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## **Structural Violence and HIV as A Human Rights Violation: A Thought Question**

**Sarmistha Nandy\***

*Research Fellow, TIU, India*

*Founder, WoodKraft, P.O. 700051, Kolkata, India*

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### **ABSTRACT**

The current state of human rights research does not fully address what it means to have structural abuses of human rights. This essay applies structural violence theory to show how structural disparities that consistently deny some individuals their fundamental human necessities are a form of structural human rights violation. Structural violence theorists describe violence as the preventable discrepancy between one's potential ability to meet basic requirements and one's actual ability to meet those needs. The theory also identifies an uneven degree of authority to determine the distribution of benefits as a key cause of these preventable social inequalities. Understanding the underlying factors are just to blame for constricted autonomy is critical in moving from systemic racism to fundamental human rights violations. The impact of frameworks on moral freedom is what causes the disparity among prospective rights fulfilment. This paper leverages AmartyaSen's findings on poverty to prove the notion of systematic disenfranchisement has become a structural human rights violation when choice is confined to the point that basic human needs are need to be addressed. When structural violence is applied to the equality and non - discrimination, a clear focus develops about the need for specific support of socio - economic rights, which have now been side-lined for far too long in favour of social rights. Furthermore, the rights - based approach specifically mentions the structural violence theory's arguments. This concept, in particular, recognises how societal inequalities is caused by uneven power allocation in international banks and trade regimes, and hence calls for universal support and encouragement to correct this apparent unfairness. Lastly, Audrey Chapman's 'abuses method' is seen as a feasible alternative to the existing controlling mechanism for socio - economic rights; nonetheless, this approach misses the mark of keeping the global community accountable for human rights violations.

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Keywords: Structural Violence; Structuralism; Violation of Human Rights; Legalization of HIV; Sexual Abuse; Mistreatment

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### **1. Introduction**

"Every human being has the right to ask the reason, why, and to have his question answered by himself, if he only takes the trouble." - Swami Vivekananda

Individual-environment interactions impact HIV transmission. Thus, social epidemiologic techniques strive to capture the dynamic and reciprocal linkages of individual-environment interactions in the production and reduction of risk. This poses significant methodological, theoretical, and disciplinary issues. Using four research case studies, we investigate how methodologies and concepts from the social and epidemiologic sciences might be combined to better understand HIV risk as a result of social, cultural, and political conditions. The case studies employ a variety of methods (qualitative, ethnographic, and quantitative) and discipline (sociology, anthropology, and epidemiology) in various social contexts of HIV vulnerability (street settings in Russia, Serbia, and North America, as well as a cross-border setting in Mexico) among a variety of marginalized high-risk populations (injection drug users and female and transvestite sex workers). These case studies demonstrate the importance of the social science concepts of "structural violence" and "structural vulnerability" for HIV risk social epidemiology. They also investigate how combining social science tools and theories can assist social epidemiology practise. We argue that without adopting and depending on ethnographic and qualitative methodologies, social epidemiology cannot improve in its knowledge of structural vulnerability. The connected concepts of "structural violence," "structural vulnerability," and "risk environment" are proposed as building blocks for a theory-informed social epidemiology of HIV risk among marginalized people.

\* Sarmistha Nandy. Tel.: +91-6290598007.

E-mail address: [n.sarmistha7@gmail.com](mailto:n.sarmistha7@gmail.com)/[sarmistha.nandy7@gmail.com](mailto:sarmistha.nandy7@gmail.com)

The concept of 'a structural abuse of human rights' is gaining traction in international human rights settings. This theory responds to two prominent and seemingly irreconcilable elements of our current world: severe worldwide inequality and a large imbalance between the rights guaranteed to all human beings under the international human rights law and the massive and on-going violation of those rights. While human rights abuses may conjure pictures of torture at Guantánamo, challenges to free speech in Tiananmen Square, or the relocation of millions in Darfur, structural violations are accompanied by images of a different kind: malnourished children, diseased bodies, and terrible poverty.

When you witness starved children, ill bodies, and extreme poverty, it's difficult to point blame. Why is this condition present? Isn't this a natural and inescapable state of the world? People have been dying from starvation and sickness since the beginning of time, after all. How can one define starvation and disease as human rights violations?

To answer these problems, this essay will use a methodical approach, stitching together the concept of structures as explained by structuralism and the notion of structural violence as a tool to comprehend structural violations of human rights. Structuralism brings up an important point concerning restricted agency and what it means for the connection between structures and actors. When examined, structural violence reveals a complex picture of inequality that takes into account economic, political, and social issues. While structuralism and structural violence depict a grossly unequal world, is this disparity a violation of human rights? After examining what constitutes structural violations of human rights, the essay will move on to discuss the consequences of structural analysis of human rights violations for human rights formulation. The application of structural violence theory to human rights discourse sheds light on the frequently ignored and overlooked category of social and economic rights. The right to development is also discussed as a single right that encompasses both sets of rights, civil and political rights, as well as social, economic, and cultural rights. It also addresses the underlying causes of global inequality by emphasizing the importance of international help and cooperation.

### ***1.1. Structuralism***

To understand structural abuses of human rights, one must first adopt a structuralism worldview in which structures and institutions are important to analysis. Structures appear in a number of shapes on both the domestic and international levels. Structures include class and class coalitions, as well as institutions such as commercial organizations, political parties, and global institutions such as the United Nations (UN), World Trade Organization (WTO), and the General Agreement on Tariffs and Trade (GATT). Sexism and racism, as well as class-based structures, are examples of social structures.

In contrast to rationalism, structuralism contends that individuals and states do not make decisions simply on the basis of rational choice. Instead, 'individual actors are not totally autonomous agents capable of selecting specific outcomes. Individuals are instead enmeshed in relational systems that influence their identities, interests, and relationships. While it is widely acknowledged that the world does not consist only of structures devoid of autonomous agents, the extent to which these constraints constrain agency is fiercely debated.

1. At first, to what extent do international institutions restrain state decisions?
2. Secondly, how do these structures, in conjunction with domestic institutions, limit individual choices?
3. And at last, how does the imposition of restrictions on these individual choices constitute a violation of human rights?

### ***1.2. Structural Violence***

This issue of structure and restrained agency is especially important for structural violence theorists. Johan Galtung, a pioneering professor of peace and conflict study, was the first to create the term "structural violence." While his primary concerns were with peace research, his notion of structural violence is generally applicable and has spread to domains such as anthropology, clinical medicine, and sociology. Through an investigation of how institutions confine agency to the point where basic human needs are unreachable, structural violence theory provides a valuable framework for understanding structural violations of human rights. The extended definition of violence in terms of its avoidability criterion, as well as the concept of a gap between what is feasible and what is actually reached raises a slew of debatable concerns. What is the definition of what is possible or potential? How does one determine whether something is avoidable or not?

From the oppressive Burmese military regime, where forced labour, torture, rape, the use of child soldiers, and other atrocities against ethnic minorities abound, to the cities of America, where poor African-American women are disproportionately at risk of HIV/AIDS infection and death, and also disproportionately suffered from rape, murder, and starvation in the aftermath of Hurricane Katrina, these racial disparities are widespread. When it comes to racial inequality in America, social systems, including racism, systemically penalise African-American men and women who face unequal life opportunities. There is no one who directly damages those HIV-infected African-American women; rather, it is the historical structure of racial injustice that perpetuates limits in agency and unequal possibilities to acquire an education, access medical care and justice, and secure a steady employment.

The point here is not so much why individuals get HIV/AIDS or why people die in natural catastrophes, but why African-Americans in general, and women in particular, suffer disproportionately. Why are African-American women more vulnerable than Caucasian women, and why is it more difficult for them to receive medical care and treatment once infected, as well as food, shelter, and safety during natural disasters? These are the questions at the heart of structural violence and, as this paper will show later, systemic abuses of human rights. Structural racism, typically accompanied by poverty, is an established social system that decreases the level of real fulfilment of one's essential needs, such as healthcare, below potential, where potential is defined

by the availability and access that other American citizens enjoy. Thus, racial inequality is an example of structural violence, and inequality is constitutive in terms of avoidability and potential. Inequality, on the surface, suggests that an unfulfilled core human need is avoidable. It also establishes a particular level of potential by evaluating it to what someone else can achieve. Furthermore, structural violence as a theory helps to explain how such suffering is distributed. While structural violence, as defined by Galtung, does not directly involve the perpetrator of violence, it does reveal a clear logic underlying the systemic nature of how violence is dispersed. The disparities that exist in terms of disproportionate life chances due to disease or poverty are directly produced by an unequal allocation of resources, but the underlying issue is that 'power to decide over the distribution of resources is unevenly allocated.' The cornerstone of structural violence is exploitation. Structural violence thus arises from the unequal allocation of power among actors and may be traced back to human action. This unequal power allocation thus consistently disadvantages individuals who do not wield as much, if any, power. The extra layers and numerous aspects of structural violence are then created on top of this underlying inequality, manifesting itself in terms of economic and social inequities, as previously demonstrated by the example of racial inequality and African-Americans. As a result, structural violence theory attempts to give a nuanced structuralize understanding of the link between structures and agency. Because of these structures, resources are distributed unequally, actively restricting agency. According to structural violence theorists, the allocation of power through institutions, whether referred to as exploitation or violence, promotes the agency of some while confining the agency of others. So, how does structural violence theory relate to human rights violations? This article contends that when agency is restricted to the point where basic human needs cannot be met, structural violence becomes a violation of human rights and hence forms a structural violation of human rights.

### 1.3. Poverty as a measure of fundamental breach of human rights

Sen contends that in order to understand poverty, one must focus on the individual's real opportunity to pursue her objectives [and thus] account must be taken not only of the primary goods the persons respectively hold, but also of the relevant personal characteristics that govern the conversion of primary goods into the person's ability to promote her ends. As a result, the various settings of each human present a different collection and/or amount of fundamental goods that enable a person to get or accomplish things that he or she values. As a result, a person with a disability may require more or a different set of primary commodities to have the same capabilities as an able-bodied person. Sensees complete manifestation of one's agency as the antithesis of poverty and, therefore, the essential mechanism for achieving fulfilment of basic human rights. Individuals can protect their basic capacities by addressing the 'unfreedoms' imposed by social, economic, and political inequities that limit their agency.

This perspective of poverty elucidates how the concept of a disparity between real and potential abilities to meet one's needs, as well as the concept of avoidability in Galtung's definition of structural violence, are directly related to human rights discourse. In the context of human rights, the mismatch between actual or de facto ability to meet needs and possible or potential ability consists of a gap between actual or de facto rights and potential or de jure rights.

Poverty, as stated by Sen, consists of a systematic or systemic denial of basic freedoms, resulting in agency confined to the extent that individuals are unable or lack the "capacity" to meet their basic requirements. When one freedom is denied, it amplifies or compounds the denial of other liberties, making the poor disproportionately vulnerable to a wide range of infractions. Poverty is defined not just by a lack of money, but also by a lack of access to sufficient healthcare, water, and shelter. As a result, poverty is a structural violation of human rights. There are systemic reasons why the poor bear a disproportionate share of the burden of human rights breaches.

	People living with HIV in 2020	People acquiring HIV in 2020	People dying from HIV-related causes in 2020
<b>Total</b>	37.7 million	1.5 million	680000
<b>Adults (15+ years)</b>	36.0 million	1.3 million	580000
<b>Women (+15 years)</b>	19.3 million	660000	240000
<b>Men (+15 years)</b>	16.7 million	640000	340000
<b>Children (&lt;15 years)</b>	1.7 million	150000	99000

Table: 1 Summary of the global HIV epidemic 2020; Source: UNAIDS/WHO estimates

In the Region of Africa:

- In 2020, an estimated 25.4 million people [20.7–30.3 million] had HIV, with 76 percent [60–92 percent] on treatment. Antiretroviral

medication was used by an estimated 19.4 million [18.7–19.6 million] persons in 2020.

- In 2020, an expected 880 000 [590 000–1.3 million] persons will get newly infected with HIV, down from 0.91 [0.61–1.33] in 2019. New infections across all ages will be 0.82 [0.55–1.2] per 1000 uninfected population in 2020, down from 0.91 [0.61–1.33] in 2019.
- In 2020, 460 000 [320 000–680 000] fatalities were ascribed to HIV-related causes, a 4.0 percent reduction over 2019.

In the Americas:

- In 2020, an estimated 3.7 million [2.8–4.6 million] persons had HIV, with 71 percent [52–90 percent] receiving treatment. Antiretroviral medication was used by an estimated 2.6 million [2.6–2.7 million] persons in 2020.
- In 2020, an expected 150 000 [110 000–210 000] persons will get newly infected with HIV, down from 0.16 [0.11–0.21] in 2019. New infections across all ages will be 0.15 [0.11–0.21] per 1000 uninfected population in 2020, down from 0.16 [0.11–0.21] in 2019.
- In 2020, a total of 45 000 [30 000–63 000] fatalities were attributable to HIV-related causes, down 6.3 percent from 2019.

In the Region of South-East Asia:

- In 2020, an estimated 3.7 million [2.8–4.4 million] persons had HIV, with 61 percent [44–73 percent] receiving treatment. Antiretroviral medication was used by an estimated 2.2 million [2.2–2.3 million] persons in 2020.
- In 2020, an estimated 100 000 [71 000–130 000] persons become newly infected with HIV, with new infections among all ages steady at 0.05 [0.04–0.06] per 1000 uninfected people.
- In 2020, 82 000 [55 000–130 000] fatalities were ascribed to HIV-related causes, representing a 17.9% drop over 2019.

In the Region of Europe:

- In 2020, an estimated 2.6 million [2.3–3.0 million] persons had HIV, with 64 percent [54–74 percent] receiving treatment. Antiretroviral medication was used by an estimated 1.7 million [1.6–1.7 million] persons in 2020.
- In 2020, an estimated 170 000 [140 000–200 000] people become newly infected with HIV, with new infections among people of all ages remaining steady at 0.18 [0.15–0.21] per 1000 uninfected people.
- In 2020, roughly 40 000 [31 000–51 000] fatalities were ascribed to HIV-related causes, up 6.3 percent over 2019.

In the Region of Eastern Mediterranean:

- In 2020, there were an estimated 420 000 [370 000–550 000] persons living with HIV, with 25% [21–33 percent] on treatment. Antiretroviral therapy was used by an estimated 110 000 [100 000–110 000] persons in 2020.
- In 2020, an estimated 41 000 [35 000–60 000] persons become newly infected with HIV, with new infections among all ages steady at 0.06 [0.05–0.09] per 1000 uninfected people.
- In 2020, roughly 17 000 [14 000–24 000] fatalities were ascribed to HIV-related causes, up 1.2 percent over 2019.

In the Region of Western Pacific:

- In 2020, an estimated 1.9 million [1.4–2.4 million] persons had HIV, with 76 percent [52–96 percent] receiving treatment. Antiretroviral medication was used by an estimated 1.4 million [1.4–1.4 million] persons in 2020.
- In 2020, an estimated 120 000 [78 000–150 000] persons become newly infected with HIV, with new infections among all ages steady at 0.06 [0.04–0.08] per 1000 uninfected people.

- In 2020, 41 000 [24 000–63 000] fatalities were ascribed to HIV-related causes, a 1.5 percent rise from 2019.

Human rights-based HIV programming is focused on an assistance guideline that seeks to solve the implications that HIV has on human and civil rights. Human rights treaties and agreements, political comments, and social justice ideas in HIV programmes are the three major areas covered.

Several international HIV organisations, such as UNAIDS and the Global Fund to Fight AIDS, Tuberculosis, and Malaria, are highly devoted to human rights-based HIV prevention and treatment. Both UNAIDS and the Global Fund, for example, integrate non-governmental organisations in their systems of governance and working on Aids discriminatory practices, especially among the economically underprivileged and stigmatised.

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## 2. Violations of human rights in the context of HIV/AIDS:

In the context of HIV, human rights violations can occur in many forms. They have the potential to exacerbate HIV's effects, raise HIV's vulnerability, and impair overall HIV response efforts.

### Legalization of HIV

HIV criminalization refers to legislation that criminalizes HIV-positive people. This can be accomplished through HIV-specific legislation or by prosecuting:

- HIV transmission that isn't planned
- Though HIV was not transferred, there was a chance of being exposed to HIV.
- Ou-pas of an HIV-positive status that is already known.

Sexual harassment, intimidation, and mistreatment of women, infants, and other vulnerable individuals are key contributors to the global transmission of HIV/AIDS. Women are much more likely to get HIV as a result of gender exploitation and sexual abuse in myriad ways:

- (1) Coercive sex frequently results in injuries, which raise the chance of infection;
- (2) Women are discouraged from opposing unwanted, unprotected sexual interactions due to social constraints;
- (3) Women's psychological worries prohibit them from seeking help or protection; and
- (4) Women's willingness to seek therapy or avoid dangerous sexual habits is hampered by economic constraints.

Gender violence against women is prohibited by international human rights law. Most countries have laws that criminalise prostitution; rape, domestic violence, and sexual misconduct in designed to safeguard women from sexual assault. Significant legal protections, on the other hand, may nevertheless fall short of addressing certain aspects of gender violence. Women may be discouraged from denouncing allegations of sexual assault, particularly marital rape, due to structural hurdles rooted in sex discrimination, lack of acceptance, and societal practices. Some countries, such as Mexico, Nepal, and Zimbabwe, prohibit marital rape, whereas others do not. In India, if a man who gets involved in forced sexual intimacy with his wife is not charged with a felony. Even though sexual abuse is registered and condemned, the ramifications may be minimal.

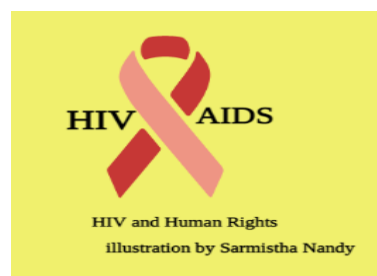


Fig. 1–HIV & Human Rights

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## 3. Sexual Abuse & Mistreatment

Each year, as according UNICEF, 1.2 million minors are working into sex trafficking or sexual slavery. Regardless of permission, a number of international laws and treaties ban any use of minors in sex trafficking, other sexual practices, or pornographic material. By criminalizing child sex trafficking, detrimental child labor practices, as well as other exploitative acts, many countries' law supports these international norms. The government of Nigeria, for example, is needed to defend vulnerable kids from all forms of abuse, including brutality, abuse, harassment, slavery, and destruction of patrimony according to the country's National Policy on HIV/AIDS.

Various cultural values are reflected in sub regional legislation handling commercialized sex trade among woman, adolescents, and those who may seek

labor privately or through organized prostitution. Commercial sex trade is governed by a variety of laws:

- Azerbaijan, Poland, Bulgaria, and Slovenia, for example, have yet to pass legislation to combat the practice. Although prostitution is not technically illegal in these locations, individuals may be harassed, tormented, and harmed as a result of punishment for a variety of violations such as vagrancy, loitering, disruption of public order, or a lack of sufficient identification (e.g., passports, residency permits).
- Australia, Brazil, Latvia, Kenya, Greece, and Bangladesh, for instance, permit for casual sexual activity but aim to control it all through individual licensing, mandated health exams, and safe sex laws.
- Some countries, including those from the undeveloped world and even the Middle East, as well as many other US territories, restrict sex trade by criminalizing related actions such as solicitation, sex trading for money, sex worker supervision, and acquisition.

Criminalizing prostitution is supposed to diminish the occurrence of sex work by providing a legal deterrent. These legislation are intended to limit Aids and other sexually transmitted diseases propagation among sex workers, since HIV number of cases are often far higher than the general population. Furthermore, criminalizing sex work, while reflecting social standards across many countries, might actively sabotage public health measures aimed for sex workers.

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#### 4. Conclusion

This review uses poverty to demonstrate how structural violence is a valuable theory for tracing the origins of structural breaches of human rights. Following a study of the nature of poverty distributions and how institutions are accountable for poverty persistence, it was demonstrated that poverty not only causes human rights breaches, but also, in AmartyaSen's interpretation, represents a violation of human rights as it exemplifies limited agency. Finally, when structural violence is applied to human rights rhetoric, there is a distinct emphasis on social and economic rights. The importance of the equality principle in structural violations corresponds to the emphasis on equality in the foundations of social and economic rights (as distinct from freedoms and liberties in civil and political rights). The implications of structural violence theory are completely captured in the most recent formulation of the right to development. The emphasis on international assistance and cooperation, as well as the incorporation of all human rights into the concept of a vector, imply a holistic approach to combating global inequalities that the human rights system previously lacked. However, the dilemma outlined at the outset of this study, namely how to assign blame for widespread disease and poverty, persists. The human rights regime's ability to address the limitations of enforcement mechanisms for states while also establishing incentives for other actors in the international community to join in its efforts is vital to the rigorous accountability of these rights.

By using research methodology proposed by UNAIDS and the Office of the High Commissioner for Human Rights, international organizations and governments should conduct a thorough evaluation of their statutory provisions relating to HIV/AIDS, reproductive and sexual wellness, and sexual and reproductive rights. Most of the countries we looked at had legislation that have been ambiguous, ineffective, or in breach of international human rights modalities when it came to sexuality and reproductive health and HIV/AIDS. Even nations with a very well regulatory regime may benefit from a rigorous inspection. A detailed national review would aid in identifying legal systems & strategy which need to be strengthened or revised. Furthermore, such evaluations would help to guide future studies into the efficacy of legal and legislative solutions to HIV/AIDS prevention.

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