

All you need to know about the
Namibian

HIV/AIDS Charter of Rights



ACKNOWLEDGEMENTS

This Charter is the product of a consultative process involving government ministries, representatives of commerce and industry, NGO's, AIDS service organisations, trade unions, the churches, the medical and nursing profession and people living with HIV/AIDS.

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Illustrated by: Nicky Marais

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Legal Assistance Centre

Legal Assistance Centre

PO Box 604

Windhoek

Tel: 061-223356

E-mail: aidslaw@mweb.com.na

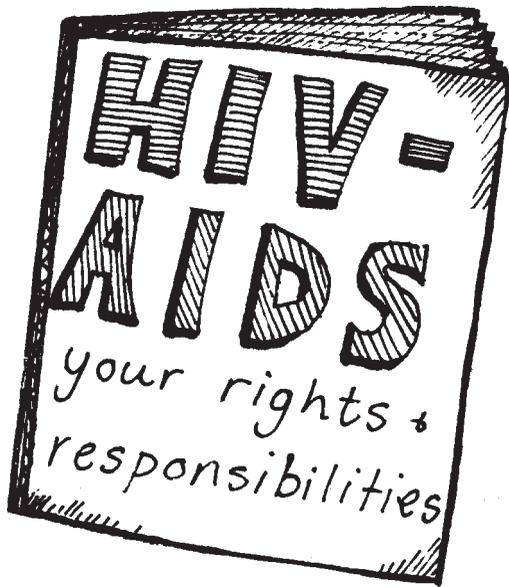
What is the Charter and why is it important?

People living with HIV/AIDS often face discrimination, stigmatisation and prejudice that limit their access to services, benefits and employment. As a result, people are reluctant to know their HIV status, thus undermining public health measures to prevent the spread of HIV/AIDS.

Prevention efforts will not succeed as long as people do not know their HIV status, do not have adequate information about the disease and how it is transmitted, and do not take responsibility for protecting themselves and others against HIV infection. The participation of people living with HIV/AIDS is crucial in effective prevention efforts.

The promotion and protection of human rights constitute an essential component in preventing the transmission of HIV and reducing the impact of HIV/AIDS. The protection and promotion of human rights are necessary both for the protection of the inherent dignity of persons affected by HIV/AIDS and for the achievement of public health goals of reducing vulnerability to HIV infection, lessening the adverse impact of HIV/AIDS of those affected and empowering individuals and communities to respond to HIV/AIDS.

The Charter aims to promote a human rights based approach to HIV/AIDS and provides as follows:



1. Equal Protection of the Law and Equal Access to Public and Private Facilities and Benefits

All people are equal before the law. HIV status therefore cannot be used to deprive any person of his or her basic human rights, or to deny persons living with HIV/AIDS equal access to public and private services, benefits and opportunities. Public measures should be taken to ensure that persons living with HIV/AIDS do not face discrimination in employment, housing, education, childcare and custody and the provision of medical, social and welfare services.



2. Liberty, Autonomy, Security of the Person and Freedom of Movement



All persons, including persons living with HIV/AIDS, have the same rights to liberty and freedom of movement in Namibia. As segregation, isolation or quarantine of persons in prisons, schools, hospitals or elsewhere merely on the grounds of HIV/AIDS is unjustified, it should not be allowed.

Persons living with HIV/AIDS are entitled to make their own decisions regarding their own lives, including decisions in respect of marriage and reproductive health. Adequate counselling, information and education on HIV/AIDS should be made available to all people to allow them to make informed decisions regarding their lives.

3. Privacy and Confidentiality

Confidentiality in the context of HIV/AIDS is often misunderstood. Some people claim that confidentiality prevents efforts to control the spread of HIV, as it draws a blanket of secrecy over the disease. This is not the case. Confidentiality means that health care workers are ethically and legally required to keep their patients' medical information to themselves. A health care worker may only disclose this information with the patient's consent. It is important for health care workers to treat patients' medical information as confidential because if they didn't, people would be reluctant to come forward for testing and treatment for HIV, especially in view of the discrimination suffered by people living with HIV/AIDS.

A person may however choose to share information regarding his or her HIV status with others and this should be encouraged through appropriate counselling, education and by the creation of a supportive environment and the provision of appropriate services for those living with HIV/AIDS.



4. Counselling and Testing

Voluntary and confidential counselling and testing for HIV, with informed consent, is encouraged. There is a need to establish affordable and accessible voluntary and confidential counselling and testing facilities, offering high quality services, where people can go for HIV testing.



5. Partner Notification and Reporting

Health care workers and counsellors have to keep a person's HIV status confidential. The patient may consent to the health care worker telling other people about his or her HIV status. Where consent is not given, the only person to whom a health care worker may disclose this information is an *identifiable sexual partner who is at risk of infection*

and only after the steps outlined below have been followed:

- The HIV positive person has been thoroughly counselled as to why the partner should be informed;
- The HIV positive person has refused to inform the partner, or has not consented to the notification of his or her partner(s);
- A real risk of transmission to the partner(s) exists;
- The HIV positive person is given reasonable advance notice of the intention to notify;
- Support services should be provided to those involved.

This process is known as *partner notification*.

In order to properly plan for the management of HIV/AIDS, the government needs information on the number of HIV infections. To this end HIV positive results should be reported to the health information system on an anonymous basis. In this way confidentiality will not be broken.

This process is known as *reporting*



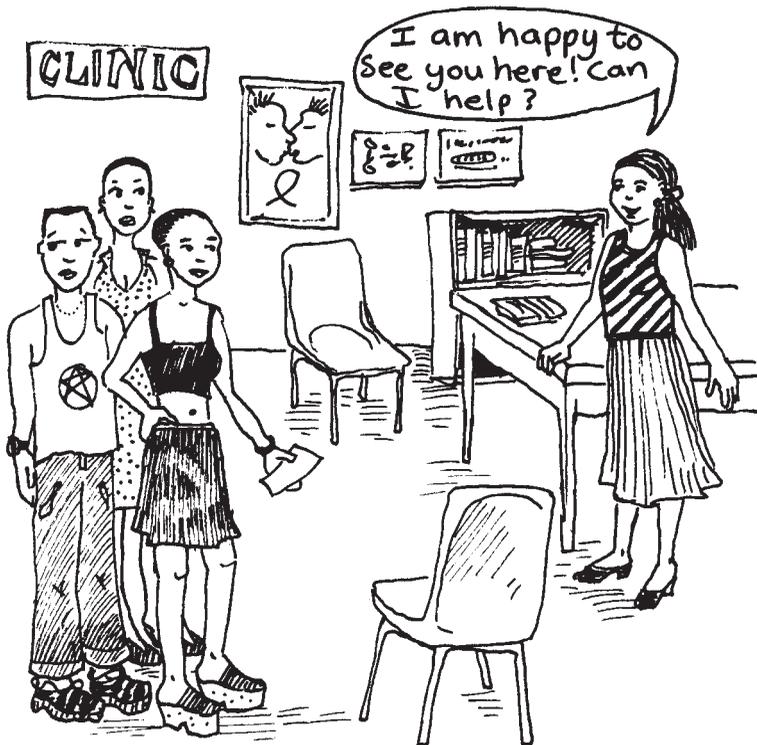
6. Gender

As a result of their predominantly subordinate position in society, more women and girl children are infected with HIV than men and boys. Domestic violence and sexual abuse also increase their vulnerability to HIV infection. Programmes aimed at raising the status of women and eliminating adverse social, economic and cultural factors that put them at risk of infection should be encouraged. Programmes targeting men to take responsibility for the prevention of HIV transmission should also be put in place.



Women and men should be equal in decision-making in matters of family planning and reproductive health. Counselling and information should be available to a person living with HIV/AIDS who wishes to marry or to start a family. Women have a right to information to make informed decisions about their reproductive health and the right to insist on the use of measures to prevent transmission of HIV. Women should also have access to information regarding mother to child transmission of HIV, and access to affordable treatment that will reduce the risk of a mother infecting her child.

7. Children and Adolescents



Children and adolescents have the same rights as adults regarding access to information and education on HIV/AIDS, medical treatment and care. This information should address their specific needs. Children and adolescents should have adequate access to user-friendly sexual and reproductive health services, including information on HIV/AIDS and STDs, counselling, HIV testing and prevention measures such as access to condoms. The right of the child or adolescent to make decisions according to his or her abilities should be balanced with the duty of parents or guardians to look after the health and wellbeing of children.

8. Vulnerable Groups

Groups that are vulnerable to HIV infection as a result of prejudice or inequalities in society should be supported by creating an environment through advocacy, policy changes and special programmes, in which these groups can operate without fear, as this will reduce their vulnerability to HIV infection. Vulnerable groups should be assisted to design adequate and accessible HIV/AIDS programmes that will address their concerns and fears with regard to HIV infection.



9. Children Orphaned by AIDS

Children orphaned by AIDS, regardless of their HIV status, are entitled to love, care and a nurturing environment, preferably in their own communities that will enable them to realise their full potential. In order to assist persons looking after children orphaned by AIDS, information on services, grants and benefits should be made freely available.



Caregivers should be trained to deal with the special needs of HIV-affected children, such as abandonment and stigmatisation by others. Decisions regarding children should be made in their best interests, respecting the rights of the child. Children orphaned by AIDS should not be discriminated against.

10. Prisoners

Prisoners, despite being imprisoned, still have rights. They should accordingly not be tested for HIV without their consent, or discriminated against on the basis of their HIV status, nor should they be quarantined or isolated. Prison authorities should keep the HIV status of prisoners confidential, and may only disclose this information with the informed consent of the prisoners. Prisoners, whether HIV positive or not, are entitled to medical care. Prisoners should be provided with information on HIV/AIDS and adequate counselling, while preventative measures, such as condoms, should be made available to protect them from infection.



11. Adequate Standard of Living



All persons, including those living with HIV/AIDS, have the right to a standard of living adequate for the health and well being of themselves and their families, including food, clothing, housing and medical care and necessary social services.

12. Access to Education

Persons living with HIV/AIDS should have access on a non-discriminatory basis to primary, secondary and tertiary education as well as to scholarship schemes.



13. Access to Appropriate Information and Sex Education



Culturally appropriate educational programmes and information on HIV/AIDS should be made freely available to allow people to make informed decisions about their lives and sexual practices. These programmes should also promote respect, tolerance and non-discrimination for persons living with HIV/AIDS.

14. Access to Health Care and Appropriate Treatment

Persons living with HIV/AIDS should have access to adequate health care, affordable treatment and drugs. Ethical guidelines and codes of conduct for health care workers and counsellors should be implemented to guarantee that the rights to privacy, confidentiality and dignity of persons living with HIV/AIDS are respected.

Community efforts to provide home-based care to people who are living with HIV/AIDS should be supported. Caregivers should be properly trained to render effective care and counselling.



Rape survivors should have access to adequate information about HIV/AIDS and to affordable and timely prophylactic treatment.

15. Research and Clinical Trials

Clinical trials for the testing of HIV/AIDS drugs in which persons living with HIV/AIDS participate should be conducted only in terms of acceptable research protocols, which adequately protect their rights prior to, during and after the trials. Trial results should be made available to the community for timely and appropriate action.



16. Employment

People living with HIV/AIDS have the right to work, and should not be excluded from employment solely on the basis of HIV status. Employers and employees have a responsibility to prevent discrimination and stigmatisation on the basis of HIV status in the workplace, and should jointly develop and implement appropriate workplace policies on HIV/AIDS.



There should be no compulsory testing for HIV in the workplace. Voluntary testing for HIV, at the request of the employee, should be promoted. Employees with HIV/AIDS have a right to confidentiality about their HIV status in any aspect of their employment. An employee is under no obligation to inform his or her employer of his or her HIV status.

Employees living with HIV/AIDS should continue to work under normal conditions in their employment for as long as they are medically fit to do so. The normal rules regarding incapacity should apply when they are medically unable to continue with their employment.

Employers must provide a safe and healthy working environment for employees. Employers must provide the necessary equipment and information, and implement universal precautions, to prevent transmission of the virus in the workplace. An employee, who accidentally contracts HIV at work, should be entitled to employee's compensation.

17. Insurance and Medical Aid

Persons living with HIV/AIDS and those suspected of being at risk of having HIV or AIDS should be protected from discrimination in access to insurance and medical aid. Insurers and medical aid administrators should explain to the insured or medical aid member what influence HIV/AIDS will have on the validity and effect of the contract of insurance or medical aid. If HIV testing is required for life insurance or medical aid, the insurer or medical aid administrator should provide access to adequate pre- and post-test counselling. The insurer or medical aid administrator requiring the test should ensure that the results are treated with confidentiality.



Insurers and medical aid administrators, in consultation with people living with HIV/AIDS, should develop new products that will provide appropriate cover for people living with HIV/AIDS.

18. Media



The public, including people with disabilities, has the right to balanced and informed coverage, information and education on HIV/AIDS, STDs and related issues. Media programmes should be sensitive to HIV/AIDS and human rights issues, and address attitudes of discrimination and stigmatisation associated with HIV/AIDS. The media and the advertising industry should reduce sensationalism in reporting and should avoid the use of inappropriate language and stereotypes, especially in relation to disadvantaged and vulnerable groups.

19. Cultural and Traditional Practices

Some cultural and traditional practices put people, especially women and young people, at risk of HIV infection. These practices and traditions should be identified and steps should be taken to address them by education and/or legislation.

Traditional authorities should play an important role in HIV/AIDS prevention strategies. Traditional healers and traditional birth attendants should be educated and informed about the transmission of HIV/AIDS and related issues. Traditional and non-traditional health care workers should collaborate on the care and management of HIV/AIDS.



