission: "a reduced or 'undetectable' viral load decreases or eliminates the possibility of HIV infection".

Section 79 of the Criminal Code is a blunt instrument in the face of how variable and complex HIV transmission risk is. In a context where expert evidence is seldom led in court and defendants often lack effective legal representation, there is a strong risk and reality of unjust convictions of people whose conduct in fact poses no realistic risk of transmission.

2. Understanding the harm of HIV

The Expert Consensus Statement describes that "huge changes" have been achieved in the outlook for people living with HIV over the years.

The natural course of untreated HIV is described as varying widely from person to person but that "antiretroviral therapies dramatically reduce HIV-associated disease progression":

"Although HIV causes an infection that requires continuous treatment with antiretroviral therapy, people living with HIV can live long, productive lives including working, studying, travelling, having relationships, having and raising children, and contributing to society in various ways."

The Statement refers to research showing that in some sub-populations, ongoing clinical care (in places where people have reliable access to effective treatment) have shown some people living with HIV are even living longer than their HIV-negative counterparts.

In this light, a punitive approach to HIV prevention is more inappropriate than ever.

3. Understanding issues of evidence and proof

The Statement considers the immense difficulty in proving beyond reasonable doubt that HIV transmission in fact occurred between two individuals.

In many court cases, it is simply assumed that the accused transmitted HIV to the complainant by the mere fact that the complainant was the first to report to the police, or that the accused was the first to find out about their HIV-positive status. The Expert Consensus Statement stresses that these circumstances do not prove HIV transmission between two people, nevermind who infected whom.

It states that available medical and scientific information, including an individual's viral load, CD4-count, or even phylogenetic analysis where available, have limited and highly qualified value as evidence to prove transmission.

It is very difficult to reliably prove transmission between two people.

Summary and Conclusion

In summary the toolkit submits that...

- Section 79 of the Criminal Law Code is contrary to the rule of law, international law and the Constitution of Zimbabwe.
 - It is unduly invasive, draconian, discriminatory and against the interests of public health.
 - It promotes stigma, is overbroad, unscientific and places an undue burden on consenting sexual partners.
 - It is so broad as to potentially criminalize all whilst protecting none.
 - It is an unreasonable law which is contrary to the rule of law and falls short of Zimbabwe's international law obligations.
 - The repeal of section 79 through the Marriages Bill consolidates constitutionalism, human rights and the rule of law as it aligns Zimbabwe's criminal law with the Constitution's public health imperatives.
- c) Section 79 is discriminatory based on status. It criminalizes people living with HIV and AIDS for their serostatus
 - d) Section 79 is unscientific. It conflates potential exposure with actual transmission
 - e) Section 79 promotes stigma and discrimination.
 - f) Section 79 results in higher infection due to decreased desire to know one's serostatus.
 - g) Section 79 discriminates against women.
 - h) Section 79 is unconstitutional.
 - i) Section 79 is contrary to international law as well as regional and international human rights norms and standards.
 - j) Section 79 is not reasonably justifiable in a democratic society.

HIV Decriminalization messages for media:

- a) Section 79 is dangerously wide and overbroad
- b) Section 79 criminalizes innocent sexual encounters between consenting adults



What opponents say:	What is the actual fact
i) Section 79 protects against HIV transmission	Section 79 is overbroad and thus criminalizes potential exposure and not actual transmission
ii) Section 79 only targets wilful transmission	Section 79 is overbroad and thus criminalizes potential exposure and not actual transmission
iii) Section 79 protects the uninfected	Section 79 is so wide as to be applicable even where there is no resulting transmission.
iv) Section 79 promotes public health	Section 79 inhibits public health responses by discouraging people from knowing their serostatus.
v) Section 79 is necessitated by the HIV/AIDS pandemic	Criminalizing health status is not reasonably justifiable justifiable in a democratic society



ABOUT HEALTH LAW AND POLICY CONSORTIUM

The HLPC is a health policy advocacy organisation working with a network of health law and policy experts - scientists, social scientists, medical practitioners, economists, legal practitioners, and public health experts working in and involved in the health care policy sector. The HLPC exist to facilitate a rights-based policy formulation, implementation and monitoring in Zimbabwe's public health system. The HLPC seeks to work for the meaningful enjoyment of the right to health care (including reproductive health).

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