



Regional Dialogue: Africa

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FACT SHEET: Women and Girls

Globally, there were 15.9 million women living with HIV at the end of 2009, the majority living in sub-Saharan Africa. Young women in this region, aged 15–24 years, are as much as eight times more likely than men to be HIV positive.

The vulnerability of women to HIV in Africa is compounded by three legal factors. Firstly, many legal frameworks formally recognize customary laws, rules and traditions. In such dualistic legal systems many women and girls experience discrimination in marriage and inheritance laws making it difficult for them to be economically independent from male partners. Secondly, very few countries provide comprehensively for the sexual and reproductive rights of women making access to such services limited. Thirdly, a number of countries do not have domestic violence legislation and do not recognize marital rape as a crime. This makes women vulnerable to HIV through violent sexual partners. In this context, the protection and promotion of the rights of women needs to be a priority in the human rights strategy of HIV responses in Africa.

Sexual and reproductive health and rights

Constitutions and health laws generally fail to comprehensively provide for the sexual and reproductive health rights of women. Additionally, despite a large number of HIV-specific laws in West, Central, East and Southern Africa, very few mention the specific vulnerabilities of women or require specific health care services to be targeted at the different needs of women, men, girls and boys. Certain legislative approaches, such as the mandatory HIV testing and forced disclosure of HIV status, have a disparate impact on women. They violate women's right to freedom, security of the person and privacy and place them at risk of potential violence or abandonment by sexual partners. This impacts on their physical and mental well-being and increases their economic vulnerability.

Progress:

- There have been significant gains in the development of prevention of mother-to-child transmission policies.

Challenges:

- *Reviewing and repealing oppressive laws:* Mandatory HIV testing provisions, many of which are directed at women (e.g. the mandatory HIV testing of pregnant women) and compulsory disclosure laws which have a disparate impact on women need to be reviewed and repealed as a matter of urgency.

- *Extending legal protection to the most vulnerable:* Very few countries have legislation on the right to post-exposure prophylaxis (PEP) for the survivors of sexual assault. Women living with disabilities, sex workers, sexual minorities, migrant women, refugee women and others are generally not identified and protected in national laws or policy frameworks. Law reform is needed to protect these populations.
- *Ending human rights abuses:* Even where protective laws are in place, the practice of coercing women living with HIV into sterilisation continues. Urgent interventions are needed at a national and institutional level to end this practice.

Violence against women and the law

Some but not all African countries have domestic violence legislation in place. Besides the multiple impacts of gender-based violence on the health, welfare and basic human rights of all women, research shows that domestic violence increases the odds of becoming infected with HIV by 11.9% and gender inequality within a relationship increases the risk by 13.9%.

Progress:

- A number of countries have adopted increasingly protective sexual assault and domestic violence laws which broaden the definition of violence and sexual offences and recognise a range of relationships within which domestic violence occurs.

Challenges:

- *Developing political commitment for legal reform:* In a number of countries there is insufficient political commitment to enact domestic violence legislation. In other countries, attempts to reform marital rape provisions have been thwarted by perceived threats to long standing social norms. Broad based social mobilisation is needed on these issues.
- *Ending human rights abuses:* African lesbians are frequently subjected to assault, "corrective rape" and murder, putting them at high risk of HIV infection. Likewise, the spread of HIV through widespread rape and assault of women in conflict situations is well documented in Africa. Few if any legislative or other steps have been taken to end HIV transmission through such practices. Urgent legal interventions and law enforcement is required.

Primary Sources

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Contact:

UNDP | Eastern and Southern Africa | Regional HIV/AIDS Practice Leader | Tilly Sellers | +27 11 603 5091 | tilly.sellers@undp.org
UNAIDS | Eastern and Southern Africa | Director, Regional Support Team | Sheila Tlou | +27 11 519 6930 | tlous@unaids.org