

Title of presentation



HIV and Human Rights

"Testing Times"

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Acknowledgements

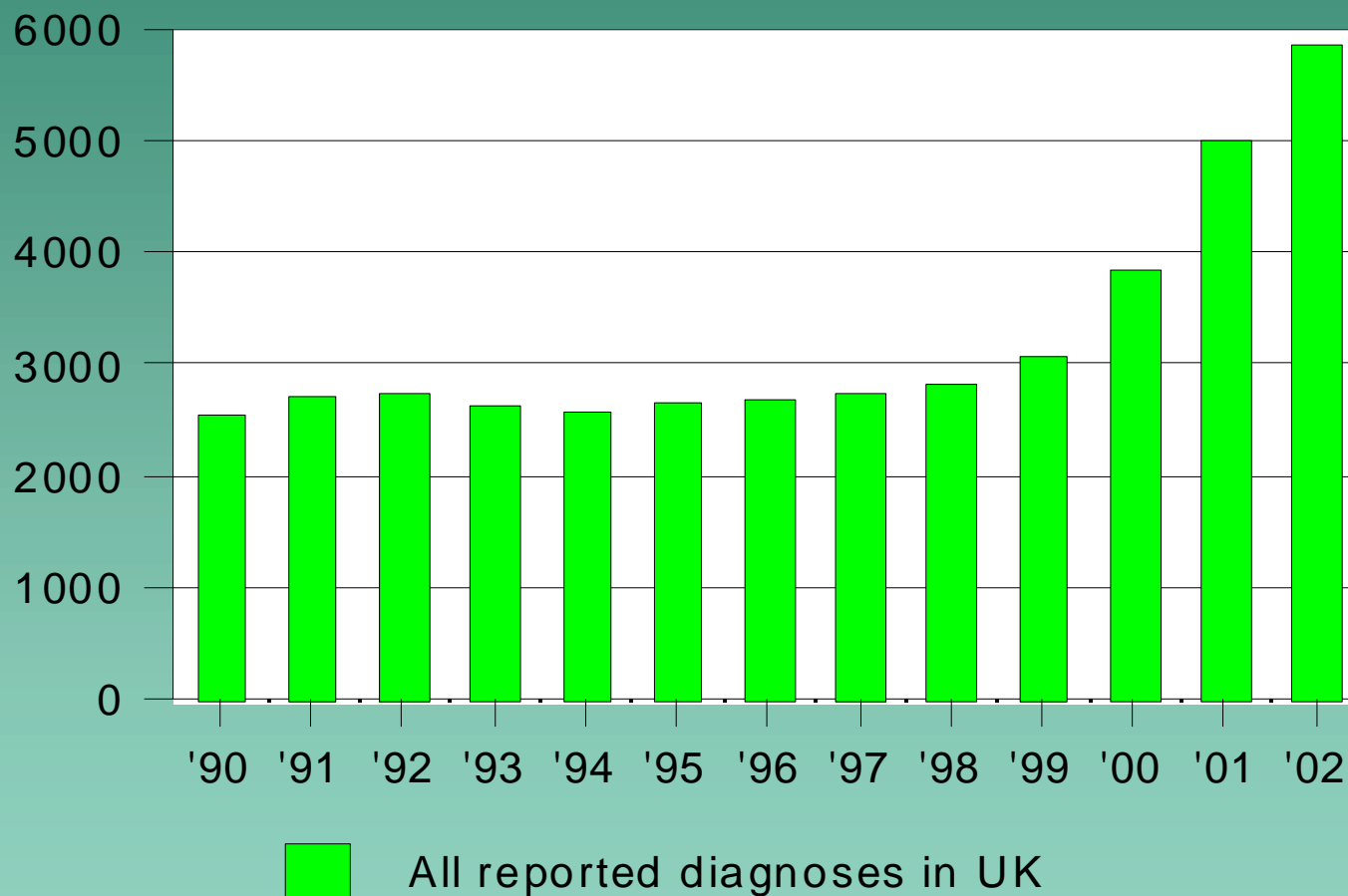
- All Party Parliamentary Group on HIV/AIDS
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Outline

- What are human rights?
- What is the relationship between HIV/AIDS, public health and human rights?
- Asylum and HIV in the UK
- Brain drain
- What we can do

HIV/AIDS at the end of 2004

- 42 million people living with HIV/AIDS
- 4.9 million new infections
- 3.1 million deaths due to AIDS
- In the UK, Africans are the most severely affected migrant community
- 80% of mother to child transmission in the UK is African



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What are human rights?

- People have rights because they are human
- Human rights are universal and inter-related
- Human rights treat all people as equal
- These are primarily the rights of individuals but they do directly address the relationship between the State and individuals. States have a responsibility to protect, promote and fulfil rights.
- Encompass the principles of humanity
- Protection, promotion and fulfilment of human rights is not bounded by the frontiers of Nation States

“It was never the people who complained of the universality of human rights, nor did the people consider human rights as a Western or Northern imposition. It was often their leaders who did so.”

Kofi Annan
UN Secretary-General

Key rights in the HIV/AIDS response

- The right to health
- The right to equality and non-discrimination
- The right to privacy
- The right to information
- The right of participation
- The right to enjoy the benefits of scientific progress
- Freedom from torture
- Freedom of movement
- The right to work
- The right to education
- The right to an adequate standard of living
- The rights of the child

Continuum of human rights: moving from principles to practice

- International covenants
- National laws
- Principles to shape policies, services and practice
- Ideas to shape advocacy ~ policy change

Human Rights and Public Health

- Human rights and public health share a principal objective: to promote and protect the well-being of people
 - In human rights terms : promoting & protecting the dignity of all, with an emphasis on those most vulnerable
 - In public health terms : promoting health for all, with an emphasis on those most vulnerable
- Differences between human rights and public health:
 - Human rights action focuses on the protection and promotion of rights, freedoms and dignity of *individuals*.
 - Public health can be defined as "what we as a society do collectively to ensure the conditions in which people can be healthy." Public health focuses on the health needs of *society - groups of people and actions affecting many people*.

Human Rights, Public Health: HIV/AIDS

- Historically, as public health strategies for HIV/AIDS prevention and care were designed and implemented, health experts realised that public health programmes work better when human rights and the dignity of persons concerned are respected.
- *“In order to prevent and control the spread of the HIV/AIDS epidemic, the rights of those most marginalised/vulnerable must be protected and promoted.”*

Justice Michael Kirby
High Court of Australia
1989

“As for me, the more I am supported to follow through with the disclosure of my status and safer sex, the more I know I’m part of the solution, not the problem. That feeling empowers me. I hope it empowers others.”

Person living with HIV/AIDS

Isolationist & integrationist approaches

Isolationist	Integrationist
<ol style="list-style-type: none">1. Mandatory testing2. Isolation if HIV+3. Confidentiality breached4. Discrimination against HIV+	<ol style="list-style-type: none">1. Voluntary testing2. No isolation but inclusion if HIV+3. Confidentiality preserved4. No discrimination against HIV+

Stigma and discrimination

"I don't think you can ever come to terms with it, with HIV. Because in yourself you can come to terms with it but society doesn't allow you to, it's like society is fighting you all the time from all kinds of directions."

Person living with HIV/AIDS

- Stigma and discrimination remain the biggest barriers to HIV prevention, care and treatment

Discrimination

- Discrimination and the lack of respect for human rights and dignity are understood to be **root causes** – and not only **effects** – of the HIV/AIDS pandemic.
- Those who are typically marginalised by society (e.g.: migrants, sex workers, men who have sex with men, drug users, homeless, migrants) experience HIV/AIDS related stigma and discrimination more profoundly

Access to ARV Treatment

- Lack of access to ARV treatment is discrimination
 - the role of the pharmaceutical industry, international patent regime, high income countries
- Scaling up ARV treatment could also entrench existing inequalities if not done carefully
 - "routine testing" ~ forced/mandatory testing
 - treatment rationing
 - treatment for health workers
 - treatment for sex workers, drug users, men who have sex with men, children, women, migrants

“Rapidly increasing numbers of people infected with HIV and people with AIDS will be accompanied by intense political, social and economic stresses. Threats to and interference with the human rights and dignity of those infected, those who are ill and those most vulnerable will increase substantially. The temptation to return to coercive public health measures will also intensify.”

Mann and Tarantola
1996

“HIV thrives in situations of powerlessness, poverty, exploitation and social exclusion. The factors that drive migration are the same as those behind the HIV/AIDS epidemic: social inequalities, economic imbalances and non-respect of rights - factors that push people to migrate also make migrants vulnerable to HIV. ”

Dr Mary Haour-Knipe
International Organisation for Migration

Asylum in the UK

- 84,130 applications for asylum were received in the UK (excluding dependents) in 2002
- In 2002, 2/3 of applications were made in country rather than upon arrival
- 3/4 of applicants were male, and four-fifths were aged between 18 and 34
- Over a third of all applicants were from African nationals
- 66% of applications for asylum in 2002 were refused

Asylum in the UK

- People do migrate to access life-saving treatment
- People also migrate for many other reasons:
 - war/conflict
 - famine
 - persecution
 - political unrest
 - labour shortages
 - economic opportunities

Asylum in the UK

- The most common time span between entry & diagnosis was 10 to 12 months; 75% waiting more than 9 months to test post-entry
- The most common reason for testing was the onset of symptomatic HIV
- People currently being seen for HIV social and support services wait a clinically significant period of time after entering the country before testing positive for HIV
- Late diagnosis is a serious problem amongst African migrant communities and unprompted testing is extremely rare. This trend has clear implications for personal and public health.*

Asylum in the UK

- The right-wing tabloid press have linked migrants, asylum seekers with the spread of disease.
- HIV & TB are described as spreading unchecked from the developing world
- Negative public perceptions contributing to fear, stigma and discrimination ~ negative public health consequences
- Concerns around burden on health services – economic, human resources

Asylum in the UK

- New Nationality and Asylum Bill just passed through the House of Commons (Section 55, Limitation of appeals)
- Charging visitors for treatment
- European governments adopting stricter measures on migrant newcomers
- Ongoing inquiry into imported infections

Asylum in the UK

- 8 January 2003, the Home Office announces that refugees must claim asylum as soon as “reasonably practical” or they would be denied finance and accommodation benefits by NASS
- Out of 4,260 cases referred to NASS for a Section 55 decision in the third quarter of 2003, 2,810 were notified they were not eligible for NASS support
- 6 test cases taken to the High Court and in February 2003 found the decision-making process under the section to be flawed and in breach of the European Convention
- Section 55 criticised on ethical grounds as leaves individuals in complete destitution—roughly 50% refusal rate in terms of support

Asylum in the UK

- On 17 December 2003 the Home Secretary announced a change in the guidelines governing the implementation of Section 55 allowing claimants a period of 72 hours rather than 24 hours after arriving in the UK to claim asylum
- The Home Affairs Select Committee recently recommended an independent review of Section 55 and its implications
- Individual asylum applications which have been denied will not be open for more than one appeal.

Asylum in the UK

- Current system does not deal appropriately with people living with HIV/AIDS, exacerbates poor health and may leave people in destitution – lack of timely access to ARV treatment, cost of treatment, dispersal policies
- Timely access to ARV treatment and community support decreases individual and societal vulnerability & risk
- Timely access to ARV treatment decreases likelihood of risk to public health

Criminalisation of HIV transmission & asylum

- The few criminal transmission cases brought to court in England are all against foreign black men: Somali refugee, a Malawian asylum seeker, a Congolese asylum seeker, a South African asylum seeker
- After case of the Somalian refugee, increase of calls to THT legal dep't of people wanting to prosecute their ex-partners

Recruitment of health workers

- In spite of existing code of practice, NHS and others recruit health workers from low & middle income Commonwealth countries, where health systems are under-resourced and fragile
- Many are tested for HIV as a part of the recruitment – those who test positive are excluded (e.g.: Zambia)

What can we do?

- Provide timely access to free ARV treatment for all
- Advocate for scaling up access to free treatment in low and middle income Commonwealth countries ~ \$\$
- Lobby for appropriate revision of Section 55 and the limitation of appeal
- Lobby for free treatment for everyone in the UK on public health and humanitarian grounds
- Lobby against policies and laws calling HIV testing as a condition for entry
- Recruit HIV+ health workers and provide them with ARV treatment as needed
- Invest in health systems strengthening
- Honour current commitments, declarations, agreements and codes of practice (Durban and Harare declarations)
- Address HIV more specifically in future declarations – special meeting of Commonwealth leaders on HIV/AIDS

“We will have to repent in this generation not merely for the vitriolic words and action of the bad people, but for the appalling silence of the good”

Martin Luther King



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