Ending of the US HIV Travel Ban; historical perspective and remaining work.

January 4, 2010 By Eric Sawyer

Let's Celebrate the Ending of the HIV Travel Ban Restriction; but let's also remember one of the USA's darkest periods of HIV persecution - so it does not happen again!

While there is great cause to celebrate the ending of the HIV Travel Restriction Ban today (South Korea also lifted their similar ban on January 1st) let us not forget the that this HIV travel ban also caused one of the darkest periods of forced imprisonment, discrimination and violation of the human rights of people living with HIV by own country.

The event that I am referring to is the operation of the Guantanamo Bay HIV Detention Camp at the Guantanamo Bay, Cuba Naval Base during the years 1991 - 1993. This was at the same US Navy Base were "terrorist" have been detained by our government post 9/11.

As you likely know the US HIV Travel and Immigration Ban which was passed in 1987 was largely the "brain child" (and I note the irony of the use of the word brain) of Jessie Helms. The US government was one of the first countries to pass an HIV Travel Ban. It was not completely a surprise to people living with HIV like myself at the time because there were discussions happening both within government, the public health arena and even in the press about creating HIV Quarantine Camps for all people with HIV.

Many people have speculated that the rapid institution of a US HIV travel restriction, and the domino effect replication of the ban in dozens of countries were an over reaction to HIV fear and the fact that little was known about HIV. Most restrictions on the entry, stay and residence of HIV-positive people were put in place in the 1980s when fear, ignorance and prejudice dominated many responses. For those governments that have such restrictions they represent the governments' attempts to prevent the spread of HIV and to avoid possible costs of treatment and care related to HIV. They likely were also fueled by homo-phobia, drug-phobia and racism since most of the early case of HIV were in drug users, people of color and gay men.

The US government operated an HIV detention camp for HIV positive Haitian Refugees seeking asylum in the US. Supporters of President Aristides were fleeing violence from anti- Aristides forces after President Aristides's government had been over thrown by a military coup. Because of the US Congressional HIV travel ban and the high HIV prevalence rates in Haiti, the refugees coming to the US in boats were rounded up by the Coast Guard and US Navy and transferred to US Navy Supervision at the Guantanamo Bay Naval Base (A.K.A. Gitmo) . At Gitmo they were tested without Voluntary Testing and Counseling Procedures and if the refugee was HIV positive (s) he was informed of such by loud speaker

announcements and told they were unable to leave the camp, as the US Travel and Immigration Ban prohibited their entry into the US. Negative Haitians were told to report to the parole office and were granted humanitarian parole and political asylum.

What is more disturbing is that detainees were housed in prisoner of war conditions; housed in cinder block huts with sheet metal roofs with no running water, no kitchen, no bath rooms. Bath room facilities were public communal out houses and the showers were cold water hoses hung over the rafters of one of these huts. Instead of kitchen detainees were feed in and mess halls settings.

Detainees including pregnant women and people living with full blown AIDS were denied medical care; detainees were also denied legal counsel, or the right of appeal for their “detention decisions.”

When some detainees decided to stage a hunger strike to protest their treatment the hunger striking detainees were hand-cuffed together and placed in 5 feet deep pit in camp yard in mid-day sun.

The Congressional Ban made it politically difficult for Clinton to use an Executive Order to close the camp and made it necessary to use a legal challenge to declare the detention camp a violation of International Human Rights Treaties and to seek a court order that the camp be closed for humanitarian purposes. Public pressure had to be brought upon the Clinton Administration also to force them to not keep the court case tied up in legal appeals indefinitely.

A partnership approach of civil society non-governmental organizations, law firms and legal assistance programs, activist groups, religious leaders, and people living with HIV, friendly politicians, celebrities, and media organizations came together to mount pressure to force a positive outcome. It was thought that multi-pronged approaches lead by multi-faceted stakeholders in the areas that they knew best, would be the most effective approach - given the circumstances surrounding the camp.

Social workers banned together with international human rights organizations and activist. Inspections of the camp including interviews with detainees were demanded by and organized with the help of political activist like Jessie Jackson who made public calls for inspections in the media.

Once the conditions of the camp were documented celebrity supporters of HIV and Social Justice Issues like Susan Sarandon, Tim Robbins, and Jonathan Demme used their star power to go on shows like Oprah to draw public outrage to the existence of the camp.

Activist organizations, ACT UP NY, AIDS Service organizations, AIDS funding groups like BC/EFA, joined governmental Official like the late Dennis de Leon, former NYC Commissioner of Human Rights, and members of the clergy formed social justice coalitions to organize press conferences, demonstrations, civil disobedience actions, pickets and media appearances.

Some of the most notable of these include a public rally and civil disobedience on Fifth Avenue in front of the passport offices where Susan Sarandon, Jessie Jackson, Jonathan Demme, dozens of clergy members and the heads of AIDS organizations and Activists got arrested to draw attention to the need to close the camp. Susan Sarandon and Tim Robbins were banned from the Oscars for using the presentation of an award to criticize the existence of the camp; and a huge press conference at the International Conference on AIDS in Berlin and a mass petition drive at the conference all help pressure the Clinton Administration to back away from defending the camp’s operation.

Eventually the US Federal Court found the camp to be in violation of three International Human Rights Treaties and ordered the camp closed; the court also ordered the detainees be given emergency medical paroles and admittance in to the US, regardless of their HIV Status. Mayor David Dinkins of NYC offered full access to the detainees to all services offered to NYC Citizens in the public safety net system

The outcome of the Federal Law Suit, coupled with the fact that the Clinton Administration really did not support the concept of the camp (but did not want to spend the political capital to close it), gave the Clinton Administration a way to close the camp with out Congress having an ability to prevent it.

According to UNAIDS, there are still 57 countries, territories, and areas impose some form of travel restrictions to the entry, stay and residence of people living with HIV based on their HIV status; 6 countries that require declaration of HIV status for entry or stay, resulting, for people living with HIV, in either a bar to entry/stay or the need for discretionary approval (including through granting waivers); 6 countries deny visas for even short term stays; and 24 countries deport individuals once their HIV-positive status is discovered. Thus the world has a long way to go to match the 110 countries, territories and areas which have no HIV-specific restriction on entry, stay and residence.

There are also a larger number of laws on the books today that discriminate against people living with HIV and people most at risk for HIV, due to the discriminatory nature of these laws, the second class citizenship that the laws relegate these populations too, and the lack of social protections these laws cause. By this statement I am referring to laws that criminalize the transmission of HIV; laws that criminalize same sex consensual sexual relations; laws that criminalize drug possession and drug use; and laws that criminalize sex work. Laws that relegate women and girls to second class citizenship in some countries and laws which categorize children in general as possessions of their parents are also discriminatory and work counter productively to the scientific practices to prevent and fight HIV. But this should be another blog entry.

We still have a long way to go before people with HIV enjoy their human right to mobility, to equal protection under the law. But at least now, with regard to travel in the US and South Korea, people with HIV have a little more freedom.

Now we must keep the pressure up so that all the remaining 57 countries are forced to remove their HIV travel bans as well!

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