

ANALYZING SOCIOCULTURAL BIASES AND DISCRIMINATION AGAINST LGBTQ INDIVIDUALS IN INDIAN HIV TESTING

Aadya Choudhary

Vasant Valley School

ABSTRACT

It is well documented that there exists a pervasive stigma against the LGBTQ community, in India. The stigma has potentially deadly consequences, especially when members of the LGBTQ community are also infected with HIV. This leads to bias and discrimination against them especially in the health care sector, where they do not feel safe enough to receive treatment, and are deprived of basic health care services. The HIV epidemic in India continues to be a pressing issue, with key affected groups being men who have sex with men (MSM) and transgender people. This paper will examine the sources of these biases and the manner in which LGBTQ individuals face discrimination with respect to HIV testing and healthcare in a myriad of different ways. The paper will then make certain policy recommendations in order to tackle the issue of biases in the health care sector, and to better aid in the assimilation of LGBTQ and HIV infected individuals into society as full citizens.

Keywords: LGBTQ community, HIV stigma, Discrimination, Healthcare, India

INTRODUCTION

The stigma against people from the LGBTQ community and those with HIV is pervasive in India, leading to people being thrown out of their families, into poverty and subject to assault and abuse. As of data collected in 2018, India has the third largest HIV epidemic in the world, with 2.1 million people living with HIV (UNAIDS, 2018). The epidemic is concentrated among key affected populations, which are primarily sex workers and men who have sex with men (MSM) and transgender people. (UNAIDS, 2018). There is free antiretroviral treatment available, but only 56% of adults living with HIV are on such treatment.

The uptake remains low as people face difficulty in accessing clinics, and if they do, the stigma prevalent against those living with HIV and particular discrimination against LGBTQ

individuals. Among other key affected groups are migrant workers, truck drivers, and people who inject drugs.

Indian law criminalizes discrimination against people with HIV and AIDS, but this has not reduced the experiences of discrimination faced by those affected, especially within the healthcare sector (Avert). A 2013 study of healthcare staff in government and non-government clinics in Mumbai and Bengaluru found discriminatory attitudes were common (NACO Report, 2015-2016). Social exclusion of those with HIV and in particular, LGBTQ individuals leads to a lack of protection from violence, restricted access to education and public spaces, exclusion from the economy and employment opportunities, restricted access to collectivization, restricted rights of citizenship, and restricted participation in the decision making process (UNDP India, 2010).

This paper will highlight the issues and discrimination faced by people of the LGBTQ community who have been diagnosed with HIV, and survey the data available on the issue. The paper will then make policy recommendations on the future prevention of discrimination against LGBTQ individuals in the health care sector, so that they are encouraged to avail treatment for HIV and are able to participate in society as full citizens as is their human right.

BACKGROUND

As of data collected in 2016, two-thirds of transgender people had no access to treatment for sexually transmitted infections. Only 59% had been referred for HIV testing and 67% had not been given proper counselling about antiretroviral therapy, which is essential in ensuring that sexual minorities continue their treatment in the face of external stigma and stigma from within their own communities. Although there has been progress in the form of targeted programs for the transgender community, the focus on discrimination against homosexuality has led to an erasure of transgender identities in the process. For example, the National Aids Control Program (NACP-III) has included 'MSM and transgender' people among the core groups for targeted and intensified HIV prevention and care programs. However, the interventions for transgender people are currently subsumed under the ambit of 'MSM Interventions' (UNDP India, 2010).

The NACP-IV has made the elimination of discrimination a key focus. However, there is still a lack of guidance on the particular forms of discrimination that is faced by each of these groups. Therefore, there is a pressing need to be address the interventions for these groups separately, as the discrimination faced by each of them is different and the reasons for their not approaching centers for treatment would also be different as a result. There is a need for separate HIV surveillance centers for transgender people. As of data available in 2008, there were 66 sites for MSM and only one separate site for transgender people (UNDP India, 2010; Avert). Mental health counselling is also a crucial aspect that needs to be considered within the ambit of HIV

treatment, and is especially important for people from the transgender community, including mental health counselling that is particularly aware of the effects of a sex change operation. This is vastly different from the counselling that would be required by a homosexual person, and therefore, it is imperative that there be a separated focus on the transgender community for a more holistic and comprehensive approach (UNDP India, 2010; Bharat, 2001).

Transgender people face unique barriers in access to clinics, firstly beginning with their own challenges in coming to terms with their identities and gender expression, and a great social pressure in this process. There is a much higher proportion of transgender people who enter into sex work as a means of survival, where they face severe abuse on a daily basis as they are not viewed as complete citizens or even human. According to statistics, a 87 percent of trans women in India earn money either as sex workers or by begging in the street, subject to rape and physical abuse from members of their own families, on the streets, in brothels, and even by the police (Withnall, The Independent, 2019).

In order to remedy the erasure of transgender identities and address their particular needs, it is crucial to include representatives of the Hijra and transgender communities in the formulation of HIV policy and future program development. Inclusion in the decision making process would lead to substantial process in ensuring that their identities are not subsumed within the ambit of homosexuality or MSM (UNDP India, 2010).

DISCUSSION

There is a rise of testing clinics being run specifically for LGBTQ individuals living with HIV, for example the clinics run by the organization Humsafar and Udaan in Mumbai. It has been reported that such community led efforts have greatly contributed to a drop in cases of HIV related deaths, and increased awareness (Mohta, The Guardian, 2019) . Further community led efforts are also safe chat lines such as Safe Masti, which allows MSM to ask questions about their condition online, in a confidential and secure manner, away from societal pressure. Organizations such as the Samarth clinic in Delhi, provides resting services for transgender people and educates them on the risks and treatment for HIV (Withnall, The Independent, 2019).

The Pehchan program is a community based and peer led support system that focuses on encouraging gender affirming empowerment, and a study has shown that such an approach has significantly improved both demand and access to tailored HIV, health and social services for transgender individuals and MSM in India (Shaik, et al, 2016). Such safe spaces for LGBTQ individuals allow them not only to avail of the treatment they need without discrimination, but very importantly, allows them to form functional relationships which contributes to the betterment of their mental health as well.

However, data collection on testing discrimination is difficult and extremely limited. This is due to the fact that HIV-positive gay men tend to take on a heterosexual identity once they have been diagnosed, for fear of discrimination in hospitals and testing centers. Society discriminates against gay men in all matters- including inheritance and benefit rights, a lack of counselling centers, among others. A study revealed that gay men are asked extremely offensive questions by medical practitioners, and there is clear presumption that all men are heterosexual, as gay men are often asked about the last sexual experience they had with a woman. which is clear evidence of the inherent biases present in the process of HIV testing. Discrimination begins for LGBTQ individuals with the very first questions they are asked by medical practitioners (Bharat, 2001).

Further, discrimination against LGBTQ individuals inevitably leads to a recurrence of HIV, as people do not continue with the treatment even if they begin it (Bharat, 2001).

In order to tackle the discrimination and biases, an intersectional approach must be adopted from a policy perspective. Discrimination for minorities are all experienced differently – for women, homosexuals and transgender people. Discrimination against gay men manifests itself through the ignorance of medical professionals, who tend to provide treatment to those who fit traditional definitions of sexuality. For women, discrimination often manifests into compulsory testing, especially for pregnant women. For transgender people, discrimination tends to lead to an irrational paranoia amongst medical professionals, which often prevents them from receiving injections for HIV, which are generally perceived as superior forms of treatment. Medical professionals reduce the use of injections for transgender people, to prevent infection to themselves or staff. For transgender people, it has been documented that discrimination and stigmatization is likely after death as well. They are often covered with plastic covers, which is a clear symbol of an AIDS death (Bharat, 2001).

Discrimination is inflected in different ways, depending on the particular combination of social groups to which a person belongs (Stanford Encyclopaedia, 2015). For example, the discrimination faced by a transgender person who is of higher economic strata in society and belonging to a more liberal set of surroundings would be different from an economically disadvantaged transgender sex worker. Therefore, a one size fits all policy to tackle the discrimination in HIV testing would not effectively cover the different experiences of different people, and would not effectively account for the surroundings they may be in, potential abuse they may face, and consequently the quality of medical services received.

Further, other remedies besides tackling discrimination in testing must also be implemented, in order to focus on prevention of HIV and the need for testing in the first instance. For example, using policy to curb discrimination in the sphere of employment would lead to a lesser number of

transgender people depending on sex work as a means for survival. This would then contribute to a reduction in the contraction of HIV among them (UNDP India, 2010; Bharat, 2001).

CONCLUSION

The first pressing policy issue with respect to discrimination in HIV testing, is the lack of accurate data and research on the same. There is a need for greater access, analysis and applied use of data to better tackle HIV response in India. A lack of integrated data quality systems and a lack of a uniform structure for case-based reporting, untrained staff and an absence of district level information and population size estimates make the epidemic difficult to control. Further, it makes it all the more difficult to track instances of discrimination and monitor statistics of those members of the LGBTQ community who are not able to avail of testing. In addition, there is a great lack of mechanisms to track people through the process from HIV diagnosis to treatment and cure, due to a lack of unique patient identifier records and different monitoring and reporting systems used within facilities (PEPFAR 2017).

Secondly, there is a large need for staff in the healthcare sector to be sensitized to the needs of those in the LGBTQ community who are most affected for HIV, which also entails a larger need for a change in social morality. The concept of universal precautions needs to be promoted and the irrational and selective use of inappropriate “safety measures” on members of the transgender community, sex workers, and women, must be reduced. These safety measures only serve to create a false sense of security among health care workers, and also adversely affect the emotional health of HIV patients, who already face stigmatization by society. Staff also needs to be made aware of their legal responsibilities and duties towards those diagnosed with HIV, as well as those in the LGBTQ community, and how the law recognizes these members as equal to any other citizen. This will lead to progress in raising social awareness and reducing the stigma associated with sex work, HIV, etc. Mandatory testing must be strongly discouraged for individuals, and staff in the healthcare sector must be made aware of human rights standards such as informed consent and confidentiality. The reduction of unnecessary mandatory testing will lead to the reduction in denial of services for those who are in fact HIV positive. To reduce overall levels of discrimination in the health care sector, the myths of casual modes of HIV transmission must be debunked, which will reduce the irrational sense of personal risk among ancillary staff (Bharat, 2001).

Active inclusion of LGBTQ individuals in testing centers, especially as test administrators, would also lead to progress with respect to discrimination, as has been proven by the models mentioned in the above sections (Whitnall, The Independent, 2019; Mohta, The Guardian, 2019; Shaikh et al, 2016).

The further social marginalization of infected minority groups such as homosexuals and transgender people, only increases the pervasiveness and spread of HIV. Therefore, intersectional approaches in order to address their specific needs would lead to progress in the curbing of the disease. All modes of discrimination such as early discharge and denial of services must be strongly challenged, and the government must take steps to explicitly make citizens and medical professionals aware of the illegal nature of these activities, through awareness programs (Bharat, 2001).

However, only making people aware of punitive measures that can be taken against them in law would not be adequate to tackle the issue of deeply ingrained stigmas and the need for a change in mind sets. To this end, a specific legislation tacking discrimination in the sectors of health care and employment would be recommended. While the law against discrimination exists, there are not effective modes of implementation. For example, there needs to be effective complaints mechanisms put in place, especially in the health care sector, for HIV-positive people to seek protection of their rights as patients (Avert; Bharat, 2001; UNDP India, 2010).

In the employment sector, policy guidelines must be developed to support HIV-positive workers, and support in the form of quotas for example, for homosexual and transgender workers would lead to their assimilation in society and contribute to removing the stigma. Policies in other sectors such as life insurance for example, would also contribute to reduction of discrimination, if it addresses the needs of HIV-positive people desiring insurance cover (Bharat, 2001).

In addition, it is also crucial for the government to aid, promote and foster and growth of civil society organizations, such as the ones described in the above sections in this paper. These organizations and their work are crucial to creating community led, grassroots support systems that contribute to removing the stigma associated with being an LBGTO individual, as well as being infected with HIV. These organizations can effectively enter at risk communities, and encourage those in the LBGTO community to get treatment without the fear of discrimination. However, the current political climate in India has been one of using tactics to shrink the civic space. Restrictive legislation such as denying such organizations to register and withdrawing permits has repeatedly occurred. The resourcing of civil society organizations is also under threat, and some have been prevented from receiving funding from external sources and their bank accounts suspended, which inhibits their free operation. It has also been documented that human rights defenders, especially for the LBGTO community are susceptible to threats and attacks (CIVICUS Monitor, 2017). It is therefore important for the government to take cognizance of the good that is being done through these organizations, and promote instead of inhibit their growth.

A holistic approach to awareness and policy is the only method in which real change can occur with respect to discrimination against LGBTQ individuals in HIV testing, and further, create an atmosphere where it is possible that they do not contract HIV in the first instance. Further, a change in mind-set beyond mere written laws is the only way in which to effectively allow LGBTQ people to participate as full members of society, realize their human rights and protect their own health.

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