Deviant Behavior

ISSN: 0163-9625 (Print) 1521-0456 (Online) Journal homepage: http://www.tandfonline.com/loi/udbh20

Constructing an "HIV-Killer": HIV Non-Disclosure and the Techniques of Vilification

Erica R. Speakman

To cite this article: Erica R. Speakman (2017) Constructing an "HIV-Killer": HIV Non-Disclosure and the Techniques of Vilification, Deviant Behavior, 38:4, 392-405, DOI: 10.1080/01639625.2016.1197010

To link to this article: http://dx.doi.org/10.1080/01639625.2016.1197010

Published online: 02 Aug 2016.

Submit your article to this journal

Article views: 123

View related articles

View Crossmark data

Full Terms & Conditions of access and use can be found at
http://www.tandfonline.com/action/journalInformation?journalCode=udbh20

Download by: [IUPUI Indiana University] **Date:** 01 May 2017, At: 08:43

DEVIANT BEHAVIOR
2017, VOL. 38, NO. 4, 392–405
http://dx.doi.org/10.1080/01639625.2016.1197010

Routledge
Taylor & Francis Group

Constructing an "HIV-Killer": HIV Non-Disclosure and the Techniques of Vilification

Erica R. Speakman

McMaster University, Hamilton, Ontario, Canada

ABSTRACT

Donileen Loseke has argued that social problems claims-making typically involves the construction of "people-categories" and more specifically the casting of victims and villains. While the processes by which victims are constructed have received attention in the literature, this is less so for villains. This article extends Loseke's work by using the case of HIV non-disclosers to explore precisely how people are typified as villains. I analyze discourse—or "talk"—surrounding the criminalization of HIV non-disclosure and non-disclosers with a view to identifying some of the strategies used to vilify non-disclosers. I refer to these strategies as the *techniques of vilification*.

ARTICLE HISTORY
Received 7 December 2015
Accepted 26 February 2016

In recent years, there has been a shift away from dealing with instances of HIV non-disclosure using a public health approach across much of the Western world. While the emphasis was once placed on educating those with HIV, as well as the public, about the risks of HIV exposure and the importance of safer sex practices, HIV non-disclosers are now increasingly being charged and sanctioned through the criminal courts. In Canada alone, between 1989 and 2009, criminal charges have been applied in 104 cases (Mykhalovskiy, Betteridge, and McLay 2010), many of them occurring after 2004. Some of the better known cases include that of Trevis Smith, a Canadian Football League linebacker, who was charged in 2005 with two counts of aggravated sexual assault and Clato Mabior, who was convicted in 2008 on charges of aggravated sexual assault for exposing six women to HIV, even though none of these women contracted the virus.

One of the most notorious cases, and arguably the most sensationalized to date in Canada, is the case of Johnson Aziga. Emigrating from his native Uganda, Aziga came to Canada and attended the University of Guelph where he met his now estranged wife. In 1996, while still married, Aziga was diagnosed with HIV. After receiving complaints that Aziga had transmitted HIV to a number of women, the police in Hamilton, Ontario, where Aziga resided, put him under surveillance and in 2003 arrested him. In 2009, after a lengthy trial, Aziga was convicted of two counts of first-degree murder, ten counts of aggravated sexual assault and one count of attempted aggravated sexual assault. In 2011, the courts went further still and classified Aziga as a "dangerous offender," a designation typically reserved for Canada's most violent criminals and sexual offenders. The Aziga case stands out as the first successful conviction in the world for murder due to HIV non-disclosure. This explains why the case was followed so carefully by the media, both within the country and internationally, and generated so much press.

Generally speaking, the literature on criminalization of HIV non-disclosure focuses on patterns and trends of criminal prosecutions (Mykhalovskiy et al. 2010; Mykhalovskiy and Betteridge 2012), concerns regarding the ambiguity of the legal definition of "significant risk" (Dej and Kilty 2012; Mykhalovskiy 2011) and the overall effectiveness of criminalization as a strategy for slowing the spread of HIV (Jürgens et al. 2009). There are studies on how non-disclosure laws are understood by

CONTACT Erica R. Speakman hiltze@mcmaster.ca McMaster University, 1280 Main St. W. Hamilton, Ontario L8S 4L8, Canada.
© 2017 Taylor & Francis Group, LLC

people living with HIV/AIDS (PLA) (Mykhalovskiy et al. 2010) and on how men who have sex with men, regardless of their sero-status, respond to criminalization (Adam et al. 2008; Horvath, Weinmeyer, and Rosser 2010). There are also studies on how AIDS service providers feel about and disseminate this information regarding PLA's legal obligation to disclose (Mykhalovskiy 2011). Finally, there have been a number of studies looking at how criminalization has been depicted in the media (McKay et al. 2011; Persson and Newman 2008).

In contrast, my focus in this article is on the rhetorical construction of individuals who do not disclose their HIV positive status and, more specifically, at their typification as dangerous "villains." I describe the strategies used in the typification of villains as *techniques of vilification*. Those familiar with the deviance literature will recognize the similarity to the concept of techniques of neutralization, so famously developed by Gresham Sykes and David Matza (1957). Sykes and Matza used the concept of techniques of neutralization to refer to strategies used by juvenile delinquents to rationalize or justify their deviant acts and maintain a positive sense of self. They highlighted five techniques, which include: (1) denial of responsibility; (2) denial of injury; (3) denial of victim; (4) condemning the condemners; and (5) appeal to a higher loyalty. I use the concept of techniques of vilification to capture a different process—one aimed not at protecting self-definitions, but at vilifying others. My findings are based on an analysis of discourse, or "talk," surrounding the criminalization of HIV non-disclosure and non-disclosers. While I draw heavily on the discourse generated by the Johnson Aziga case, I also include as data more general discussions in the media about HIV non-disclosers.

My framing of the central questions in this article—the construction of HIV non-disclosers as villains and the processes of typification involved—is rooted in an approach to studying social problems known as social constructionism. Therefore, I start with an examination of the constructionist perspective, focusing on key concepts and formulations relevant to my research. This is followed by a brief discussion of other literature that deals with the fundamental issue of vilification. After discussing the methods I used to conduct my analysis I turn to my own findings, which focus on the ways in which HIV non-disclosers are vilified. The findings are organized according to the *techniques of vilification* I identified. These techniques include: (1) constructing non-disclosers as perpetrators of great harm; (2) as having acted knowingly; (3) as having nefarious motives or being callously indifferent; (4) debunking alternative explanations; and (5) debunking the argument for shared responsibility. My article concludes with a discussion of the significance of these findings.

Constructing villains

This study is situated within the social constructionist tradition, particularly as it has been developed and used in the sociological study of social problems. The constructionist perspective shifts the study of social problems away from understanding problems as objective conditions towards a study of the processes by which social conditions come to be seen as problematic (Loseke 2003; Loseke and Best 2003; Spector and Kitsuse 1977). The focus on processes has led to analyses of who engages in claims-making activity, the sociohistorical circumstances under which claims-making occurs, the strategies that claims-makers use, how claims-makers frame their claims and the consequences of such activity (Best 2013; Loseke 2003; Spector and Kitsuse 1977).

Elaborating on these processes, Loseke (2003) has pointed out that audiences for claims need to be motivated to care about the problematic conditions to which claims-makers are trying to draw their attention. Claims-makers can get the public to engage emotionally with issues by framing them in ways that resonate with some deeply cherished "cultural themes" (e.g., the innocence of children) and/or by pressing claims in ways that get the audience to focus on how people are being harmed or detrimentally affected by the condition in question. Often claims take the form of formula stories structured around victims and villains. Underlying these formula stories are a society's "cultural feeling rules"—culturally established norms about how we should feel about different categories of people (Loseke 2003). For instance, victim typification relies on feeling rules pertaining to who is

morally worthy and who we subsequently deem deserving of our sympathy. Villains, on the other hand, must be typified as solely responsible for their actions, as intending to do harm and as having no morally acceptable reason for having engaged in their actions (Loseke 2003). Loseke (2003) goes on to argue that it is easier for claims-makers to construct victims than villains because it is easier to evoke feelings of sympathy over feelings of hatred.

Loseke is not the only scholar to draw attention to the functions that villains serve. Klapp (1956), one of the first scholars to point out that the villain plays an important role in society, refers to two categories of villain roles: the highly visible and the less visible. The former, for instance, encompasses such groups as the rebel, the authoritarian and the monster. The rebel is perceived as a threat to society, seeking to overthrow the establishment, while the authoritarian is vilified because this person asserts their authority over others, potentially restricting the individual freedoms of others or imposing his/her will. Klapp (1956:338) characterizes the monster as a "bizarre villain whose acts and motivations are beyond the ordinary range of human comprehension and whose stature approaches the demonic." The latter category, the less visible villains, includes, for example, the deceiver, a person who uses fraud and deception and is not what they seem; the corrupter who exerts a disconcerting influence over others, threatening their moral character; and the parasite, which can be characterized as a free-loader or a leech on society. Klapp (1956) argues that villains serve the function of providing a contrast from normal people, exaggerating or idealizing negative characteristics that a society seeks to discourage and in some cases creating a state of alarm around the occurrence of deviance. The construction of villains can be a form of isolating behavior in cases of extreme deviance or where the violation of social mores has been especially egregious (Klapp 1956).

Likewise, Alsford (2006) in his interdisciplinary examination of heroes and villains in contemporary popular media has argued that what a culture considers to be heroic or villainous speaks volumes about its attitudes and norms. Who and what we deem to be villainous is relative to our culture and to our societal values (Daynes 1997); these values shape our understandings and constructions.

Many of those who have studied the juxtaposition of victims and villains have noted that these categories are contextually situated within gender, race, and sexuality frameworks. When social workers are trying to determine which female drug users are most worthy of help, assigning them too much agency and perceiving them as rational actors renders them villainous and therefore less deserving (Frisaufava 2012). On the other hand, if these women are seen as victims of an unfair system who turn to drug use as a result, social workers are more inclined to become involved (Frisaufava 2012). Persson and Newman (2008) found in their research on the criminalization of HIV transmission in the Australian press that those who were vilified tended to be heterosexual, male immigrants from Africa. Past constructions of PLA focused on homosexual men, Haitians, and intravenous drug users, all of whom were presented as groups who bore responsibility for their infections and were, therefore, undeserving of sympathy (Bardhan 2001). In the United Kingdom, headlines call those who are charged with HIV non-disclosure "AIDS Assassins," "HIV Beast," and "One-Man HIV Epidemic." While the majority of criminal cases in the United Kingdom involve white people, the press disproportionately focused its coverage on black heterosexuals (Persson and Newman 2008).

Scholarly work in the area of social movements has also contributed to our understanding of vilification, primarily as a strategy utilized by social movement organizations. McCaffrey and Keys (2000) found that vilification was used as a strategy to counter-frame the abortion debate in the United States. For instance, those supporting the pro-choice movement attempted to frame pro-life supporters as terrorists and urged the Federal Bureau of Investigation (FBI) to investigate them. The findings of the McCaffrey and Keys (2000) study confirms Vanderford's (1989:166) conclusion that "[v]ilificaiton is a rhetorical strategy that discredits adversaries by characterizing them as ungenuine and malevolent advocates."

Another theme in the literature on vilification has to do with the consequences that these processes may have on the individual, the group, and on social policy more broadly. Corvo and Johnson (2003), for instance, examined how the vilification of the "batterer" has had a significant impact on domestic violence research, intervention, and policy, characterizing "batterers" as underserving of help and closing them off from services and interventions. Likewise, Wakefield (2006) found that the "extreme" vilification of sex offenders has had a significant impact on policy; harsh punishment rather than treatment is typically called for.

While the literature on vilification is useful in shedding light on the functions, contexts, and consequences of vilification, little of it addresses directly the "hows" of vilification. My study aims to fill this gap.

Method

As a way of getting at discourses about HIV non-disclosers, I analyzed a variety of documents— government documents and publications, news sources, along with other Internet sources. I started with data relevant to, and generated by, the Johnson Aziga case, ultimately using his case as a touchpoint for the broader discussion about HIV non-disclosure and non-disclosers.

With reference to the Aziga case, I examined news coverage of the case itself. Using the *Lexis Nexis* database, I collected approximately 320 news items. There were a number of news sources I relied on particularly heavily. Since Aziga was arrested and tried in Hamilton, Ontario, the *Hamilton Spectator* had extensive coverage, as did the *Toronto Star* and Canada's two main national newspapers, the *Globe and Mail* and the *National Post*, which are generally seen as reflecting two opposite ends of the political spectrum. I have included a list of all Canadian newspapers that were used in this analysis in Appendix A. My examination of these news sources included not simply reports on the trial and its aftermath, but also commentaries, editorials, and letters to the editor.

While the cost made acquisition of the court transcripts concerning the Aziga case prohibitive, I was able to obtain the Ontario Superior Court of Justice ruling that imposed the "dangerous offender" designation on Aziga. This 62-page document provided a detailed account of the entire trial, including summaries of some of the testimony and victim impact statements, adding depth to the discussions within the news media.

The notoriety of the Aziga case meant that discussion of the case extended well beyond court documents and discussion in mainstream media. Other sources I examined included online material such as articles written for online sites such as *Tribe Magazine* (www.tribemagazine.com), a once free-print magazine in Toronto that has since transitioned to a social network emphasizing urban living, as well as *Queerty* (www.queerty.com), a news site geared toward lesbian, gay, bisexual, and transgender (LGBT) issues. Besides reading the articles themselves, I followed the comment threads that accompanied them.

In addition, my general search led to more informal sites such as *Fitness Pal* (www.fitnesspal.com)—a weight loss site that provides tips and facilitates a support network— and *Baby Center* (www.community.babycenter.com), a webpage focusing on pregnancy and parenting. These sources provided more unorganized, informal discussions of non-disclosure and non-disclosers often presenting a much more uncensored view of how the audience understood and perceived the issues. A complete list of the sites and Web pages analyzed can be found in Appendix B.

While there is no apparent link between any of the aforementioned websites, the one thing that they do have in common is that at some point Johnson Aziga and the issue of HIV non-disclosure was discussed. In order to find these discussions, I conducted a Google search with the key words, "Johnson Aziga non-disclosure." After omitting duplicate pages, as well as news articles that were already part of the analysis, approximately 95 documents were analyzed. Whether a document was chosen for analysis was dependent on whether there was any mention of Aziga in the article or conversation, regardless of whether he was the focus of discussion or just a minor reference. This allowed for the analysis of more general discussions of HIV non-disclosure to take place.

Guided by analytical concepts suggested by the theoretical literature I used to frame the project, as I read each document, I identified themes relevant to the social processes I was interested in. Once I started to establish clarity in terms of the patterns I was finding, I went back over the data, looking more carefully this time for instances of what I ultimately began to understand as strategies of vilification. I present those strategies in the discussion below.

Techniques of vilification

The premise of this article is that the trend toward the criminalization of HIV non-disclosure hinges on the construction of "non-disclosers" as a distinct category of individuals (a people-category), and the typification of individuals who fall within this category as villains. But precisely how are these villain-types created? An analysis of the data shows that the vilification process involves several strategies or *techniques of vilification.*

Constructing HIV non-disclosers as perpetrators of great harm

As Loseke (2003) points out, villains are defined in part by the harm they do. In the case of HIV non-disclosure, the vilification of non-disclosers begins with the characterization of HIV/AIDS as a great harm. There are repeated references in the discourse around non-disclosure to HIV/AIDS as a "deadly disease" or a "terminal" illness. For example, an article in the *National Post* carried the headline, "When AIDS becomes a murder weapon." In addition, an editorial in the *Vancouver Sun* stated: "It is a fact that HIV/AIDS is a deadly virus…" In the same editorial, the author agrees with Aziga's murder conviction, stating that "He knowingly and deliberately infected these victims with a *deadly* virus without their knowledge or consent" (emphasis added).

The discourse presents the harm as occurring on several levels. There is a focus first on the physical aspects of infection. Apart from assumptions made about death as the likely outcome, there is a long list of additional painful symptoms included in references to the infection. In some cases, the physical harm connected with HIV/AIDS is presented in terms of personal stories of the suffering endured by specific individuals. For example, in the Aziga case, the impact statements of his victims outline a number of physical consequences resulting from their HIV infection. During the course of Aziga's dangerous offender ruling, the judge, Justice Lofchik (R v. Aziga:7), summarized the physical suffering of one of the victims as follows:

> She has had to have all of her teeth pulled out; she suffers from frequent migraine headaches; she has painful side effects from the HIV medication; and her feet have become inflamed and covered with sores making it difficult to walk, dance, bike and camp…

The irony in these constructions is that they stand in contrast to understandings of HIV/AIDS that have become prevalent since the 1990s. With the advent of antiretrovirals and other treatments for HIV/AIDS, AIDS service groups and public health professionals in particular, have been promoting a view of HIV/AIDS as a manageable, chronic condition as opposed to a terminal illness. However, in the context of the non-disclosure debate, to describe HIV/AIDS as chronic and manageable is to minimize the harm done by those who transmit the infection and to those who are living with it. The more harm done, the greater the possibility of heaping scorn and moral condemnation on those who knowingly infect others.

Another strategy for magnifying the harm done is focusing on the psychological, as well as physical, suffering involved. Going back to the victim impact statements referred to in the dangerous offender ruling, the statements included references to how difficult it was for the victims not to be able to work and care for their children. They spoke about their social isolation and depression, and some of Aziga's victims even admitted that they had contemplated or attempted suicide. Others spoke of the breach of trust and the difficulties they have had establishing new relationships. One of the victim impact statements, as summarized by Justice Lofchik (R v. Aziga:7), notes:

> … the social isolation that she has experienced as a result of the offence committed by the offender. She doesn't go out; she doesn't associate; she doesn't like people touching her; she stays away from men. This victim feels that she has lost everything in her life and still cannot get over what the offender did to her. Once she learned that she was HIV positive she tried to commit suicide by taking pills but she survived. She has lost her appetite and suffers from insomnia.

Another statement is summarized as follows:

> She has tried to keep the events and her subsequent HIV infection from others. It is "like a dark secret … it makes me feel dirty." As a result of her HIV infection, this victim's marriage has suffered as her husband's children are upset with him being with her and are afraid that he will be infected and die. As a result of the stress he will say things like, "I am going to die because of you." This victim fears the future and suffers from depression for which she must be medicated. She also suffers from sleep apnoea and has suffered a heart attack as a result of the stress.

Commenting on the victim impact statements, a psychiatrist involved in the case underlined the seriousness of the psychological effects: "people do better in response to a natural disaster as opposed to their response to trauma associated with betrayal of trust by another human being."

The notion of psychological harm as part of the assessment of the harm caused by non-disclosure allows those who are vilifying HIV non-disclosers to count as victims not only those who have actually contracted the infection, but also those who did not, but were exposed to the virus. In physical terms, those who remain HIV negative are referred to as having "dodged a bullet," but at a psychological level they too are described as dealing with the consequences of what has happened to them, particularly the betrayal of trust. One of Aziga's victims—a woman who ultimately tested negative for HIV—described what it was like for her to discover what Aziga had done and then wait for her test results. She wrote in her impact statement: "[w]aiting for the results was pure torture." At the point at which she submitted the statement (six years after her encounter with Aziga), she stated that she remained convinced that the results were somehow wrong and that she was, in fact, infected. The very fact that this woman was treated by the courts as a victim and allowed to submit a victim statement rests on the assumption that, despite being HIV-negative, she was nevertheless harmed. The content of her victim statement speaks to the nature and magnitude of the harm. Her case demonstrates clearly how broadly harm is understood to extend in non-disclosure situations.

The magnitude of the harm in non-disclosure discourse can also be augmented through the characterization of victims; the more pitiable, likeable and innocent the victim, the more despicable the non-discloser. In the coverage of the Aziga case, a news article in the *Globe and Mail* featured an account of the video testimonial of one of the women who died before the trial. A portion of the story reads:

> Although terribly thin and weak, unable to raise her head from the striped pillows behind her, she nonetheless smiled her crooked smile often, and several times her silvery laugh filled the room. It was almost as though she was trying to put at ease the … young detectives in the room, and her own cousins.

The themes of resilience, courage and concern for others that runs through the quote also run through the discourse in general regarding victims. A *Plenty of Fish* forum includes the profile of a woman who had an encounter with Vincent Walkem, an individual charged with, and convicted for, not disclosing his HIV positive status in Toronto, Canada in 2007. The profile was written by a friend, who expresses great admiration for the woman's strength in the face of adversity:

> For my friend, the news of her infection helped her decide to get her studies started. She is now a full-time modern dance student. Touched by a horrendous betrayal and living through the fear of illness, her courage, drive, and passion are an inspiration to all those who know her. "It really put life into perspective for me," she told me. "While at first I felt sorry for myself, it has actually made me incredibly motivated."

Constructing non-disclosers as having acted knowingly

The perpetration of great harm is a necessary but not sufficient condition for the successful vilification of non-disclosers. Another condition is that non-disclosers must be seen as having acted in full knowledge of their HIV positive status and the risks that their actions entailed. Often the discourse on this point emphasizes both the level of general information concerning HIV that is available as well as the kind of counseling and education that particular individuals receive when they test positive. Implicitly, and often explicitly, the message is they should "know better." A contributor to the forums on *Tribe Magazine's* site commented: "If you know that you are positive, and you know you are having unprotected sex, you essentially know, and are planning, to subject that person to a very good chance of a terminal illness." Likewise, a member on a *Plenty of Fish* forum discussing the Vincent Walkem case argues: "If he had actual knowledge of his HIV positive status, then he had a legal and moral obligation to share this with anyone he was sleeping with, whether he was using protection or not."

In the Aziga case, lawyers for the prosecution went to great lengths to establish that Aziga had been counseled about the risks of being HIV positive and the responsibility he bore to not only disclose to prospective sexual partners that he was HIV positive, but to also wear a condom when engaging in sexual activity. Nurses testified that they believed that he had no problems comprehending the information given to him. Indeed, testimony was introduced to establish that Aziga had received repeated warnings. When his name kept appearing on the contact lists of women in the area who had tested positive, the evidence showed that the local Public Health department contacted Aziga reminding him of his obligations. As a story in the *Times Colonist*, a Victoria, BC newspaper reported: "When public health nurses confronted him for continuing to have unprotected sex with unaware women while receiving treatment for HIV himself, he replied: 'I understand, but I don't agree with it.'"

The importance of constructing the non-discloser as having acted knowingly was also demonstrated during the Aziga trial in the defense's strategy. Part of their strategy was to ultimately illustrate that Aziga, in fact, did not fully comprehend his responsibility to disclose, emphasizing possible cognitive and cultural barriers. Whether they were successful or not, the fact that the defense tried this approach demonstrates how pivotal Aziga's level of awareness was to his legal culpability. Legal culpability would have also made him morally culpable and, to the extent that he was morally culpable, he could be vilified.

Constructing non-disclosers as having nefarious motives or being callously indifferent

Acting knowingly to cause great harm to others, particularly innocent others, immediately raises the question of motives. It is in the interest of those who seek to vilify to attribute the basest motives to non-disclosers. Non-disclosers become particularly reprehensible when their reasons are malevolent or nefarious. On the question of motives, the non-disclosure discourse makes reference to several possibilities. Amongst the most heinous of attributions is the charge that some HIV positive individuals intentionally seek out others with the intention of infecting them. The following example makes reference to "barebacking," which is a term used to describe gay men intentionally having anal sex without a condom (Adam et al. 2008; Berg 2009), though not necessarily to infect others. The case involves Steven Boone, an individual who was arrested in 2010 in Ottawa for not disclosing his positive status. In reacting to the case, a commentator on *Queerty* claimed that Boone himself admitted in a profile that he once posted on a website called *bareback.com* that he actively sought out victims: "Boone himself said in his bareback dot com profile (now deleted): '…neg boys step to the front of the line. Love to breed neg bois with my poz seed.'"

In attributing motives, stereotyping based on race, gender, sexuality, and even class is often exploited as part of the vilification process. For example, in the Aziga case, much of the discourse emphasized the fact that Aziga was a black man, originally from Africa (Uganda), and suggested that

he had misogynistic tendencies. In news as well as other media sources, he was sometimes portrayed as a black man preying on white women. A journalist for the *Toronto Star* wrote:

> The accused is also black, originally from Uganda. The witness—like every other female who's taken the stand against Johnson Aziga as alleged victim at this trial—is white. One might fairly surmise that Aziga liked his women white and plain and perhaps lonely.

Another article in the same newspaper stated: "When he wasn't busy fornicating them to death, Johnson Aziga must have hated women."

Uncensored websites can be even more direct and extreme. A website geared to white supremacists, *Vanguard News Network Forum*, played on stereotypes of black men's sexuality. The website posted a page titled "Niggers murder by HIV…" and included a series of pictures of black men charged with non-disclosure, Aziga among them. The original post on this site claims:

> AIDS is more common in niggers due to their lack of personal hygiene and sexual promiscuity. Other venereal diseases like herpes, syphilis and gonorrhea are also rampant in niggers. Diseases which often cause lesions and inflammation allowing HIV to transmit more easily.

In a comment that followed the initial post, a contributor to the site stated:

> Niggers will rape white women regardless of what they believe to be the cause of AIDS. Just as they will continue having unprotected sexual intercourse after being diagnosed with HIV. Their evolutionary strategy is to have sex with as many women as possible, not worry about the consequences of their actions.

While the discussion thus far has focused on nefarious motives and stereotypes that would support claims of intentional exposure and transmission, even simple indifference can be construed as reprehensible when the results are so consequential and can result in great harm. Referring to Aziga's dangerous offender hearing, an editorial in the *National Post* stated:

> Exposing an unknowing sexual partner to a deadly disease and getting behind the wheel while drunk are both selfish acts in which the lives of innocent people are sacrificed to the potential killer's pleasure or convenience. These people are not murderers in the way that this word is usually understood—*they are not deliberately seeking to kill others*. But their behaviours betray the same indifference to human life and basic moral standards that characterize all serial violent criminals (emphasis added).

While the intent to do harm is not explicit, the point is that the behaviors and actions were reckless—the individual knew of the potential for great harm but did not take the necessary steps to prevent it. As a result, motive is not a necessary component in the vilification process; rather, being callously indifferent is sufficient.

Debunking alternative explanations

Loseke (2003) observes the tendency to respond to attempts to vilify individuals by finding explanations for their behaviors that preclude their construction as evil. To the extent that forces beyond an individual's control can be argued to be responsible for their behavior, blame is deflected elsewhere—to the oppressive, marginalized, or difficult social circumstances within which individuals find themselves, an unfortunate upbringing, or some medical affliction from which they may be suffering. When the strategy is used successfully, it has the effect of transforming would-be villains into victims. Therefore, successful vilification requires the refuting or debunking of alternative explanations for individuals' behaviors—explanations that reduce or mitigate the culpability of the individuals involved.

In the Aziga case, the strategy of debunking alternative explanations began during the trial itself, but was even more readily apparent through the course of the dangerous offender hearing. In an attempt to stave off the dangerous offender designation, Aziga and his lawyers pointed to a number of external factors that may have contributed to Aziga's actions. For instance, frequent reference was made in the news media to Aziga's low self-esteem due to an undescended testicle. The *Toronto Star*, reporting on the forensic psychiatrist's testimony during the dangerous offender hearing, stated:

> "I asked Mr. Aziga why he thought he found himself where he was and he reported that his difficulties have root in the fact that he was born with one undescended testicle," Klassen testified. "He said that because of this abnormality he hid sexual information about himself all his life."

There were also suggestions that Aziga's sociocultural background was a factor that needed to be considered concerning his ability to disclose. His defense counsel argued that: "… Mr. Aziga was not given proper counselling…as the counselling did not take into account cultural nuances. If he had been counselled properly he would have been more likely able to disclose his HIV condition." Aziga refers to some these nuances as cultural and religious taboos surrounding the discussion of sex, as was reported in *Daily the Pak Banker*. In response, the Public Health nurses argued during the course of the trial that:

> … at no time did the offender express that he had difficulty disclosing his HIV status due to his culture or religious upbringing. The offender presented as articulate and intelligent and maintained that he only had a couple of partners with whom he had engaged in sexual activity since his separation from his wife and gave the impression that he had no current sexual partners who required notification of the risk of HIV.

Other deflection-of-blame strategies in the Aziga case included references to the stress Aziga experienced because of his son's autism, the long hours he spent commuting to work, and the breakdown of his marriage. There were references as well to the sense of hopelessness that his HIV positive diagnosis generated, the stigma he experienced as a PLA, the need to engage in what he referred to as "survival sex," and his fear of rejection.

To obtain the dangerous offender designation the Crown was seeking for Aziga, the prosecution had to refute the power of these explanations as mitigating factors. To do so, they enlisted the testimony of a psychiatrist who examined Aziga after the trial. The psychiatrist conceded that Aziga was subject to stress in his life but insisted that he was nevertheless able to function at work and in his recreational activities. He went on to testify that while Aziga had personality issues, he suffered from no major mental illness. He concluded his testimony by dealing point blank with Aziga's efforts to evade responsibility:

> … in my experience with Aziga over the course of time with him was that he invested a good deal more energy into defending his position and attributing his difficulties to external factors than to taking responsibility for what happened or expressing concern for the victims or a sense of remorse…

Ultimately, the many explanations for his behavior were perceived as excuses, as Aziga's inability to take responsibility for his own actions. These deflections were subsequently debunked by the psychiatrist and, in the end, by the courts, contributing to his vilification.

Debunking the argument for shared responsibility

A final critical strategy in the vilification of HIV non-disclosers involves dealing with the argument that while the actions of non-disclosers cannot be justified or excused, they share blame for the harm caused with their sexual partners. Within the discourse, this stance is often referred to as "it takes two to tango." The essential point is that anyone who consents to unprotected sex is consenting to the risks that go along with it. Those who take this point of view insist that, especially in light of the educational and public health campaigns aimed at making people more aware of the dangers of unprotected sex, those who are uninfected should have known better and bear some responsibility for the consequences. As one blogger put it in their discussion of the Aziga case as well as the case of a 17-year-old girl in Alberta who was charged for non-disclosure:

> … [they] may not have been aware that their partner had HIV, but they undoubtedly were imminently aware of the fact that an unsheathed penis was going to be penetrating an orifice that itself was a la mode. It doesn't excuse the girl, or Aziga, but it sure as hell puts in question the level of responsibility the "victim" should have for their victimhood…

The quote makes clear that the "it takes two to tango" argument challenges the construction of those who are infected by non-disclosers as victims. If they had a hand in their own demise, they are not victims. And without victims, there can be no villains.

To neutralize the "it takes two to tango" argument and the idea that people "ought to have known better," those seeking to vilify non-disclosers respond with a "blaming the victim" argument. In other words, they insist that in suggesting that those harmed by the action of non-disclosers have had a hand in their own misfortune is unfair and offensive. They strategically use analogous cases to press their point. For instance, the author of an article on *Finland for Thought* described the following scenario when discussing the first person to be charged with murder for not disclosing their HIV positive status:

> Let me explain it to you this way: If someone walked into a restaurant and ordered a meal, and the chef deliberately poisoned the meal, you could hardly say, "Well, you agreed to eat the food, didn't you?" It's no different with the women in this case.

A similar strategy is at play in the comments following an online article criticizing Canada's HIV laws found on *Slate*. The commenter argued:

> By that logic, we know that bank robberies happen and usually involve fire arms. So, if we go to the bank without our bulletproof vest and get shot, the robbers shouldn't get charged because we know the risks and didn't go protected???

The analogies not only refute, but mock, the position that unfortunate outcomes as a result of non-disclosure are a shared responsibility. They also bolster vilification claims by connecting non-disclosers with those whose status as villains is not likely to be connected, like those responsible for school shootings and burglaries or people who drink and drive. The strategy subtly involves relying on cultural feeling rules and on understandings of whom it is acceptable to hate.

Those who applied this strategy to the Aziga case made much of the fact that some of his partners had, in fact, exercised caution and asked if Aziga had been tested, to which he replied that he had been and that the results showed that he was negative. Other victims had tried to insist on using a condom, but Aziga refused. These observations went a long way toward allowing a construction of Aziga as solely responsible for the ensuing damage caused.

Discussion and conclusion

Loseke (2003) suggests that vilification is difficult to accomplish. Yet, there are innumerable cases where individuals and groups have nevertheless been vilified. My purpose in this article was to explore one such case—HIV non-disclosers. I sought to go beyond merely establishing the vilification of non-disclosers to look more deeply at *how* vilification is accomplished. While Loseke has written about the vilification process in general terms, my goal was to uncover the precise techniques that claims-makers use in constructing villain–types. Concentrating on discourse generated by the infamous Aziga case, I have identified a number of such strategies. These techniques of vilification, as I call them, include: (1) constructing non-disclosers as perpetrators of great harm; (2) constructing non-disclosers as having acted knowingly; (3) constructing non-disclosers as having nefarious motives or being callously indifferent; (4) debunking alternative explanations; and (5) debunking the argument for shared responsibility.

At a conceptual level, the analysis begs the question of the extent to which these techniques are evident in other cases of vilification. That is a question that cannot be answered without further research. Comparative studies looking at the discourse around such groups as sex offenders, pedophiles, drunk drivers and others, would be useful in the sense that they would allow a teasing apart of claims that tend to be generic and are found across case studies versus group-specific claims. Another example rich in possibilities, particularly given recent global events, is the case of Muslim *jihadists* and other religious extremists. There are a plethora of studies dealing with media

representation of Islam and Muslims, experiences of Islamophobia and the "othering" of Muslims. But there would be value in looking at the actual techniques of vilification that result in othering.

At a more substantive level, the case presented in this article adds to current debates about the criminalization of non-disclosers. Most obviously, the analysis allows for a greater appreciation for the basis of the trend towards criminalization. The previous emphasis on a public health approach rested on a construction of non-disclosers that can be described as, at best, sympathetic and, at worst, neutral. Within the context of a frame where non-disclosers were not seen as accountable or culpable for their behavior, an educational approach to dealing with the problem of non-disclosure made sense. Criminalization, however, requires a different typification, one that establishes both the accountability and blameworthiness of non-disclosers. The techniques of vilification discussed in this article demonstrate how that blameworthiness was established.

In addition to contributing to a fuller understanding of the bases for the trend towards criminalization, the analysis goes some way towards explaining the intensity of the response to HIV non-disclosers outside of the realm of the criminal justice system. In newspapers and online sources, editorials and chat rooms, there have been calls to place draconian restrictions on those who test positive for HIV – restrictions on engaging in any sexual activity whatsoever, tattoos to warn the public, and quarantines. Others have called for castration and even bringing back the death penalty for those who do not disclose their positive status. These responses underscore the connection that constructionists have always asserted between the framing of condition and the framing of solutions. Only the successful vilification of non-disclosers explains the ferocity of the reactions and the kind of punitive, even cruel, responses that have been recommended.

Moving forward, there is a final observation that warrants further investigation. Most of the discourse around the criminalization of HIV non-disclosure, not just in connection with the Aziga case but more generally, assumes situations where heterosexual men, quite often black, are not disclosing to female partners. There are few references to non-disclosure within the gay community, despite the fact that disclosure and non-disclosure have been a central concern within that community since HIV/AIDS was first identified. The disproportionate attention to heterosexual male non-disclosure actually reflects patterns in criminal charges and prosecutions for non-disclosure. Mykhalovskiy et al (2010) note that only 18% of criminal cases for HIV non-disclosure in Canada involved men who have sex with men, while 72% of charges were laid against heterosexual men. The same pattern is reflected in news reporting practices, not only in Canada, but the UK and Australia as well (Persson and Newman 2008).

Why is it that, in spite of representing over 50% of positive HIV reports in Canada (Mykhalovskiy et al. 2010), such a small percentage of gay non-disclosers have been criminally charged? Mykhalovskiy et al (2010) argue that it is possible that there may, in fact, be a greater understanding of the risks involved regarding unprotected sex within the gay community. However, there are other plausible explanations. Norms around disclosure may be different within the gay community. For example, the "it takes two to tango" argument that posits shared responsibility for avoiding infection, may have more currency within the community, making it less likely that infected partners would come forward to complain. The disproportionate numbers may also reflect decisions on the part of prosecutors about which cases of non-disclosure to pursue. For a myriad of reasons, including their stereotypes of the culpable predator, prosecutors may be prioritizing cases of heterosexual non-disclosure. While answers to these questions are clearly beyond the scope of this article, the observation that there are differences in *who* among non-disclosers is vilified and subject to criminal prosecution points to the need to be more attentive to the contexts within which vilification takes place. Do processes of vilification look different in cases where gay men are the object of vilification? How do injection drug users fit into the picture? These questions too call for further research.

Acknowledgments

I am grateful to Dr. Dorothy Pawluch for her insightful feedback, along with the comments provided by my colleagues and the anonymous reviewers on earlier drafts of this article.

Notes on contributor

ERICA R. SPEAKMAN is currently a doctoral candidate in the Department of Sociology at McMaster University. Her research interests include the study of deviance and social problems, crime, health and illness, as well as social constructionist theory.

References

Adam, Barry D., Richard Elliot, Winston Husbands, James Murray, and John Maxwell. 2008. "Effects of Criminalization of HIV Transmission in Cuerrier on Men Reporting Unprotected Sex with Men." *Canadian Journal of Law and Society* 23(1–2):143–159.

Adam, Barry D., Winston Husbands, James Murray, and John Maxwell. 2008. "Silence, Assent and HIV Risk." *Culture, Health and Sexuality* 10(8):759–772.

Alsford, Mike. 2006. *Heroes and Villains*. London: Baylor University Press.

Bardhan, Nilanjana. 2001. "Transnational AIDS-HIV News Narratives: A Critical Exploration of Overarching Frames." *Mass Communication and Society* 4(3):283–309.

Best, Joel. 2013. *Social Problems*. 2nd ed. New York: W.W. Norton and Company.

Corvo, Ken and Pamela J. Johnson. 2003. "Vilification of the 'Batterer': How Blame Shapes Domestic Violence Policy and Interventions." *Aggression and Violent Behaviour* 8(3):259–281.

Daynes, Gary. 1997. *Making Villains, Making Heroes: Joseph R. McCarthy, Martin Luther King, Jr. and the Politics of American Memory*. New York: Garland Publications.

Dej, Erin and Jennifer M. Kilty. 2012. "'Criminalization Creep': A Brief Discussion of the Criminalization of HIV/AIDS Nondisclosure in Canada." *Canadian Journal of Law and Society* 27(1):55–66.

Frisaufava, Magda. 2012. "The Female Drug User as a 'Victim' or 'Villain' and the Implications for Social Work." *Social Work and Society* 10(1):1–5.

Horvath, Keith J., Richard Weinmeyer, and Simon Rosser. 2010. "Should it be Illegal for HIV-Positive Persons to Have Unprotected Sex without Disclosure? An Examination of Attitudes among US Men Who Have Sex with Men and the Impact of State Law." *AIDS Care* 22(10):1221–1228.

Jürgens, Rolf, Jonathan Cohen, Edwin Cameron, Scott Burris, Michaele Clayton, Richard Elliot, Richard Pearshouse, Anne Gathumbi, and Delme Cupido. 2009. "Ten Reasons to Oppose the Criminalization of HIV Exposure or Transmission." *Reproductive Health Matters* 17(34):163–172.

Klapp, Orrin E. 1956. "American Villain-Types." *American Sociological Review* 21(3):337–340.

Loseke, Donileen. 2003. *Thinking about Social Problems: An Introduction to Constructionist Perspectives*. New Brunswick, NJ: Transaction Publishers.

Loseke, Donileen and Joel Best, eds. 2003. *Social Problems: Constructionist Readings*. New York: Aldine de Gruyter.

McCaffrey, Dawn and Jennifer Keys. 2000. "Competitive Framing Processes in the Abortion Debate: Polarization-Vilification, Frame Saving, and Frame Debunking." *The Sociological Quarterly* 41(1):41–61.

McKay, Fiona, Samantha L. Thomas, Kate Holland, R. Warwick Blood, and Susan Kneebone. 2011. "'AIDS Assassins': Australian Media's Portrayal of HIV-Positive Refugees Who Deliberately Infect Others." *Journal of Immigrant and Refugee Studies* 9:20–37.

Mykhalovskiy, Eric. 2011. "The Problem of 'Significant Risk': Exploring the Public Health Impact of Criminalizing HIV Non-Disclosure." *Social Science and Medicine* 73(5):668–675.

Mykhalovskiy, Eric and Glenn Betteridge. 2012. "Who? What? Where? When? And With What Consequences?: An Analysis of Criminal Cases of HIV Non-Disclosure in Canada." *Canadian Journal of Law and Society* 27 (1):31–53.

Mykhalovskiy, Eric, Glenn Betteridge, and David McLay. 2010. "HIV Non-Disclosure and the Criminal Law: Establishing Policy Options for Ontario." *A Report Funded by a Grant from the Ontario HIV Treatment Network*. Retrieved November 20, 2013 (http:dx.doi.org/10.2139.ssrn.1747844)

Persson, Asha and Christy Newman. 2008. "Making Monsters: Heterosexuality, Crime and Race in Western Media Coverage of HIV." *Sociology of Health and Illness* 30(4):632–646.

Spector, Malcolm and John I. Kitsuse. 2010. *Constructing Social Problems*. New Brunswick, NJ: Transaction Publishers.

Sykes, Gresham M. and David Matza. 1957. "Techniques of Neutralization: A Theory of Delinquency." *American Sociological Review* 22(6):664–670.

R v. Aziga, ONSC 4592 (2011).

Vanderford, Marsha. 1989. "Vilification and Social movements: A Case Study of Pro-Life and Pro-Choice Rhetoric." *Quarterly Journal of Speech.* 75(2):166–182.
Wakefield, Hollida. 2006. "The Vilification of Sex Offenders: Do Laws Targeting Sex Offenders Increase Recidivism and Sexual Violence?" *Journal of Sexual Offender Civil Commitment: Science and the Law* 1:141–149.

Appendix A: Newspaper sources

- *Hamilton Spectator*—Hamilton, Ontario Canada
- *Toronto Star*—Toronto, Ontario Canada
- *Globe and Mail*—Toronto, Ontario Canada
- *National Post*—Toronto, Ontario Canada
- *Vancouver Sun*—Vancouver, British Columbia Canada
- *Ottawa Citizen*—Ottawa, Ontario Canada
- *Star Phoenix*—Saskatoon, Saskatchewan Canada
- *Advertiser—Grand Falls*—Windsor, Newfoundland Canada
- *The Daily Gleaner*—Fredericton, New Brunswick Canada
- *Kamloops Daily News*—Kamloops, British Columbia Canada
- *The Telegraph-Journal*—Saint John, New Brunswick
- *Daily the Pak Banker*—On-Line Source
- *Alberni Valley Times*—Port Alberni, British Columbia Canada
- *Prince Rupert Daily News*—Prince Rupert, British Columbia Canada
- *Windsor Star*—Windsor, Ontario Canada
- *Calgary Herald*—Calgary, Alberta Canada
- *The Leader-Post*—Regina, Saskatchewan Canada
- *Edmonton Journal*—Edmonton, Alberta Canada
- *The Gazette*—Montreal, Quebec Canada
- *The Vancouver Province*—Vancouver, British Columbia Canada
- *Times Colonist*—Victoria, British Columbia Canada
- *St. John's Telegram*—St. John's, Newfoundland Canada
- *Nanaimo Daily News*—Nanaimo, British Columbia Canada
- *Guelph Mercury*—Guelph, Ontario Canada
- *Prince George Citizen*—Prince George, British Columbia Canada
- *Carleton Place*—Carleton Place, Ontario Canada
- *Waterloo Region Record*—Waterloo, Ontario Canada

Appendix B: Google Document sources

- Plenty of Fish—www.pof.com
- Positive Women's Network—http://pwn.bc.ca
- Positive Lite—www.positivelite.com
- POZ Blogs—www.poz.com
- Queerty—www.queerty.com
- Questioning AIDS—www.questioningaids.com
- rabble.ca—www.rabble.ca
- Selwyn Pieters Blog—www.selwynpieters.blogspot.ca
- Ms Nikki Thomas—www.msnikkithomas.com
- Sky Gilbert Blog—www.skygilbert.blogspot.ca
- Above Top Secret.com—www.abovetopsecret.com
- Abuse Wiki—http://abusewikia.com
- Alternet—www.alternet.org
- Articlesbase—www.articlesbase.com
- ASRSQ—www.asrsq.ca
- Community: Baby Benter—http://community .babycenter.com
- Baltimore Sun Talk Forums—http://talk.baltimoresun.com
- Bedbugger.com—http://bedbugger.com
- The Bilerico Project—www.bilerico.com
- nomorepotlucks—http://nomorepotlucks.org
- CANOE—http://blogs.canoe.ca

- Walt Whitman's World—http://waltwhitemansworld.blogspot.ca
- Canada First.net—http://updates.canadafirst.net
- Canada.com—www.canada.com
- Positive Living BC—www.positivelivingbc.org
- Cerebvellum.com—http://cerebvellum.com
- National Center for Biotechnology—www.ncbi.nlm.gov
- Canoe News—http://cnews.canoe.ca
- Criminal Lawyer Etobicoke Blog—www.criminallawyeretobicoke.com
- The Dominion—http://dominion.mediacoop.ca
- Daily Xtra—http://dailyxtra.com
- Finland for Thought—www.finlandforthought.net
- Fitness Pal—www.myfitnesspal.com
- Selwyn A. Pieters—Barrister & Solicitor—www.selwynpieters.com
- Free North America—www.freenorthamerica.ca
- Freely Shout—http://freelyshout.com
- Gates of Vienna—http://gatesofvienna.blogspot.ca
- Gay Globe Media—http://gayglobe.us
- Global Criminalisation Scan—http://criminalisation.gnpplu.net
- May First/People Think—http://lists.mayfirst.org
- Health Medicine Center—http://healthmedicinenet.com
- Herpes Gir—lwww.herpesgirl.com
- Criminal HIV Transmission—http://criminalhivtransmission.blogspot.ca
- HIV Justice—www.hivjustice.net
- Plus—www.hivplusmag.com
- I Luv SA—http://iluvsa.blogspot.ca
- Universite de Montreal—www.iro.umontrreal.ca
- Jer's Vision—www.jersvision.org
- Jonathan Turley—http://jonathanturley.org
- Kinsey Confidential—http://kinseyconfidential.org
- Lawyers and Settlements: Lawsuits and Legal News—www.lawyersandsettlements.com
- MacLean's Magazine—www.macleans.ca
- McGill Reporter—http://publications.mcgill.ca
- Anova Health Institute—www.mediaaids.org
- Motherboard—http://motherboard.vice.com
- Murderpedia—http://murderpedia.org
- Aidsmap—www.aidsmap.com
- National Justice Network Update—www.rbjc.ca
- Network 54—www.network54.com
- Outwords—http://outwords.ca
- The Dirty—http://thedirty.com
- Vanguard News Network Forum—http://vnnforum.com
- The New Gay—http://thenewgay.net
- This Magazine—http://this.org
- canandthelaw—http://canandthelaw.wikispaces.com
- Tribe Magazine—www.tribemagazine.com
- Unlocking HIV—http://unlockinghiv.com
- Women in and Beyond the Global—www.womeninandbeyond.org
- WordMag—www.wordmag.com
- Idasa's Weblog—http://idasa.wordpress.com
- World Heritage Encyclopedia—http://worldheritage.org
- SP411—www.sp411.com
- StateMaster.com—www.statemaster.com
- The Court—www.thecourt.ca
- The Canadian Bioethics Companion—http://canadianbioethicscompanion.ca
- Topix—www.topix.com
- The Grid—Toronto—www.thegridto.com
- Slate—www.slate.com