Fighting against the virus or human beings?  
Case study on human rights violations regarding HIV criminalization in Taiwan

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1. HIV Special criminal law the Article 21: Legislative Evolution

- **1990**: 
  - Minister of Justice: "execution based on the results of HIV transmission or non-transmission"
  - Purpose: Article 21: Individuals who are fully aware that they are infected without consent, by assessing the line, health social behavior, and sexual behavior, can be prosecuted.

- **1997**: 
  - Minister of Health: "there is no punishment for an attempted offense, except in the case of transmission or death of HIV (PLHIV) from transmitting HIV intentionally." Additional amendments regarding sexual offenses and prostitution for an attempted offense.

- **2007**: 
  - Amendments were made to taking consent at the emptiness of sexual behavior.

- **2018**: 
  - An amended was made to determine consent match at the emptiness of sexual behavior.

- **2020**: 
  - Current Article 21: 
    - People living with HIV, by concealing the fact, engage in unsafe sex with others and thus infect others, shall be sentenced for 5 to 12 years. Attempted offenses shall be punished.
    - (Full article can be found on [https://doc Doc/](https://doc Doc/))

2. The uses of the Article 21 in Taiwan

- **TOTAL 20 CASE**
  - Gender of defendant: 19 MALES, 2 FEMALES

- **Prostitutional sexual behaviors**
  - **9/20**
    - Female maid by male 2 cases
    - Male maid by female 7 cases

- **Commercial sexual behaviors**
  - **11/20**
    - Male maid by male 11 cases

3. Human rights violations caused by the Article 21

- **Compromising disclosure makes PLHIV vulnerable to accusations**
  - Conviction of Article 21 is one of the elements of crime.
  - Article 21 PLHIV to disclose their HIV status to others is illegal.

- **Difficulty in collecting evidence**
  - Evidence collection does sex behavior is currently difficult.
  - Inference, citation is the evidence of accusation.

- **Punishing attempted offense**
  - The Article punished attempted offense. Even if no HIV communicative occurred, PLHIV (for intentional) could be convicted when other legal requirements are met. Now the among all those convicted in Taiwan, 23% were arrested attempted.

4. Rights violation from public authority

- **Disruptive biases in the Article 21**
  - Article 21-related rights violation

5. Unreasonable fear of HIV is still manifested in the out-of-date regulation

- According to current regulations, offenses of sex is exclusively defined by the use of condoms. In Taiwan, there were a total of 6 offenders who acknowledged to communicating Article 21 after being examined for HIV. Therefore, the current regulations should be revised.

6. Right to privacy: HIV-disclosure

- By regulation, non-disclosed data on sex in one’s household registration card. This has increased a number of extramarital; HIV-disclosure to the family of inmates, in addition, non-disclosure; PLHIV are separated from their mothers, their status could be identified by living in the same neighborhood.

- Also, non-disclosure institutions could not notice the health and infectious disease. PLHIV are separated from the community, therefore their HIV status could be specifically identified by living in the same institution.

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- Right to employment

- The need of policies in courts around PLHIV is required to be an international job at this point in time.

- Mental health

- Some mental health is needed. In addition, some mental health is needed. According to the statement, some mental health is needed. According to the statement, some mental health is needed. According to the statement, some mental health is needed.

7. Conclusion

- For years, PWA still being concerned with HIV/AIDS combines mental-behavioral, the mental problems or psychiatric problems, which is also help from HIV/AIDS. Their status is a real problem, even it is not best to protect the rights of PLHIV, but also improve the HIV/AIDS prevention and treatment, and help PLHIV to live a normal life. PLHIV is still under the threat of the HIV/AIDS prevention and treatment, even PLHIV, which is also help from HIV/AIDS. Their status is a real problem, even it is not best to protect the rights of PLHIV, but also improve the HIV/AIDS prevention and treatment, and help PLHIV to live a normal life. PLHIV is still under the threat of the HIV/AIDS prevention and treatment.