

Scientific Evidence and Treatment Needed to Combat the Spread of HIV—Not Ineffective Travel Bans

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Introduction

HIV-related restrictions against entry, stay, and residence remain common around the world. Various countries have policies that mandate HIV testing of all or certain groups of foreign nationals as a condition of obtaining a visa for employment. These policies have no basis in science and violate migrant workers' human rights to confidentiality and informed consent to testing, exposing them to exploitation by their employers. According to UNAIDS, 35 countries currently have official HIV-related travel restrictions.^[1] Furthermore, HIV-related travel restrictions against foreign nationals have been shown by international treaty bodies, international legal scholars, and human rights organizations to constitute discrimination based on race, ethnicity, and/or country of origin.^{[2][3][4]}

Scope and Purpose

Restrictions on travel, immigration, or residence related to HIV status are a violation of the principles of nondiscrimination and equal treatment in all international human rights laws, treaties, and agreements.^{[1][5][6]} The International Covenant on Civil and Political Rights guarantees the right to equal protection under the law, free from discrimination based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status, and the UN Commission on Human Rights has determined that this includes discrimination based on health status, including HIV infection. According to the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, while international human rights law allows governments to restrict rights in cases of emergency or serious public concern, the restrictions must be the minimum necessary to effectively address the concern - and HIV-related travel restrictions have been overwhelmingly ruled as both overly intrusive and ineffective public health policy.^[5] Within such restrictions, compulsory HIV testing is a serious violation of numerous human rights principles, including the right to bodily integrity and dignity.^[7] The accompanying deportation and/or loss of employment and residency status of HIV-infected migrants that frequently accompanies such testing violates the rights of PLWHA to privacy, work, and appropriate medical care.^{[1][8]} The International Labour Organization (ILO) has specifically stated that neither HIV tests nor private HIV-related personal information should be required of employees or job applicants.^{[7][9]}

Despite this robust evidence base, according to UNAIDS, 35 countries currently have official HIV-related travel restrictions openly acknowledged and enforced by the government.^[2] These restrictions vary from outright entry bans, which bar PLWHA from entering the country, to restrictions on stays longer than a specified period of time or to obtain employment visas or residency status.^{[1][5][10]} Others have inconsistent policies and/or intentionally misrepresent their policies with HIV-related restrictions.^{[1][11][12]} Such policies and practices, and the number of migrants impacted by them, are difficult to track because of differing or ambiguous definitions^[13] and a lack of data.^{[12][13]} Some of the most restrictive policies subject immigrants to mandatory HIV testing, either when applying for residency or for an employment visa, which is frequently required by states for legal residency.^{[4][10][12][14][15]}

The two primary justifications provided by governments for mandatory HIV tests for migrant workers and other HIV-related travel restrictions are to protect public health and reduce the cost burden on the country's healthcare system imposed by providing HIV care services to foreign nationals.^{[13][16][17][18][19]} While countries have the right to employ measures to protect their populations from communicable diseases of public health concern, HIV is not transmitted by casual contact, meaning there is no scientific basis for attempting to control its spread via immigration policies.^{[1][5][7][13][14][19]} Furthermore, countries that do not have HIV-related travel restrictions have not reported any negative public health consequences compared to those that do^[19], and recent analysis suggests that even migration from countries with generalized HIV epidemics does not pose a public health risk to destination countries.^[20]

In fact, immigration policies banning or restricting entry or employment based on HIV status often have the opposite effect of their protective intention, causing direct harm to the health of both of immigrants and citizens. They marginalize PLWHA, regularly discourage people from accessing HIV testing and treatment^{[11][20]}, and reinforce stereotypes and discriminatory attitudes against PLWHA in the general population.^[21] Regulations requiring HIV tests of immigrants can promote the idea that foreigners are dangerous to the national population and a public health risk^{[5][19]}, as well as creating a false sense of security by reinforcing the notion that only migrants are at risk for infection.^{[6][17]} Additionally, such attitudes can adversely impact the host country's own HIV epidemic, as citizens who are unaware of their HIV-positive status, underestimating their own HIV risk and avoiding testing due to stigmatization, are more likely to transmit the virus to others, driving up infection rates.^{[22][23]}

State-enforced HIV screening of migrants costs far more than it saves in treatment costs. Screening travelers and migrants for HIV is impractical and expensive.^{[5][13][19]} Labor migrants (both regular and undocumented) bring significant economic benefits to their host countries, in addition to themselves, and this cost-benefit balance remains even when migrants are HIV-positive and rely on the host country's health care system for treatment and support.^{[10][18][18]}

Fields of Application:

- National public health associations and their members
- Human rights and HIV advocacy groups

- UNAIDS
- The World Federation of Public Health Associations

Action Steps:

The WFPHA joins with UNAIDS, the World Health Assembly, and other HIV and human rights organizations (e.g., Amnesty International, Human Rights Watch, ILO) to call on all countries that still maintain and/or enforce HIV-related restrictions on entry, stay, or residence to eliminate such restrictions, ensuring that all HIV testing is confidential and voluntary and that counseling and medical care be available to all PLWHA within its borders, including migrants and foreign nationals.

The WFPHA affirms the following principles:

- All people have the right to confidential and voluntary HIV testing and counseling.
- Persons living with HIV/AIDS (PLWHA) have the right to privacy, to work, and to appropriate medical care.
- All HIV-related travel and immigration restrictions currently in place should be removed.
- Agencies and businesses who employ foreign nationals should not use HIV tests as a means to discriminate against potential employees.
- Governments should provide HIV prevention and treatment services that are equally accessible to citizens and foreign nationals.
- Migrant workers should have access to culturally appropriate HIV prevention and care programs in languages that they can understand.

The WFPHA recommends that:

1. Public health associations in every country should:
 - a. Develop policies opposing HIV-related travel restrictions;
 - b. Document and/or support human rights and HIV advocacy groups in documenting immigration policies that explicitly discriminate, or allow employers to discriminate, against migrants based on HIV status;
 - c. Document and/or support human rights and HIV advocacy groups in documenting any HIV testing practices that are not voluntary or confidential;
 - d. Inform their members and the public that HIV-related travel restrictions and compulsory HIV testing of foreign nationals is a violation of human rights and does not protect public health or reduce health care costs; and
 - e. Advocate for the removal of any and all HIV-related travel restrictions enforced or condoned by their country governments.
2. UNAIDS should take steps to ensure that its protocols to research and investigate countries' HIV-related travel restrictions are sufficiently thorough by monitoring and documenting any reported instances of HIV-related discrimination targeting immigrants, particularly when presented with evidence demonstrating that recognition of a country's

removal of HIV-related travel restrictions is unwarranted, in order to ensure that governments are not able to misrepresent their policies in order to gain undeserved recognition for supporting human rights with regard to HIV/AIDS.

WFPHA supports the removal of all HIV-related travel restrictions and travel related mandatory testing.

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