

Example of common violations

Being denied access to health care services in a health institution on the ground of the person's HIV status.	Violation of right to health
Being denied or restricted from travelling within or outside Kenya on the grounds of the person's HIV status.	Violation of right to movement
Failure by the government to provide anti-retroviral drugs to people living with HIV	Violation of right to health Violation of right to life

Right violated

- o Freedom of movement and residence
- o Protection of right to property
- o Rights of workers
- o Right to clean and healthy environment
- o Right to health
- o Right to housing and sanitation
- o Right to food
- o Right to family
- o Right to clean and safe water in adequate quantities
- o Right to social security
- o Right to education
- o Right to language and culture
- o Consumer rights
- o Fair administrative action
- o Right to access to justice

Redress for violation of HIV-related rights: About the HIV and AIDS Tribunal

HIV and AIDS Tribunal (Tribunals are special courts). The HIV and AIDS Tribunal hears and determines complaints arising out of any breach of the provisions of HIV and AIDS Prevention and Control Act (2006).

Therefore, you can file a case at the Tribunal if:

- You were tested for HIV without your consent;
- You were forced to undergo an HIV test as a condition for employment, marriage, admission to school, etc
- Another person (health care worker, relative, friend etc) disclosed your HIV status without your consent;
- You were denied employment because of HIV status;
- You were denied admission to school because of HIV status;
- You were denied insurance cover because of HIV status;
- Your employment was terminated because of HIV status;
- You were denied medical services because of HIV status;
- And any other scenario where a person living with HIV has faced injustice due to HIV status.

What other rights do people living with or affected by HIV have?

In Kenya, people living with or affected by HIV (just like every other person) enjoy rights guaranteed by the Constitution. These include:

- o Right to life
- o Right to equality and non-discrimination
- o Right to dignity
- o Freedom and security of the person
- o Freedom from slavery, servitude and forced labour
- o Right to privacy
- o Freedom of conscience, religion, belief and opinion
- o Freedom of expression
- o Right of access to information
- o Freedom of association
- o Right to assembly, demonstration, picketing and petition
- o Political rights

In case the violation is of a criminal nature (for example sexual violence, assault, defilement etc), the matter should be reported to the nearest police station.

You can also seek assistance of human rights organizations near you.

To file a case at the HIV and AIDS Tribunal, please visit their offices located here:

Ragati road, NHIF Building, 15th floor Nairobi City KE
Tel: 0721343127 | P.O Box 37953 – 00100, Nairobi
Email: info@hivtribunal.go.ke | Ceohivtribunal@gmail.com

CONTACTS:

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SEPARATING FACTS FROM MYTHS: HIV AND HUMAN RIGHTS

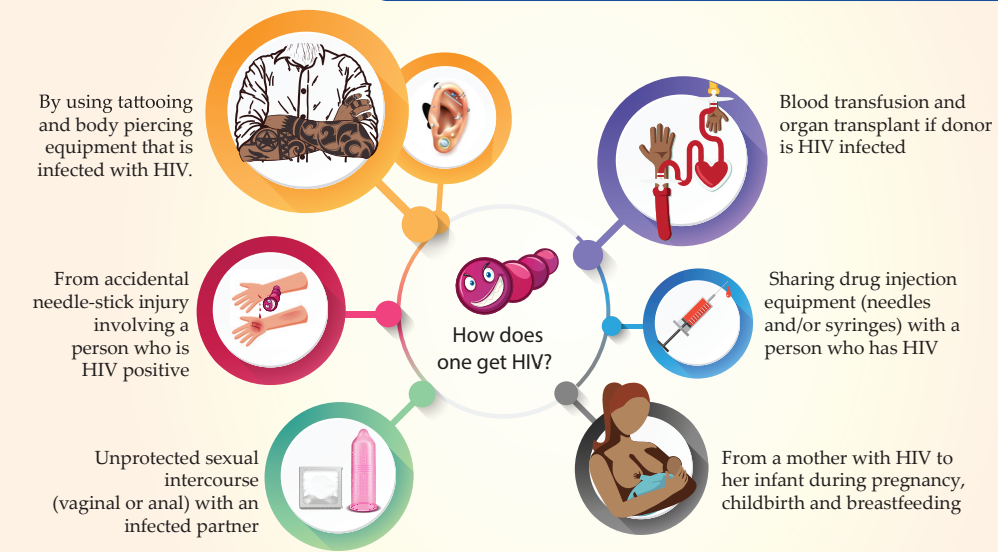


What is HIV?

HIV stands for Human Immunodeficiency Virus. It is the virus that causes AIDS and attacks the body's immune system making it difficult (for the body) to fight off diseases and infections.

What is AIDS?

AIDS stands for Acquired Immune Deficiency Syndrome. It is the condition at the most advanced stages of HIV infection.



A Person Cannot Get HIV From:



Living in the same house with someone who has HIV



Sharing showers, bathrooms, pools or toilets with someone with HIV



Sports, going to the gym, sharing exercise equipment



Massage



Shaking hands



Insect or animal bites



Sharing food, drink, cup or dishes



Kissing, hugging or touching



Touching public surfaces – like doorknobs, phone booths, or public benches



Sharing items of clothing, bed linens or towels



Sneezing, tears, sweat, feces, urine, vomit or ear wax

HIV Treatment

There is currently no cure for AIDS.

However, people living with HIV can live healthy and productive lives with antiretroviral therapy. If one takes antiretroviral therapy as prescribed, their viral load (amount of HIV in their blood) can become undetectable.

With an undetectable viral load, one can live a long, healthy life with minimal chances of transmitting HIV to an HIV-negative partner through sex.

However, using male or female condoms during sex is the best way to prevent HIV and other sexually transmitted infections.

Other prevention methods include:

- o Pre-exposure prophylaxis (PrEP), which uses antiretroviral drugs to protect HIV-negative people from HIV before potential exposure to the virus
- o Post-exposure prophylaxis (PEP) – which means taking antiretroviral medicines (ART) after being potentially exposed to HIV to prevent becoming infected (within 72 hours).

What is the situation of HIV in Kenya?

The total number of people living with HIV (PLHIV) in Kenya was estimated at approximately 1.5 million in 2017, this includes 105,200 under 15 years and 1,388,200 aged above 15 years.

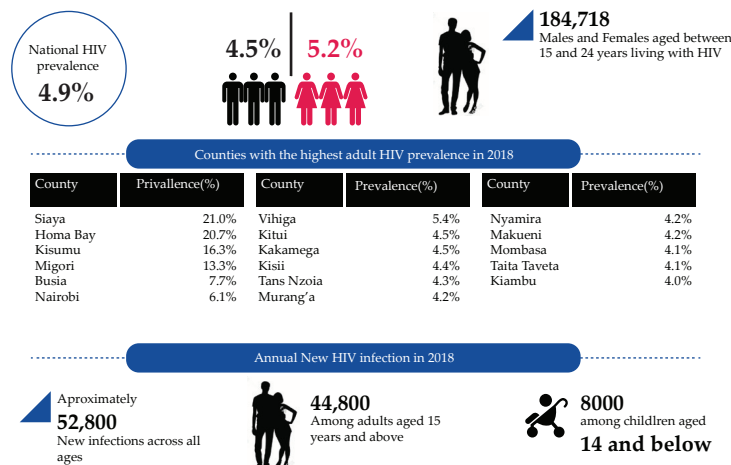


Image: NACC (2018) Kenya HIV Estimates Report

What does the law say about HIV?

Kenya has a HIV-specific law, that is, the HIV and AIDS Prevention and Control Act, 2006. Under this law, people living with HIV are protected as follows:

- Compulsory HIV testing is prohibited: It is unlawful to force another person to undergo an HIV test (for any reason including employment, marriage, education, or provision of health or for insurance).
- HIV testing should only be conducted after the person receiving the service has provided informed consent.
- A person being tested for HIV must be provided with pre-test and post-test counselling.
- Results of an HIV test are confidential and must only be released to the tested person or legal guardian.
- Disclosure of another person's HIV status without their consent is illegal.
- It is unlawful to discriminate against a person based on actual or perceived HIV status at the workplace, school, or health institution.

What are some of the common HIV-related human rights violations

Example of common violations	Right violated
Testing a person for HIV without their informed consent	Violation of right to privacy
Disclosure of a person's HIV status without consent	Violation of right to privacy
Forced sterilization of women living with HIV.	Violation of reproductive health rights
Denying a person living with HIV the right to marry solely because of their HIV status	Violation of right to non-discrimination
Being denied access to property based on HIV status	Violation of right to property
Verbal, physical or sexual abuse as a response to HIV status.	Violation of freedom and security of the person Right to dignity
Being denied access to employment for which a person is qualified; on the ground only of HIV status.	Violation of right to non-discrimination
Being transferred, denied promotion or employment terminated on the grounds only of HIV status	Violation of right to non-discrimination
Being denied admission to any educational institution based on HIV status	Violation of right to education
Being expelled, disciplined, segregated, denied participation in any event or activity, in an educational institution due to HIV status.	Violation of right to non-discrimination Violation of right to education