GLOBAL COMMISSION ON
HIV and the LAW

Risks, Rights & Health

FINDINGS & RECOMMENDATIONS: Violence and discrimination as experienced by women

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AIDS 2012, Washington DC
STANDING UP SPEAKING OUT

WOMEN AND HIV IN THE MIDDLE EAST AND NORTH AFRICA

UNAIDS
Gender equality, in theory...

"Women should have equal rights as men."

Source: Pew Global Attitudes Project, 2012
Gender discrimination, in practice

"When jobs are scarce, men have more right to a job."

Source: Pew Global Attitudes Project, 2012
Violence and discrimination as experienced by women

FINDINGS (Legal Frameworks)

1. Constitutional equality, accession to international covenants, legislation on the books
2. Legal loopholes, multiple legal frameworks, reservations to international agreements, inadequate enforcement
3. Gender inequality leaves women and girls vulnerable to HIV.
Violence and discrimination as experienced by women

FINDINGS (Property)

1. Without equal rights to property, women are severely disadvantaged within the family.

2. International covenants guarantee equality between men and women in family life, marriage and its dissolution. Regional agreements also deal with laws and traditions in relation to these issues.

3. Formal and customary marriage, property and inheritance laws, and practices such as “property-grabbing” fuel gender inequality.

4. Governmental or traditional legal systems fail to outlaw customary practices (ie, early marriage) and put girls and women at increased risk of HIV exposure.
FINDINGS (Violence)

1. **Rape** persists, despite **legal prohibitions**. It is increasingly a **prime weapon of war**.
2. Legal definitions of sex crimes may **preclude prosecuting** some coerced acts (i.e., **marital rape**).
Marital rape

Legislation against marital rape, by region

Central and Eastern Europe and Central Asia
- Legislation: 20%
- No legislation: 80%

Developed Regions*
- Legislation: 50%
- No legislation: 50%

East Asia and the Pacific
- Legislation: 30%
- No legislation: 70%

Latin America and the Caribbean
- Legislation: 40%
- No legislation: 60%

Middle East and North Africa
- Legislation: 80%
- No legislation: 20%

South Asia
- Legislation: 20%
- No legislation: 80%

Sub-Saharan Africa
- Legislation: 10%
- No legislation: 90%

Percent of countries

TOTAL

Countries that have legislation against marital rape: 52
Countries that don't have legislation against marital rape: 127
Countries with unknown status: 14

Note: *Developed Regions include Andorra, Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Israel, Italy, Japan, Liechtenstein, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, United Kingdom and the United States of America.

Violence and discrimination as experienced by women

**FINDINGS (Violence)**

1. **Rape** persists, despite **legal prohibitions**. It is increasingly a **prime weapon of war**.

2. Legal definitions of sex crimes may **preclude prosecuting** some coerced acts (ie, **marital rape**).

3. Even where laws **criminalise** sexual violence, they are often **poorly enforced**.

4. **Survivors** of violence fail to get **timely HIV and health services**, including therapy to reduce HIV infection.

5. **Disclosure** of HIV-positive status also puts women at **risk of violence**.
Violence and discrimination as experienced by women

FINDINGS (Sexual & Reproductive Health)

1. Reproductive health centres are not friendly spaces for many women living with HIV. Coercive and discriminatory practices include:
   – forced HIV testing
   – breaches of confidentiality
   – denial of health care services
   – forced sterilisations and abortions
The face of discrimination

Source: www.stoptortureinhealthcare.org
Violence and discrimination as experienced by women

FINDINGS (Sexual & Reproductive Health)

1. Reproductive health centres are not friendly spaces for many women living with HIV. Coercive and discriminatory practices include:
   - forced HIV testing
   - breaches of confidentiality
   - denial of health care services
   - forced sterilisations and abortions

2. Where HIV exposure and transmission are criminalised, pregnant women and mothers fear testing and treatment, for themselves and their children.
Violence and discrimination as experienced by women

**RECOMMENDATIONS INCLUDE:**

- **End all forms of violence against women and girls,** including in conflict situations and post-conflict settings:
  - **Enact and enforce laws** that prohibit **domestic violence, rape and other forms of sexual assault.**
  - **Remove immunity from** prosecution for **rape** when the perpetrator is a married or unmarried partner.

- **Remove legal barriers** that impede women’s **access to sexual and reproductive health services.** Ensure that:
  - Health care workers provide women with **full information** on sexual and reproductive options and ensure that women can provide **informed consent**
  - Prohibit and take measures to **stop the practice of forced abortion and coerced sterilisation** of HIV-positive women and girls
  - **Provision of health services,** including post-exposure prophylaxis, legal services and social protection for survivors of violence, **must be guaranteed.**
  - **Health care workers are trained** on informed consent, confidentiality and non-discrimination.
Violence and discrimination as experienced by women

RECOMMENDATIONS INCLUDE:

• Reform **property and inheritance laws** so that women and men have **equal access to property and other economic resources**, including credit:
  – Ensure that, in practice, **property is divided without gender discrimination** upon separation, divorce or death and establish a presumption of **spousal co-ownership** of family property.
  – Leaders of **religious or customary legal systems** must make reforms to **protect women**, including widows and orphans.

• Ensure that **social protection** measures recognise and respond to the needs of **HIV-positive women and women whose husbands have died of AIDS** and that **labour laws, social protection and health services** respond to the needs of women who are **caregivers** in HIV-affected households.

• Ensure that **laws prohibiting early marriage** are enacted and enforced.

• Custodians of **religious and customary laws** must **prohibit practices** that increase HIV risk, such as widow inheritance or “widow cleansing”.
Thank You!

Report of the Global Commission on HIV and the Law

“Risks, Rights & Health”

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