
AIDS and HIV Charter

AIDS Consortium

History of the Charter

In November 1991 a number of organisations met to discuss a proposal to draw up a charter of rights for people with AIDS or HIV. This meeting resulted in the formation of the AIDS Consortium. Three lawyers (Edwin Cameron, Edward Swanson and Mahendra Chetty) formed the drafting committee and presented the first draft of the Charter to the Consortium in January 1992. The Charter draws on international documents such as the Montreal Manifesto of the Universal Rights of People Living with HIV Disease and the United Kingdom Declaration of the Rights of People with HIV and AIDS, but has been specifically adapted for the South African context. To date the Charter has been extensively discussed and amended and had been approved by representatives of over 40 organisations. The Charter now awaits formal endorsement by the organisations making up the AIDS Consortium, as well as by prominent figures in all spheres of national life and by organisations countrywide. It is planned to launch the Charter publicly on or near World AIDS Day (1 December 1992).

Preamble

In the light of

- the existing discrimination against persons with AIDS or HIV and their partners, families and care-givers,
 - the danger that the growth of the epidemic in South Africa will lead to an increase in unfair and irrational treatment of individuals affected by AIDS and HIV,
 - the desirability of greater awareness and knowledge of AIDS and HIV among all South Africans, and
 - the need for concerted action by all South Africans to stop the spread of HIV,
- we, the undersigned individuals and organisations, think it is necessary to set out those basic rights which all citizens enjoy or should enjoy and which should not be denied to persons affected by HIV or AIDS, as well as certain duties.

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

1.1 Persons with HIV or AIDS have the same rights to liberty and autonomy, security of the person and to freedom of movement as the rest of the population.

1.2 No restriction should be placed on the free movement of persons within and between states on the ground of HIV or AIDS.

1.3 Segregation, isolation or quarantine of persons in prisons, schools, hospitals or elsewhere on the ground of AIDS or HIV is unacceptable.

1.4 Persons with HIV or AIDS are entitled to autonomy in decisions regarding marriage and child-bearing, although counseling about the consequences of their decisions ought to be provided.

2. Confidentiality and Privacy

2.1 Persons with HIV or AIDS have the right to confidentiality and privacy concerning their health and HIV status.

2.2 Information regarding a person's HIV status must not be disclosed without that person's consent, and, after death, except when required by law, without the consent of his or her family or partner, except in cases involving clear threat to and disregard of an identifiable individual's life interests.

3. Testing

3.1 HIV antibody testing must occur only with free and informed consent, except in the case of unlinked, anonymous epidemiologic screening programmes.

3.2 Anonymous and confidential HIV antibody testing with pre- and post-test counseling should be available to all.

3.3 Persons who test HIV positive should have access to continuing support and health services.

4. Education on AIDS and HIV

4.1 All persons have the right to proper education and full information about HIV and AIDS, as well as the right to full access to and information about prevention methods.

4.2 Public education should be provided with the specific objective of eliminating discrimination against persons with HIV or AIDS.

5. Employment

5.1 HIV or AIDS do not, by themselves, justify termination of employment or demotion, transfer or discrimination in employment.

5.2 The mere fact that an employee is HIV positive or has AIDS does not have to

be disclosed to the employer.

5.3 There is no warrant for requiring existing employees to undergo testing for HIV.

5.4 Information and education on HIV and AIDS, as well as access to counseling and referral, should be provided in the workplace after appropriate consultation with representative employee groups.

6. Health and Support Services

6.1 Persons with HIV or AIDS have rights to housing, food, social security, medical assistance and welfare equal to all members of our society.

6.2 Reasonable accommodation in public services and facilities should be provided for those affected by HIV or AIDS.

6.3 The source of a person's infection should not be a ground for discrimination in the provision of health services, facilities or medication.

6.4 HIV or AIDS should not provide the basis for discrimination by medical aid funds and services.

7. Media

7.1 Persons with HIV or AIDS have the right to fair treatment by the media and to observance of their rights to privacy and confidentiality.

7.2 The public has the right to informed and balanced coverage of, and the presentation of information and education on, HIV and AIDS.

8. Insurance

Persons with HIV or AIDS, and those suspected to be "at risk" of having HIV or AIDS, should be protected from arbitrary discrimination in insurance.

9. Gender and Sexual Partners

9.1 All persons have the right to insist that they or their sexual partners take precautionary measures to prevent transmission of HIV.

9.2 The specially vulnerable position of women in this regard should be recognised and addressed, as should the specially vulnerable position of youth and children.

10. Prisoners

10.1 Prisoners with HIV should enjoy standards of care and treatment equal to those of other prisoners.

10.2 Prisoners with AIDS should have access to special care which is equivalent to that enjoyed by other prisoners with serious illness.

10.3 Prisoners should have the same access to education, information and preventive measures as the general population.

11. Equal Protection of the Law and Access to Public Benefits

11.1 Persons with AIDS or HIV should have equal access to public benefits and opportunities, and HIV testing should not be required as a precondition for eligibility to such advantages.

11.2 Public measures should be adopted to protect people with HIV or AIDS from discrimination in employment housing, education, child care and custody, and the provision of medical, social and welfare services.

12 Duties of Persons with HIV or AIDS

Persons with HIV or AIDS have the duty to respect the rights, health and physical integrity of others and to take appropriate steps to ensure this when necessary.

The AIDS Consortium is at present a loose affiliation of organisations and some individuals. There is no structured membership yet. Individuals or organisations subscribing to the aims of the Consortium are free to attend meetings, and most choose to act as members of the Consortium when policy or organisational issues arise.

At present we have the following organisations, represented at our meetings, either as members or as keen observers:

AIDSCOM, SANTA, FRIENDS FOR LIFE, ACT-UP, AREPP, ALEX AIDS ACTION, BODY POSITIVE, COMMUNITY AIDS CENTRE, IPM, HOSPICE, KAGISO, LEGAL RESOURCES CENTRE, LIFELINE, CHURCHES AIDS PROGRAMME, PLANNED PARENTHOOD ASSOCIATION OF SA, PPHCN (including their national AIDS forum), SA BLACK SOCIAL WORKERS ASSOCIATION, SA COUNCIL OF CHURCHES, SA CATHOLIC BISHOPS CONFERENCE, SANCA, TOWNSHIP AIDS PROJECT, HIVES, MEDECINS DU MONDE, COMMISSION OF THE EUROPEAN COMMUNITIES, MEDECINS SANS FRONTIERS, ALEXANDRA HEALTH CENTRE, GLOW, AIDS SUPPORT & EDUCATION TRUST, WILGE-FRUIT AIDS SERVICES, ADAPT, CENTRE FOR APPLIED LEGAL STUDIES, SACS, AIDS CENTRE (SA INSTITUTE OF MEDICAL RESEARCH), COSATU, NATIONAL UNION OF MINeworkERS, TRANSVAAL GENERAL WORKERS' UNION, BELL, DEWAR & HALL, CUZEN & WOODS, DRAMA & AIDS, OUT-REACH, AIDS LINK.

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