

## ***HIV/AIDS: SOCIO LEGAL PROBLEM AND PERSPECTIVE IN INDIA***

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### **I. INTRODUCTION:**

HIV/AIDS is the most serious public health dilemma challenges faced by whole world today. There are more than three million people suffering from HIV/AIDS in India. “HIV” stands for HUMAN IMMUNODEFICIENCY VIRUS, which is a virus that affects the human immune system. It results in a deterioration of the immune system, causing an individual to become more in danger to other infections.

“AIDS” stands for ACQUIRED IMMUNO DEFICIENCY SYNDROME, which is an advanced stage of HIV. An individual with HIV infection may not have developed any of the illnesses that constitute AIDS and the terms should be kept distinct.

### **II. HISTORICAL BACK GROUND OF HIV/AIDS:**

It is widely believed that HIV originated in Kinshasa, in the Democratic Republic of Congo around 1920 when HIV crossed species from Chimpanzees to humans. Up until the 1980s, we do not know how many people were infected with HIV or developed AIDS. HIV was unknown and transmission was not accompanied by noticeable signs or symptoms. In 1980, HIV may have already spread to five continents (North America, South America, Europe, Africa and Australia). In June 1982, a group of cases among gay men in Southern California suggested that the cause of the immune deficiency was sexual and the syndrome was initially called gay-related immune deficiency (or GRID)

### **III. INDIA:**

In 1986, Dr. Suniti Solomon diagnosed the first HIV case in the city of Chennai, in a female sex worker. HIV then spread quickly among sex workers. Most people believed that the foreign clients who frequently traveled outside the country were carriers of this disease. Since then, the number of HIV cases has continued to grow. The Indian government initially set up screening centers to diagnose this deadly disease. Later, in 1987, it also established the National AIDS Control Program to restrain HIV from spreading and promote national efforts against HIV/AIDS. Examples of efforts include screening blood and improving health education.

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India has the third largest HIV epidemic in the world. In 2015, HIV prevalence in India was an estimated 0.26%. This figure is small compared to most other middle-income countries but because of India's huge population (1.2 billion) this equates to 2.1 million people living with HIV. In the same year, an estimated 68,000 people died from AIDS-related illnesses.

At the national level, estimated adult HIV prevalence (15-49 years) has declined since the epidemic's peak in 2000, where prevalence was estimated at 0.55% in 2000, through to 0.32% in 2011, and 0.21% in 2021. The northeast region States have the highest adult HIV prevalence (2.70% in Mizoram, 1.36% in Nagaland, and 1.05% in Manipur), followed by southern States (0.67% in Andhra Pradesh, 0.47% in Telangana, and 0.46% in Karnataka), as per a press published by the Ministry of Health and Family Welfare.<sup>2</sup>

#### **IV. ODISHA:**

While the first HIV patient in ODISHA was identified from Nayagarh district in 1993, the number of patients went up to 23,535 within a span of 17 years in 2010-11.<sup>3</sup> The number went up further to 27,000 in 2011-12 and 30,176 in 2012-13. In terms of the number of AIDS and HIV patients, Odisha presently ranks 14<sup>th</sup> in the country. Taking the district-wise prevalence of the disease into consideration, GANJAM has the highest share of 35.3 percent of the total number of patients followed by Cuttack (13.3). In terms of the number of patients too, Ganjam district has the highest number of patients with 12,511, followed by Cuttack with 4696 patients, Angul (1234), Baleswar (1119), Khodha (1705), Koraput (1927) and Sambalpur (1856) and Boudh district has the least number of patients with only.

#### **V. CAUSES OF HIV/AIDS:**

HIV can be transmitted through unprotected and close contact with certain body fluids, such as blood, semen, breast milk, and vaginal secretions from infected individuals. However, transmission is not possible through air or water, shaking hands, kissing, saliva, tears, or mosquitoes.

#### **VI. COMMON ROUTES OF TRANSMISSION INCLUDE:**

- Unprotected vaginal or anal sex with an HIV Positive Partner. The risk of contracting HIV from sexual encounters increases if the person has other sexually transmitted infections (STIs) and if the male is uncircumcised. Unprotected anal sex has a higher risk factor than vaginal sex, and unprotected receptive anal sex has a higher risk factor than unprotected incentive anal sex. Transmission can, in some instances with specific conditions, occur through oral sex.
- Passage from an HIV-positive mother to a child during pregnancy, birth, or breastfeeding.
- Sharing contaminated equipment used.

<sup>2</sup> . <https://theindianpractitioner.com/24-lakh-hiv-positive-people-in-india-2022>.

<sup>3</sup> . <https://osacs.odisha.gov.in/>

## **VII. STAGES OF AIDS:**

In 1<sup>st</sup> stage, the person is HIV positive but has no symptoms, except for some short-term flu-like symptoms which may occur within a few weeks of infection. This stage may last several years during which the person might have no HIV-related illnesses.

In 2<sup>nd</sup> stage, the person begins to develop minor illnesses. Ear infections, frequent flu and skin problems are common at this stage.

In 3<sup>rd</sup> stage, the person may lose a lot of weight and have longer term illnesses. These may include thrush in the mouth, pneumonia, a fever which lasts more than a month and tuberculosis of the lungs.

In 4<sup>th</sup> stage, the person has illnesses due to a very weak immune system. These may include PCP, pneumonia, chronic diarrhea, toxoplasmosis and meningitis. It is at this stage that a person is said to “have AIDS.” A person is also said to “have AIDS” if their CD4 count (white blood cells) goes under 200.

## **IX. SOCIAL FACTORS FOR HIV/AIDS:**

There are so many social factors are responsible for HIV/AIDS: these are:

1. Poverty
2. Illiteracy
3. lack of awareness
  
4. Unemployment
5. Migration for livelihood

## **X. WORLD AIDS DAY 2024:**

World AIDS Day, observed annually on December 1 since 1988, serves as global platform to unite people in raising awareness about HIV (Human Immunodeficiency Virus)/AIDS (Acquired Immune Deficiency Syndrome) and demonstrating solidarity against the Pandemic. It is an opportunity for governments, organisations and communities to reflect on the progress made in prevention, treatment, and care while highlighting the ongoing challenges. This Day, recognized as one of the most significant international Health Observances, not only spread awareness but also commemorates those who have lost their lives to AIDS and celebrates as a critical public health issue, World AIDS Day underscores the integral connection between combating AIDS and achieving universal health Coverage and the right to health<sup>4</sup>.

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<sup>4</sup> . World AIDS Day, Posted On: 30 NOV 2024 11:32AM



  
 Ministry of Health & Family Welfare  
 Government of India

**Imagine a world with no stigma around HIV**



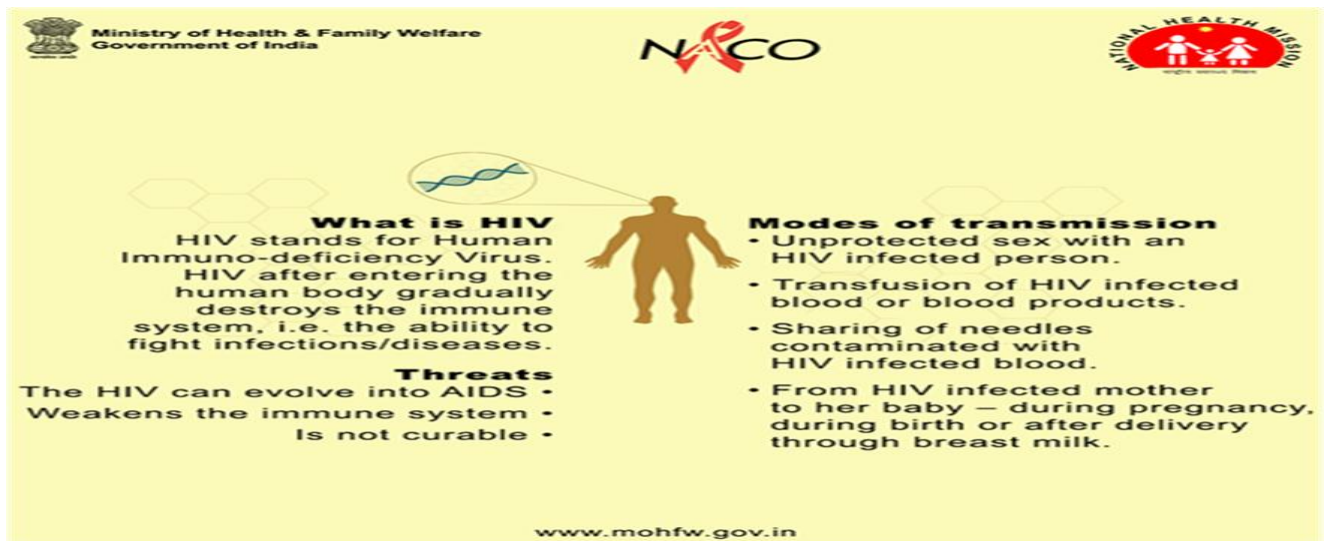
- ▶ Education about HIV is widespread and accurate.
- ▶ Discrimination based on HIV status is history.
- ▶ Everyone is aware of their HIV status.
- ▶ Effective policies and resources are allocated for prevention and treatment.
- ▶ The future is filled with hope and acceptance.
- ▶ The narrative is changed from ignorance to awareness.


**#HIVAwareness**

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### **XI. 2024 THEME: TAKE THE RIGHTS PATH; MY HEALTH, MY RIGHT:**

The theme for world AIDS Day 2024, “Take the Rights path: My Health, My Right “emphasize the importance of health care access and the empowerment of individuals in managing their health, it underscores the need to address systemic inequalities that prevention and treatment services. This Years theme highlights the role of human rights in ensuring that everyone, regardless of their background or circumstances, can exercise their right to health. By focusing on this rights-based approach, the 2024 campaign seeks to foster inclusivity, reduce stigma, and encourage global cooperation to eradicate AIDS as a public Health threat.





 Ministry of Health & Family Welfare  
 Government of India

**NACO**

  
 NATIONAL HEALTH MISSION

**What is HIV**  
 HIV stands for Human Immuno-deficiency Virus. HIV after entering the human body gradually destroys the immune system, i.e. the ability to fight infections/diseases.

**Threats**  
 The HIV can evolve into AIDS •  
 Weakens the immune system •  
 Is not curable •



**Modes of transmission**

- Unprotected sex with an HIV infected person.
- Transfusion of HIV infected blood or blood products.
- Sharing of needles contaminated with HIV infected blood.
- From HIV infected mother to her baby – during pregnancy, during birth or after delivery through breast milk.

[www.mohfw.gov.in](http://www.mohfw.gov.in)

<sup>5</sup> . <https://www.pib.gov.in/PressNoteDetails.aspx?NoteId=153470&ModuleId=3&reg=3&lang=1>

National AIDS Control organization (NACO), Ministry of Health and Family Welfare, Government of India periodically undertakes HIV estimation process to provide the updated information on the status of HIV epidemic in India. First HIV estimation in India was done in 1998 while last round was done in 2020. India HIV Estimates 2021, latest round in the series, was undertaken using UNAIDS recommended 'Spectrum' tool as in previous rounds. Spectrum version 6.18, the latest version available during the implementation period, was used. This fact sheet provides estimates on key epidemiological parameters of HIV prevalence, PLHIVs, new infections, AIDS related mortality, elimination of mother to child transmission. Annual New Infection (ANI) are estimated at 62.97 thousand in 2021 in India. There is an estimated 46.3% decline in ANI at national level from 2010-2021. A declining trend is noted in most States. Top 3 States with most rapid decline are Himachal Pradesh (with around 73% decline from 2010-2021), Tamil Nadu (around 72% decline), Telangana (nearly 71% decline). An increasing trend is estimated in the northeast States of Tripura, Meghalaya, Arunachal Pradesh, Assam, Sikkim,

S No	State/UT	AIDS related mortality per 100,000 population	Total number of AIDS related deaths	Percentage change in annual AIDS related deaths, 2010-2021
1.	Andhra Pradesh	17.4 (11.82-25.5)	9,186(6,237-13,463)	-73.75
2.	Arunachal Pradesh	0.86 (0.34-1.59)	13 (5-24)	4.44
3.	Assam	1.93 (1.44-2.55)	677 (505-893)	-7.77
4.	Bihar	2.01 (0.86-40)	2,471 (1,060-4,926)	-41.25
5.	Chhattisgarh	4.34 (2.71-6.27)	1,281 (799-1,850)	-65.10
6.	Delhi	4.61 (2.39-8.56)	948 (492-1,761)	-25.94
7.	Goa	4.48 (2.93-7.57)	70 (46-118)	-86.41
8.	Gujarat	1.16 (0.72-1.94)	810 (503-1,352)	-69.49
9.	Himachal Pradesh)	0.98 (0.43-1.90)	73 (32-140)	-80.05
10.	Haryana	2.02 (1.37-3.02)	595 (405-890)	-76.32
11.	Jharkhand	1.01 (0.44-2.06)	388 (168-791)	-51.98
12.	Jammu & Kashmir			
13.	Ladakh	1.06 (0.32-2.36)	142 (43-316)	-10.13
14.	Karnataka	10.09 (6.28-15.78)	6742 (4,195-10,545)	-78.17
15.	Kerala	0.34 (0.19-0.67)	121 (66-236)	-81.69
16.	Meghalaya	2.22 (0.95-5.24)	73 (31-172)	30.36
17.	Maharashtra	4.69 (3.20-7.48)	5,833(3,986-9,310)	-84.83
18.	Manipur	26.59 (20.02-35.7)	841 (633-1,130)	-64.14
19.	Madhya Pradesh	1.18 (0.80-1.82)	999 (676-1,534)	-77.83
20.	Mizoram	15.80 (11.43-21.76)	192 (139-265)	-69.52
21.	Nagaland	13.98 (8.65-25.06)	306 (190-549)	-65.07
22.	Odisha	3.56 (1.72-5.95)	1,627 (785-2,721)	-45.51
23.	Punjab	1.91 (1.27-3.01)	580 (385-915)	-85.60
24.	Rajasthan	0.53 (0.36-0.79)	422 (288-626)	-80.29
25.	Sikkim	0.51 (0.19-1.25)	3 (1-8)	-40.00
26.	Tamil Nadu	2.72 (1.84-3.82)	2079 (1,404-2,915)	-81.11
27.	Tripura	0.20 (0.11-0.34)	8 (5-14)	0.00
28.	Uttarakhand	3.42 (2.38-4.97)	389 (271-567)	-45.37
29.	Uttar Pradesh	1.05 (0.58-1.96)	2428 (1,347-4,533)	-66.98
30.	West Bengal	0.73 (0.55-1.02)	716 (540-1,001)	-87.49
31.	A & N Islands	4.90 (0.62-14.19)	20 (2-57)	-13.04
32.	Chandigarh	0.54 (0.39-0.76)	6 (5-9)	-95.83
33.	DNH&DD	0.93 (0.52-1.71)	10 (6-18)	-69.70
34.	Puducherry	10.4 (3.19-19.55)	163 (50-307)	123.29
35.	Telangana	4.65 (2.98-8.42)	1,754 (1,124-3,178)	-87.76
36.	India	3.08 (1.94-4.95)	41,968(26,499-67,451)	-76.54

**TABLE 1 AIDS-RELATED MORTALITY RATE, ANNUAL AIDS-DEATH AND CHANGE IN ANNUAL AIDS-DEATH BY STATE/UTS, 2021<sup>6</sup>**

<sup>6</sup> . National AIDS Control Organization ICMR- National Institute of Medical Statistics,2021

S No	State/UT	HIV incidence per 1000 uninfected population	Total number of annual new HIV infections	Percentage change in annual new HIV Infections, 2010-2021
1	Andhra Pradesh	0.08 (0.06-0.12)	4,386 (2,898-6,409)	-68.19
2	Arunachal Pradesh	0.05 (0.02-0.09)	68 (32-131)	54.55
3	Assam	0.06 (0.05-0.08)	2,079 (1,562-2,807)	26.23
4	Bihar	0.07 (0.03-0.13)	8,827 (3,948-15,698)	-7.21
5	Chhattisgarh	0.06 (0.04-0.10)	1,788 (1,150-2,794)	-36.30
6	Delhi	0.14 (0.08-0.22)	2,736 (1,683-4,402)	-14.12
7	Goa	0.07 (0.03-0.12)	113 (53-192)	-14.39
8	Gujarat	0.04 (0.02-0.07)	2,507 (1,486-4,872)	-59.68
9	Himachal Pradesh	0.02 (0.01-0.02)	112 (75-171)	-73.33
10	Haryana	0.07 (0.04-0.12)	2,038 (1,230-3,404)	-41.82
11	Jharkhand	0.04 (0.02-0.06)	1,368 (745-2,335)	-15.03
12	Jammu & Kashmir	0.02 (0.01-0.06)	284 (85-814)	-35.75
13	Ladakh			
14	Karnataka	0.06 (0.04-0.09)	3,792 (2,427-5,843)	-62.87
15	Kerala	0.01 (0.01-0.02)	403 (249-594)	-66.80
16	Meghalaya	0.37 (0.15-0.76)	1,191 (490-2,460)	221.02
17	Maharashtra	0.04 (0.03-0.07)	5,411 (3,423-8,063)	-55.81
18	Manipur	0.32 (0.20-0.44)	978 (629-1,355)	-34.89
19	Madhya Pradesh	0.02 (0.01-0.03)	1,541 (1,100-2,546)	-59.52
20	Mizoram	1.31 (0.87-1.91)	1548 (1,027-2,242)	3.48
21	Nagaland	0.51 (0.30-0.88)	1,096 (649-1,875)	-32.68
22	Odisha	0.05 (0.02-0.08)	2,179 (1,018-3,772)	-45.57
23	Punjab	0.05 (0.03-0.08)	1,382 (989-2,252)	-70.52
24	Rajasthan	0.03 (0.02-0.05)	2284 (1,274-3,681)	-40.43
25	Sikkim	0.05 (0.01-0.13)	34 (9-89)	13.33
26	Tamil Nadu	0.02 (0.01-0.03)	1,498 (998-2,070)	-72.53
27	Tripura	0.13 (0.07-0.18)	521 (271-737)	330.58
28	Uttarakhand	0.04 (0.02-0.07)	486 (276-830)	-37.45
29	Uttar Pradesh	0.04 (0.02-0.07)	8,445 (4,463-15,150)	-25.51
30	West Bengal	0.02 (0.01-0.02)	1,525 (1,063-2,271)	-57.47
31	A & N Islands	0.04 (0.01-0.31)	15 (5-121)	-66.67
32	Chandigarh	0.06 (0.02-0.11)	67 (21-126)	-42.74
33	DNH&DD	0.08 (0.05-0.12)	79 (51-122)	6.76
34	Puducherry	0.12 (0.06-0.21)	181 (85-319)	-54.29
35	Telangana	0.05 (0.03-0.11)	2,007 (992-4,027)	-70.95
	India	0.05 (0.03-0.08)	62,967 (36,715-1,04,058)	-46.25

TABLE 2. INCIDENCE RATE, ANNUAL NEW INFECTIONS AND CHANGE IN NEW HIV INFECTIONS BY STATE/UTS, 2021<sup>7</sup>

<sup>7</sup> . National AIDS Control Organization ICMR- National Institute of Medical Statistics,2021

## **XII. LEGAL PROVISION INTERNATIONAL PERSPECTIVE:**

The Universal Declaration of Human Rights (UDHR)<sup>8</sup> emphasize that the principle of non-discrimination is fundamental to human rights law. Article 25(1) of UDHR declared that regarding the right to adequate standard of living, assistance, medical care and necessary social service, and right to security in the event of unemployment according to their needs and their treatment choice. The two international conventions like International Convent on civil and Political Rights (ICCPR)<sup>9</sup> and International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>10</sup> are also Endeavour and aim at non-discrimination on the basis of creed, political affiliation, gender or race.

The International Covenant on Economic, Social and Cultural Rights. They also cover within their ambit nondiscrimination of the people infected with HIV.

India has signed various treaties, agreements and declarations relating to HIV/AIDS, the protection of rights of those who are HIV positive, affected by HIV/AIDS and most vulnerable to HIV/AIDS in order to secure their human rights and prevent the spread of HIV/AIDS.

In the year of November,1983 the World Health Organization (WHO)<sup>11</sup> held its first meeting to assess the global AIDS situation and began international surveillance. In the year 1988, the WHO declared 1st December as the first World AIDS Day.

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<sup>8</sup> . Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations

<sup>9</sup> . The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty that commits nations to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial.[3] It was adopted by United Nations General Assembly Resolution 2200A (XXI) on 16 December 1966 and entered into force on 23 March 1976 after its thirty-fifth ratification or accession

<sup>10</sup> . The International Covenant on Economic, Social and Cultural Rights (hereinafter “ICESCR”), together with the International Covenant on Civil and Political Rights (hereinafter “ICCPR”), were adopted by the United Nations General Assembly on 16 December 1966 by consensus, with no abstentions (General Assembly resolution 2200 A (XXI) of 16 December 1966). The ICESCR entered into force in general on 3 January 1976 and the ICCPR on 24 March 1976

<sup>11</sup> . The World Health Organization (WHO) is a [specialized agency](#) of the [United Nations](#) responsible for international [public health](#). It is headquartered in [Geneva](#), Switzerland and has six regional offices and 150 field offices worldwide. The WHO was established on 7 April 1948 and convened its first meeting on 24 July of that year. It incorporated the assets, personnel, and duties of the [League of Nations](#)' Health Organization and the Paris-based [Office International d'Hygiène Publique](#), including the [International Classification of Diseases](#)

The UNAIDS<sup>12</sup> Guidelines, 1996 emphasizes on the duty of the states to engage in law reform. It also guides the states to identify legal obstacles so as to form an effective strategy of HIV/AIDS prevention and care. It also lays stress on enactment of anti-discrimination and other protective laws that would protect HIV/AIDS diagnosed people from discrimination in both the public and private sectors would ensure their privacy, confidentiality and ethics in research involving human subjects and would lay emphasis on education and conciliation and provide for speedy and effective administrative and civil remedies.

### **XIII. LEGAL PERSPECTIVE IN INDIA:**

The Supreme law of the land, the Constitution of India provide some protection provision for the HIV/AIDS people under article 14, 15,16,21,39 and 42. The constitution provide fundamental guarantees the rights of equality of treatment to HIV/AIDS people, protect them against Discrimination and protect their right to life and personal liberty with privacy. The state has obligation ensure that right to livelihood and prevent discrimination, ensure the entire citizen it encompass the HIV/AIDS people also. There are so many legal provisions enacted by the India which is directly and indirectly help to prevent and protection the HIV/AIDS people. These are Medical Council Act 1956, (Professional, Conduct & Ethics regulation-2002), Immoral Trafficking Prevention Act-1986, HIV/AIDS Bill 2007, HIV&AIDS (Prevention and Control) Bill,2010, Indian penal code 1860, Drugs and Cosmetic Act 1960, Medical termination and pregnancy act-1971 etc

The Constitution of India provides the provision to protect the rights of HIV/AIDS affected people.

Article 14 guarantees the right of equality of treatment to HIV/AIDS patients.

Articles 15 and 16 prohibit discrimination in public facilities and public employment respectively.

Article 21 protects the right to life, personal liberty and ensures the right to privacy.

Part IV enshrining the Directive Principles of State Policy directs States to ensure that all citizens including HIV/AIDS patients have an adequate mean of livelihood, to make provisions

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<sup>12</sup> . The Joint United Nations Programme on HIV/AIDS (UNAIDS) unites the efforts of 11 UN organizations— UNHCR, UNICEF, WFP, UNDP, UNFPA, UNODC, UN Women, ILO, UNESCO, WHO and the World Bank. UNAIDS is a problem-solver. It started operations in 1996, It places people living with HIV and people affected by the virus at the decision-making table and at the center of designing, delivering and monitoring the AIDS response. It charts paths for countries and communities to get on the Fast-Track to ending AIDS and is a bold advocate for addressing the legal and policy barriers to the AIDS response. UNAIDS provides the strategic direction, advocacy, coordination and technical support needed to catalyze and connect leadership from governments, the private sector and communities to deliver life-saving HIV services. Without UNAIDS, there would be no.

for securing just and humane conditions of work, to improve public health vide Article 39, 42 and 47 respectively.

#### **XIV. LEGAL PROVISIONS IN INDIAN MEDICAL COUNCIL ACT, 1956 (PROFESSIONAL CONDUCT, & ETHICS) REGULATIONS, 2002):**

The Medical Council of India lays down certain duties that have to be observed by the doctors towards the HIV/AIDS patients. These are enumerated below:

- ❖ Duty to take care and to take informed consent from the patient.
- ❖ Disclosure of information & risks to the patient
- ❖ Provide information of options available & benefits
- ❖ Duty to warn
- ❖ To admit patient in emergency without consent
- ❖ The physician should not abandon his duty for fear of contracting the disease himself.

#### **XV. RAJYA SABHA PASSES BILL TO ENSURE RIGHTS OF HIV AND AIDS PATIENTS, MARCH 21,2017**

The HIV and AIDS (Prevention and Control) Bill, 2014, aimed at ensuring equal rights while seeking treatment, education and job by people living with HIV, was passed by the RAJYA SABHA. The Bill also assumes significance as it protects such people from specific acts of discrimination by the state, or any other person. It also lays down penal provisions for any discrimination practiced against a person with HIV/AIDS and breach of confidentiality. Under the Bill, central and state governments are obliged to provide for anti-retroviral therapy (ART) and management of opportunistic infections (infections that take advantage of weakness in the immune system and occur frequently). The protection mandated in the Bill extends to the fields of employment, healthcare services, educational services, public facilities, property rights, holding public office, and insurance.

#### **XVI. THE RIGHTS OF PEOPLE LIVING WITH HIV AND AIDS:**

- ❖ People with HIV and AIDS in India have the same rights to housing, food, social security, medical assistance and welfare as all other members of our society. People with HIV and AIDS in India are also protected by Fundamental Rights and have the same rights that protect all citizens.
- ❖ There can be no discrimination against anyone who has HIV and AIDS.
- ❖ They have the right to medical treatment and care from our health and welfare services.

- ❖ Children with HIV and AIDS are allowed to attend any school.
- ❖ No one can be fired from a job just because they are HIV positive
- ❖ No one can be forced to have an HIV test at work or before getting a job.
- ❖ Test results cannot be shown to anyone else without the person's permission.
- ❖ Pregnant women with HIV and AIDS have the right to make a choice about their pregnancy.

## XVII. LEGAL PROVISIONS IN IMMORAL TRAFFICKING PREVENTION ACT, 1986:

Immoral Trafficking Prevention Act, 1986 deals with sex work in India. The Act provides for conducting compulsory medical examination for detection of HIV/AIDS. It also made provisions for compulsory testing.

The other legislation polices and agencies which provide protection to the HIV/AIDS patients are:

## XVIII. BHARATIYA NYAYA SANHITA, 2023:

The Bharatiya Nyaya Sanhita (BNS) 2023 which is replaced in the place of Indian penal code, 1860 from July 1, 2024 contains provisions related to HIV AIDS, primarily focussing on the criminalization of its transmission, mirroring the earlier Indian penal code provisions.

- **Section 271 of BNS, 2023<sup>13</sup> Negligent Act likely to spread infection of Disease Dangerous to life:** This provision penalizes anyone who unlawfully or negligently performs an action known to be likely to spread the infection of any disease dangerous to life. This punishment by imprisonment for up to six months, a fine or with both.
- **Section 272 of BNS, 2023<sup>14</sup> Malignant Act Likely to spread Infection of Disease Dangerous to Life:** This provision penalizes "Malignantly" doing any act known to be likely to spread the infection of a dangerous disease. This is more severe, Punishable by imprisonment for up to two years a fine or with both.
- **Contextual Application of Bharatiya Nyaya Sanhita in HIV Cases:** While the HIV and AIDS (Prevention and Control) Act, 2017, Focuses on Protection against discrimination, the BNS deals with the criminal aspects of transmission. Courts have previously interpreted malignant transmission (Section 272 BNS) as an attempt to Cause severe harm, potentially treating it as an aggravating factor.

In [Sabhajeet Maurya v State NCT of Delhi<sup>15</sup>](#), a question came up before the court as to whether a person malignly spreading any dangerous disease can be booked for attempt to murder. In this case, the court held that an HIV positive patient cannot be

<sup>13</sup> . Bharatiya Nyaya Sanhita, Taxman's New Criminal Major Acts, Page.1.371.

<sup>14</sup> . Bharatiya Nyaya Sanhita, Taxman's New Criminal Major Acts, Page.1.371.

<sup>15</sup> . Criminal Appeal No. 493 Of 2013, Criminal Miscellaneous (Bail) No. 7547 Of 2020

prosecuted for the offence of attempt to murder if they had sexual intercourse without consent. This highlights the need for thorough strategies to prevent criminal and intentional transmission of HIV and other such STDs. This is because STDs and STIs, especially HIV-AIDS, have [lifelong implications](#) on a person's health and wellbeing, and due to the absence of a well-defined treatment for HIV, there is a higher possibility of death. Such diseases are also different from other ailments in the way that there is a [widespread stigma](#) around them, leading to the discrimination of the person suffering from them.

## **XIX. DRUGS AND COSMETIC ACT, 1940:**

According to Section 9A Adulterated Drugs for the purposes of this Chapter, a drug shall be deemed to be adulterated, —

- (a) If it consists, in whole or in part, of any filthy, putrid or decomposed substance; or
- (b) If it has been prepared, packed or stored under insanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health; or
- (c) If its container is composed in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or
- (d) If it bears or contains, for purposes of colouring only, a colour other than one which is prescribed; or
- (e) If it contains any harmful or toxic substance which may render it injurious to health; or
- (f) If any substance has been mixed therewith so as to reduce its quality or strength.

World AIDS Day 2024 serves as a reminder of the work that remains to be done to eliminate HIV/AIDS. Through the NACP Phase-V and its rights-based approach, India has made significant progress in prevention, treatment, and care. However, challenges like systemic inequalities and social stigma require continued focus. The theme “Take the Rights Path: My Health, My Right!” encapsulates the collective mission to foster inclusivity, uphold human rights, and ensure equitable healthcare access. As the world moves closer to achieving the goal of ending AIDS by 2030, India's efforts exemplify the power of collaborative action, innovative strategies, and an unwavering commitment to health equity. By addressing the structural challenges and scaling up successful interventions, India is poised to lead the global fight against HIV/AIDS, ensuring a healthier, stigma free future for all.<sup>16</sup>

## **XX. CONCLUSION:**

HIV can have an impact on various dimensions of a person's life like physical, psychological and social and can often result in stigma and fear. The diagnosis of being HIV positive is a point that changes a person's life and can induce the feeling of loneliness and being isolated. One of the reasons for the stigma associated with HIV is the lack of awareness about the disease and the spread and progression of the disease. There is a need for the spread of awareness and information about HIV/AIDS to the public in general and educated mass in particular. There

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is a need to expand the services, care and treatment of the people with HIV to go beyond the physical aspect by integrating mental health components in education about HIV along with the medical treatment and care that are provided for people with HIV. There is also a need to bring in community level changes to increase the psycho-social well-being of the people living with HIV/AIDS.

There are so many rules' regulations provide for protection of HIV/AIDS patients by international, National, state and municipality and Panchayat level. There is need to protect the human being from this HIV/AIDS by humanism, morality and spiritualism.