

CHALLENGING COERCION AND MISPLACED PUNISHMENT: HIV AND INFANT FEEDING CHOICES

A. Symington, S. Beaumont; HIV Justice Network, Amsterdam, Netherlands

25th International AIDS Conference (AIDS 2024), Munich, THPEF641

BACKGROUND

Medical recommendations regarding infant feeding for people living with HIV vary from country to country. Many countries where infant formula is generally available have typically recommended formula feeding instead of breastfeeding to eliminate any risk of HIV transmission. In contrast, countries where feeding with infant formula is more likely to be unsafe or inaccessible have typically recommended exclusive breastfeeding for best health outcomes.

In recent years, some countries that had previously recommended exclusive breastfeeding have begun to change their recommendations, and increasingly women living with HIV throughout the world are demanding the right to be supported by healthcare providers whether they choose to breastfeed or formula feed.

Some parents living with HIV continue to have their right to choose restricted. Women living with HIV face disapproval, child protection intervention, and even prosecution for breastfeeding an infant.

Punitive approaches to breast/chestfeeding¹ by people living with HIV are inconsistent with current scientific information regarding HIV transmission and fundamental principles of human rights and criminal law.

“WHO guidance indicates that a pregnant mother living with HIV whose viral load is suppressed within four weeks of delivery is at low risk of transmitting HIV to their infant and recommends breastfeeding for women taking antiretroviral therapy.”

WHO, *The Role of Viral Suppression in Improving Individual Health and Reducing Transmission, Policy Brief (2023)*



DESCRIPTION

To help protect the rights of people living with HIV, the HIV Justice Network (HJN) monitors and engages in legal cases against people living with HIV for infant feeding. HJN routinely searches legal databases and media reports, and consults with the [HIV JUSTICE WORLDWIDE](#) coalition to identify cases. HJN documents known cases in our *Global HIV Criminalisation Database* and offers technical legal assistance to local defence lawyers and HIV organisations.

GLOBAL HIV CRIMINALISATION DATABASE

Laws & Analyses | Cases | Organisations



At least 13 women living with HIV have faced criminal prosecution for allegedly breastfeeding an infant. Countless others have experienced surveillance, stigma, abusive treatment, and/or child protection interventions.



LESSONS LEARNT

HJN's monitoring reveals that parents living with HIV continue to experience surveillance and judgement with respect to their infant feeding choices.

Medical guidance about HIV and infant feeding varies between countries. Clinicians could help their patients avoid prosecution while making the best infant-feeding decisions for their families by ensuring they receive accurate and comprehensive information regarding their legal obligations and infant-feeding options.

Coercing parents' infant feeding decisions with the threat of child protection or criminal intervention is a violation of their human rights and a misuse of the state's power.



A recent case in Argentina

In 2022, a pregnant 26-year-old woman living with HIV told clinic staff that she intended to breastfeed her child. She maintained an undetectable viral load. Clinic staff advised her not to breastfeed the infant

and ultimately a social worker from the clinic filed a complaint with a Family Court. The judge ordered an injunction stating that if they did not follow the clinic's recommendations, both parents would face civil and criminal consequences.

The International Community of Women Living with HIV (ICW) Argentina and a local lawyer intervened on her behalf. The parents took the baby home and the mother breastfed. The baby did not contract HIV.

However, the right of people living with HIV to choose how to nourish their children has not been resolved in Argentina. In this case, the appeal against the injunction was unsuccessful and the Ministry of Health continues to recommend feeding with infant formula instead of breast milk for parents living with HIV.

Cecilia Rodriguez & Mariana Iacono,
Document on Criminalisation Case on the Risk of HIV Transmission through Exclusive Breastfeeding in San Luis, Argentina, 2022 (ICW Argentina)

CONCLUSIONS / NEXT STEPS

Science supports that the best outcomes for a parent and a child result from proper medical care, access to treatment, and open, respectful dialogue with healthcare providers. The law should too.

Our findings indicate that **authoritative, up-to-date guidance is urgently needed from international and national health agencies regarding HIV and breast/chestfeeding. The low risk of transmitting HIV through breast milk while taking antiretroviral medications must be acknowledged.** Parents must be empowered with accurate information about the benefits and risks of different modes of infant feeding, and supported to make the best decisions for their families.

Medical guidance should clarify that criminal prosecution and/or child protection intervention because of breastfeeding are unjustified and inappropriate.

Further information

- Symington A, Chingore-Munazvo N, Moroz S. “When law and science part ways: the criminalization of breastfeeding by women living with HIV.” *Therapeutic Advances in Infectious Disease*. 2022;9. doi:10.1177/20499361221122481.
- Mwayi's Story*, HIV Justice Network on behalf of HIV JUSTICE WORLDWIDE, 2022. [available via [hivjustice.net](#)]
- Action Toolkit: [Breastfeeding Defense](#) (HIV Justice Network, HIV Justice Academy). [available via [hivjustice.net](#)]
- Sally Cameron, et al., “It takes more than a village: How local advocates worked our global network to support a Malawian woman living with HIV prosecuted for breastfeeding” (HIV Justice Network, September 2021). [available via [hivjustice.net](#)]



¹ Some people prefer the term chestfeeding as it is more inclusive of gender diverse people.

 **HIV JUSTICE NETWORK**
www.hivjustice.net
breastfeeding@hivjustice.net



Image from our video, *Mwayi's Story*. Illustration by Phathu Nembilwi