

New Vision

Uganda: HIV/AIDS bill almost ready

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Government is in the last stages of preparing an HIV/AIDS bill for Parliament to debate.

According to Dr. Jeremiah Twa- Twa, chairperson HIV/AIDS sectoral committee, the HIV/AIDS prevention and control bill is aimed at protecting people and creating a conducive legal environment for the implementation of HIV/AIDS programmes in Uganda.

Dr. Twa-Twa, who is also the MP for Iki-Iki constituency in Budaka district, says it will be finalised before the end of the session, most likely in January next year.

However, the bill has thrown a cat among dogs, especially the civil society and AIDS activists who have rejected some of the proposed sections, saying they undermine many critical issues.

Led by Uganda Network on Law, Ethics and HIV/AIDS (UGANET) and the National Forum of People Living with HIV/AIDS Network in Uganda (NAFOPHANU), the activists demand that some clauses be revised. They, however, say it is a good law with good intentions, but also warn that it may have devastating effects.

The joint civil society coalition, made up of more than 40 organisations, including human rights groups, has urged Parliament to review the clauses on mandatory testing of HIV, mandatory disclosure of a persons HIV status and the criminalisation of intentional spread of the disease.

The bill, calls for mandatory HIV testing of pregnant women and their partners during antenatal visits. Most men do not accompany their wives for antenatal visits and those who do so rarely accept to be tested for HIV.

If the bill passes into law, all men who are responsible for a pregnancy may be compelled to test for HIV.

The bill also gives medical practitioners power to disclose their patients HIV positive status to people who are in close and continuous contact with an HIV positive person if they think there could be a risk of getting HIV from this person.

Mandatory disclosure is captured in Sections 19, 20 and 21. On partner notification, it is stated that a medical practitioner, who carries out an HIV test, will give an HIV positive person reasonable time to disclose to his sexual partner. And, if he fails to do so, the doctor will disclose on behalf of the client to the partner.

However, civil society opposes the use of the words close and continuous arguing that this group needs to be properly defined. An HIV positive person is always in close and continuous touch with friends, relatives, workmates, employers and even drivers, says Dorah Musinguzi, the legal and programme officer, UGANET, We want the law to tell us who falls in this category so that we know how to check.

She adds that forcing the medical practitioner to disclose the HIV status of the client contradicts their oath of confidentiality. Doctors swear not to disclose their clients records.

Musinguzi's other concern is what may happen after the disclosure. It could be violence, abuse, battering and victimisation, she says. The law does not look at why this person living with HIV/AIDS is not disclosing or what might happen to them after the disclosure.

She explains that people usually do not disclose because they fear death, violence, stigma and abandonment.

While the spirit of stopping people from transmitting HIV is commended, the effect of disclosing before knowing the patient's fears may be worse than the intention, she says.

Confidentiality is a very strong human rights principle that should only be ignored in uniquely specific circumstances, Musinguzi says.

She adds that there are scenarios where some men hide their HIV positive status from their partners, but those should be addressed through education. Putting a law to natural human behaviour is rather irrational, she says.

Section 73 requires mandatory disclosure of one's HIV status to their sexual partners. It says that a person who knowingly transmits HIV to another person commits an offence and is liable to five years imprisonment.

Activists argue that if enacted, the bill would discriminate against people living with HIV/AIDS in respect to prevention and care. We should avoid creating scenarios where people living with HIV/AIDS are looked at as criminals or potential criminals, says Musinguzi.

They advise that if the clauses are not reviewed, they pose a threat to the rights of people living with HIV/ AIDS, especially women and children. Maj. Rubaramira Ruranga, who has lived with HIV for over 28 years and Dr. Stephen Watiti, also living with HIV, said they were consulted about the bill, but their views were not considered. Rubaramira says although the intention of the bill is good, the end results are likely to be counter-productive.

Some MPs, perhaps frustrated by rising prevalence rates, may consider a punitive law with a hope that it would prevent and control the epidemic. But instituting criminal laws to punish persons who may transmit the virus, poses a danger to the consolidated effort and lessons learnt over time.

Dr. Canon Gideon Byamugisha, who is also living with HIV, says the law should define deliberate transmission, so that it does not punish someone who has not protected the other, confusing them for refusing to protect. Otherwise, children born with HIV will sue their mothers for giving them the virus, he said.

He also says if the law on deliberate transmission is made acceptable, there must also be an article on deliberate acquisition, because it takes two people to make a new HIV infection or transmission.

People who have sex without knowing the partners HIV status should also be punished, he says.

But if one is raped or defiled, laws are already there.

Musinguzi advises that the bill should capture HIV control and management, because it ignores the social protection, the legal atmosphere and the enabling environment that will facilitate prevention and treatment.

[See the topic on aegis.org](http://aegis.org)