

COMMENTARY

Detention and incompatibility of HIV patients in Italy

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Abstract

In Italy, Law 231/99 and subsequent amendments standardize the conditions allowing or not a HIV positive inmate to remain in jail. Currently such clinical conditions are not automatically associated with the decline of preventive detention and the Court evaluates the incompatibility with detention on the basis of two additional and independent criteria. We have been observing the tendency by jailed HIV-positive patients to manipulate the disease state believing that the rules of incompatibility with the prison system are always applied. The management of HIV positive patients in jail involves significant sanitary and relational efforts, particularly for those suffering AIDS and/or with severe immunodeficiency.

Key words

- HIV
- incompatibility
- detention
- HAART

The management of patients with HIV infection has been a focus of interest since the mid-eighties. Various efforts have been made to bring out the phenomenon, and to control epidemics through information campaigns for prisoners and training classes for health workers [1, 2]. During the last two decades the incompatibility of HIV infected patients and detention was a topic of persistent debate. In Italy, Law 231/99 and subsequent amendments standardize the conditions allowing or not a HIV positive inmate to remain in jail. "Health incompatibility" with the prison system is defined when a HIV positive presents a severe immunodeficiency (defined as a level of CD4+ lymphocytes < 200/ µl in two successive determinations carried out 15 days apart) and/or established AIDS (according to CDC criteria).

However, currently in Italy such clinical conditions are not automatically associated with the decline of preventive detention and the related judgment deferral, since the Court evaluates the incompatibility with detention on the basis of two additional and independent criteria: the social dangerousness of the prisoner, and the possibility of jailing him/her in a penitentiary able to provide the necessary health care. These two last criteria join the sanitary one, and the Court decision is taken evaluating each one with its own weight, independently from the other two.

Furthermore, with the approval of Law 231/99, for therapeutic and sanitary reasons (not meaning compulsory treatment) the judge may sentence a prisoner to house arrest or to carry out civil services if he is going to undertake, or is currently undertaking,

a program of assistance and care in an institution specialized in the care of AIDS cases. So, either the broad subjectivity given to the court, or the increased responsibility of physicians are highlighted, since the latter must certify both the incompatibility and the assistance and care program feasibility in specialized institutions.

During recent years we have been observing the tendency by jailed HIV-positive patients to manipulate the disease state [3]. This behavior is currently based on the belief that the rules of incompatibility with the prison system are always applied. It is often associated with a complete lack of compliance with the antiretroviral therapies, with the aim of obtaining the law benefits as a result of a deterioration in their health [4]. However, the drug resistance tests, now widely available, and the therapeutic drug monitoring, feasible in selected cases, allow the discrimination between a patient with virologic failure to HAART, therefore susceptible to measurable "worsening", and a patient who does not adhere to HAART.

During the last five years (2007-2011), 930 admissions were made in the Unit of Protected Medicine - Infectious Disease (a ward predisposed to admit exclusively inmates) of Belcolle Hospital, Viterbo. The HIV positive patients were 558 (60%), with a mean CD4 lymphocytes number of 120 cells/µl. Eighty-five patients presented severe immunodeficiency or a previous notification of AIDS according to Atlanta CDC criteria, and all of them obtained the certification of incompatibility. In spite of such a certification, only two of them received from the Court alternative

measures to jail: a patient with multifocal hepatocellular carcinoma (who died one week after granting hospital arrest), and a patient with an advanced pulmonary adenocarcinoma with poor prognosis.

The management of HIV positive patients in jail involves significant sanitary and relational efforts, particularly for those suffering AIDS and/or with severe immunodeficiency. Counseling and health education of the HIV positive prisoner play a crucial role in trying to ensure the compliance of the patient with the

antiretroviral therapy [5].

In order to make applicable the law relevant to incompatibility of HIV infected prisoners with the prison system, it is necessary to keep on improving the support from the local community (*i.e.*, foster home, home care, etc.), and to encourage cooperation and integrated working between the prison health care system and Hospital and University Departments.

Accepted on 27 September 2013.

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