



Ontario AIDS Network

ILLEGAL SEX? HIV NON-DISCLOSURE DEBATE – GLOSSARY OF TERMS – OAN-HART HOUSE DEBATE

Asymmetry of information (knowledge): imbalance of information or knowledge about something; unequal or uneven balance of knowledge or information.

Bigotry: narrow-mindedness, bias, discrimination; stubborn and complete intolerance of any creed, belief, or opinion that differs from one's own.

Burden of proof (onus): the obligation to offer evidence that a court or jury could reasonably believe, in support of a contention, failing which the case would be lost. Importantly, the burden of proof in a civil action is significantly lower than that in a criminal action.

Civil v. criminal action: legal action to protect a civil right or to compel a civil remedy (usually financial) v. an action in which the state or the public, rather than a private party, is the plaintiff and the defendant faces punishment such as fine or incarceration if convicted.

Cognizance: awareness, realization, or knowledge of someone or something.

Credence: belief as to the truth of something; credit, faith, confidence.

Criminal Prohibition: something forbidden by criminal law or decree, usually punishable by probation, jail, or prison.

Culpability: the state of being culpable, deserving blame or censure.

Culture of Disclosure: refers to a broader non-stigmatizing social climate or *culture* in which voluntary disclosure of HIV status is the norm.

Disclosure: the act or instance of revealing or sharing information about something, in this case a positive HIV status.

Empirical evidence: evidence or information derived from or derived from systematic observation or experiment; verifiable or provable by means of observation or experiment.

Exposure (v. transmission): the act or instance of being exposed to something without protection v. the actual transference or passing of something; in this case exposure to v. infection with the virus that causes HIV.

Homophobia: unreasoning fear or antipathy toward homosexuals and homosexuality.

Inebriation: the state or condition of being intoxicated; the state or condition of being drunk.

Informed consent: an individual's consent to a procedure or participation in an act or activity after being properly advised of the relevant facts and risks involved.

Malice (malicious): the desire to inflict injury, harm, or suffering on another, either because of a hostile impulse or a deep-seated meanness.

Monogamy: the practice or condition of having a single sexual partner during a period of time; marriage with only one person at a time.

Non-disclosure: the act or instance of not revealing or sharing information about something, in this case a positive HIV status.

Panacea: a remedy for all disease or ills; an answer or solution for all problems or difficulties.

Public health (officer): an individual who works in health services to improve and protect community health, especially sanitation, immunization, and preventive medicine.

Rational calculation: refers to a view of human behavior that is guided by a reasoned comparison and weighing of the anticipated costs and benefits to any particular behavior.

Retribution: something given or demanded in repayment, especially punishment.

Safe(r) sex: the courts have ruled that absolutely safe sex may be impossible; however *safer sex* refers to taking precautions during sex that reduce one's likelihood of getting a sexually transmitted infection or from giving an STI to one's partner (e.g. the careful use of condoms as outlined in the *Cuerrier* decision, 1998).

Serious bodily harm: bodily injury that involves serious risk of death, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty. Based on the *Cuerrier* decision (1998), the duty to disclose HIV status arises where there is a *significant risk of serious bodily harm* to another, and where *serious bodily harm* means HIV infection.

Sex worker: one who performs sex acts for hire; a prostitute.

Significant risk: high probability risk likely to have a significant impact on an individual. While the meaning is not entirely clear, based on the Cuerrier decision (1998) *significant risk* most definitely includes unprotected sexual intercourse (penis-vagina and penis-anus).

Status quo: the existing state or condition; present customs, practices, and power relations.

Stigma: a mark of disgrace or infamy; a stain or reproach, as on one's reputation.

State of mind: a person's frame of mind; a temporary psychological state.

Vitiate(d) consent: consent that is made legally defective or invalid for some reason; to impair or weaken the effectiveness of something, in this case the consent of another because of non-disclosure of positive HIV status.