The Conversation on Criminalization Continues...

June 10, 2009 By Regan Hofmann

This monday, I was a guest on NPR's "Talk of the Nation" to discuss the criminalization of people living with HIV. Host Neal Conan spoke with Jon Wells, a reporter in Canada who interviewed Johnson Aziga (an HIV-positive man who was convicted of first degree murder for non-disclosure of his HIV status prior to allegedly intentionally infecting several woman, some of whom died), Jonathan Turley, a professor of law at George Washington University (check out his great blog here) and yours truly. Please click here to listen to the show.

I am so grateful that the conversation about the increase in the criminalization of people living with HIV is continuing on more fronts. Your comments on this issue have been helpful and fascinating. Please keep 'em coming. There seems to be a little confusion as to my position on the issue, so I'll reiterate it here. I agree that people who know they have HIV and do not disclose their HIV status to their partner and engage in unprotected sex intending to harm their partner (like Johnson Aziga) should be punished. I also think the laws around the transmission of STDs, if they are to remain in place for people living with HIV, should be consistent and clear and applied across the board to all sexually transmitted diseases that can lead to ill-health or death (like hepatitis, syphilis and human papillomavirus, to name just three). For example, if I am HIV positive and have unprotected sex with someone who has HPV and neither of us discloses that we have our respective diseases and I get HPV but my partner doesn't get HIV, I could go to jail for 25 years - and nothing would happen to them though we did the same thing and even if they transmitted a potentially deadly disease and I didn't.

While I understand our desire to punish people like Aziga, it is worth discussing what impact the criminalization of people with HIV has on the general population, the stigma surrounding HIV and our ability or inability to prevent the spread of what is, essentially, a preventable disease. When we criminalize people with HIV, it makes people afraid to talk about, get tested for or get treated for HIV, all of which increase the odds that the disease will spread. Criminalization, then, can backfire because it is a deterrent to encouraging widespread and routine testing for HIV/AIDS. It's estimated that there are 1.2 million people living with HIV in the U.S. About 1/4 of them are not aware of their HIV status and the majority of new infections result from people who don't know they're living with the virus. We want to encourage people to get tested for HIV so, if needed, they can get onto treatment and save their lives. Also, because being on treatment can lower your viral load to undetectable, which can reduce how infectious you are, treatment itself is being considered as a measure of prevention (read more about this topic in the July/August issue of POZ!). And, while I agree that people with HIV have responsibility to share that information with potential partners, the entire burden of responsibility should not sit solely on the shoulders of the HIV positive person. Everyone, every time they have unprotected sex, has the responsibility to realize that they are potentially putting themselves at risk and should own some responsibility if something happens to them. And, finally, consider this: aren't people who have

unprotected sex and don’t get tested for HIV arguably as dangerous as those who have been tested and fail to disclose and have unprotected sex with others? Not knowing your HIV status is dangerous for you and your partners. So...especially since June 27th is National HIV Testing Day, may I suggest that if you are sexually active and haven’t been tested in the last 3 months, you go get an HIV test. You could save your own life - and the lives of others.

To find a testing center near you, click here to peruse our list of nearly 8,000 AIDS Services Organizations. Many of them conduct testing, or, they can refer you to a testing site near you.

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