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Kaiser Daily HIV/AIDS Report

Opinion | Convicting HIV-Positive People Contributes to Spread of Virus, Opinion Piece Says

[May 19, 2009]

The recent [conviction](#) of HIV-positive Toronto resident Johnson Aziga is "part of an upward trend," as more "charges and prosecutions for HIV transmission -- and even potential HIV exposure -- are popping up around the planet," Regan Hofmann, editor-in-chief of *POZ*, writes in a [Dallas Morning News](#) opinion piece.

According to Hofmann, the Canadian court that convicted Aziga took "the criminalization of people with HIV to a new level of severity," convicting him of two counts of first-degree murder and 10 counts of aggravated assault. "He's the first person in the world who was aware of his HIV status to be convicted of first-degree murder for exposing a sexual partner to HIV," she notes. "In some cases, HIV-positive people are being imprisoned even if HIV transmission couldn't have possibly occurred," she writes, citing a case in Dallas, Texas, last year in which "an HIV-positive man was sentenced to 35 years for harassing a public servant with a 'deadly weapon' when he spat on a police officer."

Hofmann writes that her decision to be with the partner from whom she contracted HIV involved a risk that exists for "anyone anytime they have intercourse without a condom," adding that while she was "certainly upset at the man who gave me HIV," she is "equally upset with myself for choosing to risk my own life when, arguably, I knew better." She continues, "The finger of justice seems to inevitably wag at the person living with HIV, but given that these cases in question involved consensual sex, it makes me wonder why we are not discussing the culpability of both parties," adding, "Why are we not asking the person who was exposed, and who perhaps contracted HIV, whether they felt any responsibility for the risk they took when having unprotected sex?"

According to Hofmann, "Criminalizing people with HIV ... helps deepen the stigma around the disease, which in turn, undermines prevention, testing and treatment efforts," making people less likely to seek out information on HIV, discuss HIV with their partners or get tested.

"According to U.S. law, if you don't know you have HIV, you are less culpable should you pass it along to a partner," Hofmann writes, adding, "This provides a disincentive for people to know their HIV status. And, if people are unaware of their HIV status, they are not seeking care for the disease." Hofmann writes, "When people are aware that they have HIV and seek treatment, their viral load can be reduced, rendering them less infectious." She adds, "Therefore, criminalization of HIV actually leads to the spread of HIV" and deters people from talking about the virus. She concludes, "People should fear" HIV "rather than those

whose bodies harbor it. The barrier of stigma wedged between a person and others they deem 'dirty' or 'derelict' will not keep AIDS at bay" (Hofmann, *Dallas Morning News*, 5/15).

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