

Right Against Discrimination

The right to equal treatment is a fundamental right. However it is available only against state-controlled entities, not against private parties. The law provides that a person may not be discriminated against on any grounds of sex, religion, caste, creed, descent or place of birth etc. either socially or professionally by a government-run or controlled institution.

 The right to public health is also a fundamental right, something which the state is supposed to provide to all persons. HIV positive persons seeking medical treatment or admission to a hospital cannot be rejected. If they are denied treatment, they have a remedy in law.

 Similarly, a person with HIV may not be discriminated against due to his positive status in an employment scenario. A person can be terminated from employment on the grounds of continued ill-health. For someone who is HIV-positive but otherwise fit to continue the job without posing a substantial risk to others cannot be terminated from employment. Termination in such a situation would give that person an opportunity to seek legal redress.

So whether it's something as simple as using a public well or something more serious like denial of housing, remember you have the right to be treated equally. And you have the support of the legal system to ensure it.

Lawyers Collective HIV/AIDS Unit provides free legal aid and advice to people affected by HIV/AIDS. For more information, contact :

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*Are You Affected by
HIV/AIDS ?*



Your Basic Rights

In India, all people are entitled to basic or fundamental rights in the eyes of the law. It does not matter what the religion, race, sex, or place of birth of that person is. Neither do these rights change just because an individual is affected by HIV. It's important to be aware of your basic fundamental rights and to remember that you can do something if they are infringed. Here's a brief idea of three of the most important rights in the HIV scenario.



Right to Informed Consent

Consent is basically agreeing to something. In legal terms, consent is two people agreeing on the **same thing** in the **same sense**.

🚫 Consent, can be '**express**', which is verbal or written, or '**implied**' through conduct or action, like a nod of the head.

🚫 Consent may be **general**, when it is taken for a lot of things or **specific**, when it is taken for a specific purpose.

🚫 **Consent has to be free.** It is **not free** when it is obtained by coercion, mistake, misrepresentation, fraud or undue influence.

🚫 Consent also needs to be **informed**. This is particularly important in a doctor-patient relationship. The doctor knows more and is trusted by the patient. Before any medical procedure, a doctor is supposed to inform the patient of the risks involved and the alternatives available so the person can make an informed decision to undertake the procedure or not.

🚫 The implications of HIV are very different from most



other illnesses. That's why testing for HIV requires **specific** and **informed** consent from the person being tested. Consent to another diagnostic test cannot be taken as implied consent for an HIV test. If informed consent is not taken, your rights may have been violated and you can seek a remedy in court.

Remember to always ask your doctor what tests and medicines you are being asked to take and why. It will help you understand your health problems better. Most doctors will take the time to help you out. After all, that's what they are there for!

Right to Confidentiality

Confidentiality may simply be described as keeping specific information to yourself, just like a secret.



🚫 Confidentiality arises when in a confidential relationship based on trust, information having the quality of confidentiality is imparted from one person to the other. In such a relationship if confidential information is imparted, then it must be kept confidential.

🚫 When you tell someone in whom you place trust something in confidence and s/he tells another person about it, that amounts to breach of confidentiality.

🚫 A doctor's primary duty is towards the patient and to maintain the confidentiality of information imparted by the patient. If your confidentiality is either likely to or has been breached you have the right to go to court and sue for damages.

🚫 People living with HIV/AIDS (PWAs) are often afraid to go to court to vindicate their rights for fear of their HIV status becoming public knowledge. However, they can use the tool of '**Suppression of Identity**' whereby a person can litigate under a pseudonym (not your real name). This beneficent strategy ensures that PWAs can seek justice without fear of social ostracism or discrimination.