

British law professor to hard attack on Sweden's HIV legislation

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"The problem is that in countries like Sweden, where confidence in the law is strong, people take less responsibility for themselves." It says the British professor Matthew Weait - leading researchers in international HIV-justice - that Sweden has one of the hardest lagtiftingar in the area.



In Europe there is a debate about decriminalizing or make new assessments of the infectivity of HIV. But in Sweden, the debate has not really got going. Today's Law have met Matthew Weait who says that in Sweden have too much faith in laws problem-solving skills.

- In Sweden, the virus, instead of being a biomedical phenomenon, has become a legal problem, he says.

It is now 30 years since the first AIDS patient came to Roslagstull Hospital in Stockholm. A year later died in the first person in Sweden to AIDS. Since then, 30 million people worldwide died from the disease. Total is now estimated 35 million people worldwide were infected.

But not in Sweden that HIV is spreading death. After 1980's Panic - with sauna club teams and infection control teams tough rules - so alive now 5000 people with HIV. They need medication for life but the vast majority live a completely normal life without complications. Kind of like living with diabetes.

Unlike diabetes is surrounded, however, HIV and AIDS by laws. After the sauna club law was abolished and less isolated by the Communicable Diseases Act, judged now more under the Criminal Code than before. In order to have infected or exposed to other risks. For having had sex with someone without being told that they are HIV positive. Half of all convictions have fallen after 2004. At least 40 people have been convicted. By all accounts, this legislation also strong support among Swedish voters.

Despite - or perhaps because of - the disease is relatively so little widespread in Sweden Sweden has one of the world's toughest laws on HIV. In proportion to the number of infected people has the most people in the world convicted for 'HIV crimes' - that is, under the Criminal Code - in Sweden. Some have spent up to eight years in prison and then deported to a country where there are antiretroviral drugs. A few women have been condemned for not having told you about the HIV status when they are raped.

In January this year sentenced a 20-year-old man to eight months in prison for failing to inform about their HIV status before he had sex with eight different women. He was 17 when his sexdebut. The man carrying the virus since birth, none of the women were infected. RFSU protested against the judgment and pointed out that both parties should be responsible for protection in a sexual relationship. Sven-Erik Alheim, former chief prosecutor, said that RFSU's attitude was naive and believed that the man should have received a longer sentence.

RFSU idea of criminalization of HIV is in line with the UN's opinion that there should be criminal to not intentionally spread HIV or expose anyone to a risk of HIV transmission. Sven-Erik Alheims idea is instead in line with many Swedish courts. According to a study by the county attorney Peter Grön and professor emeritus of criminal justice Madeleine Leijonhufvud, presented in the Swedish Law Journal 2009, many courts do not follow Supreme Court precedent, without condemning much harder. The verdict against 20-year-old is in line with the Supreme Court. (NJA 2004 s 176)

Matthew Weait is Professor of Law and Policy at London University. He conducts research on how the law affects people living with HIV and AIDS, legal constructions of responsibility and of public health. He're visiting the four countries to study law here about HIV and AIDS. When I met him in Stockholm, he has conducted 30 interviews with legislators, researchers and AIDS organizations in Norway, Finland and Sweden. Next up is Denmark.

The Nordic countries have many similarities in how to assess HIV-crime - most convicted in Sweden - but it is Norway, which has the hardest setting. Unlike Sweden, it's in Norway, not consent to take the risk of infection. So even if a partner known HIV status and accepted the risk of getting infected when having sex, the infection is still judged to have exposed their partners at risk. Not so in Sweden, why all the focus here is on whether the infected informed their partner or not.

In Norway, as in Finland and Denmark, is ongoing, however a review of legislation on HIV. While the U.S. has developed a National Strategy for states to review the criminalization. In Switzerland, the Supreme Court has determined that research has shown that the risk of getting infected by a person with välbehandlad HIV infection is so minimal that it is not going to judge the person. Although Dutch Supreme Court has judged that the risk of infection is so small that it should be possible to judge anybody.

Matthew Weait estimates that for a change not be the one asking the questions and he takes the chance to be the speaker. His first observation is that in Sweden after the brake medicines came almost no public figure who told us that they are HIV positive.

- Those public were infected before the drugs arrived and waited to die when they are told. During the cruel years, when many died, it was possible to talk about their illness. There was no time to think about whether you committed a crime, then it was about life and death.

In Sweden, the fashion designer Sighsten Estate, TV host James Dahlin and publisher Ebbe Carlsson's attention. Now is such a stigma that no one tells.

- The law works here is not primarily to fight the spread of AIDS because there is no evidence that the punishment for those who know they are HIV-positive results in decreased proliferation.

Weait say instead - and the associations RFSU RFSL HIV and Sweden - that the law impairs the ability to limit the spread.

- People believe that the law protects them from getting infected. The risk is that they do not protect themselves or get tested.

The special feature of the Nordic countries, says Professor Weait, is that there is a strong sense of trust - both between people of the state. It is believed that the problem can be solved by legislation.

- Some people considered so dangerous that they must be punished even if no one come to harm, says Professor Weait. One sees the law as something magical that will do good.

In reality, most people become infected by someone who did not know he or she was carrying the virus.

- The problem is that in countries like Sweden where confidence in the laws are strong, people take less responsibility for themselves. And the existence of a specific law enables us to take less responsibility than we would if it were not - which means that people do not protect themselves from getting HIV.

Professor Weait also believes that the Swedish laws would not work if there were more infected in Sweden.

- Where would introduce Swedish law in Swaziland, for example, a quarter of residents are imprisoned. It is an impossible thought.

He also makes comparisons with other diseases that are transmitted sexually.

- No one wants to criminalize the spread of chlamydia, because it is such a common illness in young people. You can not see them as exceptions, or some menace far away.

He also takes the example of children's vaccinations. It is not an offense to not vaccinate their children even though it may mean that the child spread, for example measles.

But HIV's unlike chlamydia and measles, a deadly disease?

- Yes, but the infection could have chosen to protect themselves. The law makes people stop thinking for themselves.

Professor Weait appreciate the faith that people are good as in the Nordic countries. But he believes that one must also accept that some things can happen and do not punish someone when you yourself could have prevented the incident.

- The strange thing is that if the intercourse stage of a pregnancy, it is both their responsibility. However, if intercourse leads to cross-contamination, or that one is exposed to the risk of infection, only the HIV-positives responsibility.

Annika Hamrud

Matthew Weait is a law professor at London University, he was educated at Cambridge and Oxford and is an expert of UNAIDS - the UN organization in the fight against AIDS. He currently studying how the Nordic countries treat HIV in the legislation.

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