

## AIDS 2008: Criminalisation a hot topic

Created 24 Sep 2008 - 11:50am

The criminalisation of HIV transmission or exposure was one of the burning issues at the World AIDS Conference and at a prior satellite meeting. South African Supreme Court Justice Edwin Cameron delivered a speech that called for an unambiguous rejection of the use of criminal law to regulate the sexual behaviour of those with or at risk of HIV.

Justice Cameron gave examples of ridiculous uses of the law in recent times to prosecute people with HIV for transmission offences even when no transmission occurred or was ever likely to. He quoted the example of an HIV-positive man Texan man who was gaoled for 35 years for spitting at a policeman, where the offence was deemed to be "harassing a public servant with a deadly weapon"! In Singapore a man was gaoled for five years for fellating a male and a Zimbabwe woman was prosecuted for "deliberate transmission of HIV" which was interpreted as having unprotected sex with her partner when she should have known "there was a real risk of possibility of infecting another."

Cameron said that there was an alarming increase of HIV transmission laws around the world in recent times. Governments were seeking simplistic ways of trying to control HIV when it is well known that such laws are ineffective, they are about retribution and punishment rather than measures that really support those at risk, they victimise, oppress and endanger women, increase stigma and are a strong disincentive to testing.

Cameron concluded his speech with a call for a campaign against "these misguided criminal laws and prosecutions" and that an international monitoring group should be set up to publicise this issue and pressure governments to look at more supportive public health interventions. Such a group was formed at the conference that will be facilitated by ACON's Legal Officer David Scammel.

Mike Kennedy, Executive Director of the Victorian AIDS Council/ Gay Men's Health Centre who attended these sessions said there was a tension between those who believed that there were no circumstances in which criminal sanctions should ever apply against people with HIV over transmissions and those who thought that there should be many prosecutions launched where HIV transmission occurs when a person knows they are living with HIV. "Most of the audience were somewhere in between these stances, with many holding the belief that if intention to transmit HIV could be proven this should be prosecuted," he said.

[UNAIDS](#) [1]Joint United Nations Programme on HIV/AIDS. UNAIDS is the main advocate for accelerated, comprehensive and coordinated global action on the epidemic. has been so concerned about this "criminalisation creep" in Europe and Central Asia and the rapid spread of "highly inefficient laws" in West and Central Africa that they produced a policy paper at the conference which urged governments to repeal current laws that criminalise HIV infection except in the case of intentional transmission.

IMAGE: Karen Dunaway-Gonzales, a 13 year-old HIV-positive girl from Honduras received a standing ovation at the Opening Plenary of the conference. Dunaway-Gonzalez has been an AIDS activist for a number of years and edits Llavectas, a UNICEF-funded magazine for children about HIV. PHOTO AP VIA AAP/EDUARDO VERDUGO

- [Criminalisation of HIV transmission](#)
- [International AIDS Conference](#)

### Links:

[1] <http://www.napwa.org.au/glossary/term/396>