Tell your story - how are you impacted by HIV criminalization?

August 4, 2011 By Edwin Bernard

Understanding the unintended impacts of the criminalization of HIV exposure or transmission - way beyond the relatively few individuals who are accused, arrested and/or prosecuted - can play a crucial part in advocating against such laws and prosecutions.

Over the next few months, there are going to be multiple opportunities to highlight issues such as:

- Creating fear and confusion about relying on disclosure to prevent HIV risk, and when disclosure is legally necessary
- Making it harder for people living with HIV who are having problems maintaining safer sex to talk with healthcare workers due to fear of prosecution
- Increasing HIV-related stigma
- Creating a false sense that HIV is someone else's problem, rather than a shared responsibility
- Providing an additional disincentive for people to learn their HIV status

These opportunities will arise via the Global Commission on HIV and Law's High Income Country Dialogue that will take place in Oakland, California on 16-17 September (click here for more details); the UNAIDS Programme Coordinating Board (PCB) meeting focusing on HIV and Enabling Legal Environments that will take place in Geneva, Switzerland on 13-15 December; and through an ongoing project by IPPF, Behind Bars, that highlights a wide range of personal testimonies about the impact of HIV criminalization.

I'm hoping that POZ readers will help me collate personal testimonies about the impact of HIV criminalization on their own lives. You don't have to be an HIV professional or have been involved in a case to have been impacted (although such testimonies are very welcome).

As the example I'm about to show you illustrates, you can simply live in fear of the law because you are living with HIV.

If you have a personal story to share, you can either paste it into the comment box below. Your stories will be highlighted in IPPF's Behind Bars collection, on POZ's HIV criminalization page, and my blog and may also end up in testimony to the Global Commission on HIV and the Law and the UNAIDS PCB meeting. Submissions can be anonymous (but I will require some evidence of

authenticity), and if you do use your real name, please indicate whether it can be used in full or not.

Here's Jonas's story (not his real name) from Norway. The use of Paragraph 155 (known as the 'HIV Paragraph') is currently being evaluated by a Government committee's thorough investigation into the appropriateness of HIV criminalisation. The committee should produce its recommendations by Spring 2012, although there are no guarantees that a version of this law will not remain on the books and continue to be enforced when their deliberations end.

Paragraph 155 of the Norwegian Penal Code, an infectious-disease law enacted in 1902, essentially criminalises all unprotected sex by HIV-positive individuals even if their partner has been informed of their status and consents, and irregardless of viral load or a desire by a couple to conceive. Both 'willful' and 'negligent' exposure and transmission are liable to prosecution, with a maximum prison sentence of six years for 'willful' exposure or transmission and three years for 'negligent' exposure or transmission.

Paragraph 155 - and a story from a partially unlived life

In my teens I turned off my sexuality. Even as my hormones were reaching boiling point, I managed to shut down. I felt that my desires were wrong, and I am a strong-minded person. In my twenties, I told my family and friends that I was gay. I began to have sex carefully, but I was never in any relationship.

When I reached 30, and after some therapy, I began to feel ready to try enter into a relationship. In January 2000 I took the HIV test, together with my best friend, since it was the "millennium change." My test turned out to be HIV-positive, and the shock was devastating. I

was very far from having a wild sex life - it was just very bad luck. Like many other HIV-positive persons, I later came to understand what my doctor told me following diagnosis: “You are going to be fine. HIV is no longer a death sentence.” The words were a great comfort. I still had so much unlived life in me.

Life with HIV was difficult at first, but slowly I came to accept the new situation, the same way I had earlier come to accept my sexual orientation. But because of Article 155 must I, as a virile, and still fairly young man, now live like a monk - an asexual monk? What kind of life will that be? Would I be able to live like that?

Last time I had sex was some months ago. I was dating a nice guy I was attracted to, and we were at his place. Sweet music was playing. I lied and said I did not have the energy to have sex after my gym work out, but that I would like a massage instead. I got the massage. A very nice massage. The atmosphere got hot. I felt both excited and uneasy. He said he wanted to have sex with me. I said no. We continued with massage and kissing for a while. “Just a little?” He asked again. I gave in. We

began to have sex. We got a condom and lubricant ready. Then the thought hit me hard, like a powerful wave. What if the condom bursts? It could happen, even if it is very unlikely. “Exposure to potential risk,” says the HIV Paragraph.

Although I hadn’t told him myself, I knew that he knew a guy who knows that I am HIV-positive, someone I met at a seminar for HIV-positive people some years before. But I did not know this guy well, and I share my diagnosis only with people I have known for a long time, and trust, like friends and family. What if he tells his friend about this incident? Perhaps his friend would guess who I am and say, was his name xxxx? ’Ah yes, he has HIV, like me!’ What if he then calls the police? Reports me? What if the police comes to my home? Brings me in for interrogation, and puts me in a prison cell? What about my important meeting next week? Mum will be crushed if I go to jail. For having sex.

I pulled away. I used the oldest excuse in the book: headache. And low blood sugar. I put on my clothes and left. I never called him again. I have thought about him

several times.

I will not be able to live my life without sex. I’m not a big fan of the word injustice. Nature is not fair. But Paragraph 155 criminalises me for wanting to live a full life - and that includes a sex life. Me - who has studied law just because everyone said I was always so fair and wise.

I feel like a victim, even though I often criticise the role of the victim. A victim of this discriminatory law that criminalises the sexuality of people affected by HIV. A victim of prejudice related to HIV, which few seem to bother to care about. Norwegian society likes its scapegoats. I want to remove the criminalisation of sexuality in Norway. I want a good life. In Norway. In 2011. And in the rest of the years I will live in this beautiful country.

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