

Violence Against Girls and Women: Implications for HIV and AIDS in Africa



The Second International Policy Conference on the African Child: Violence Against Girls in Africa



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The African Child Policy Forum is an independent, advocacy organisation working for the realisation of child rights. It was founded in 2003, with headquarters in Addis Ababa, Ethiopia. Its mission is to contribute towards the development and implementation of effective laws and policies to put African children on the public agenda. To this end, it will provide support where the political will exists and exert pressure where it is absent.

The work of the Forum is inspired by universal values, informed by global experiences and knowledge, and guided by the needs and conditions of African children.

The Forum works in collaboration with other non-governmental organisations (NGOs). As well as running programmes, it regularly publishes research, which aims to:

- contribute to improved knowledge of the problems that African children face;
- strengthen the capacity of organisations working on child rights and human rights;
- assist governments, policy makers and NGOs in developing and implementing effective pro-child policies and programmes.

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UNAIDS, the Joint United Nations Programme on HIV/AIDS, brings together the efforts and resources of 10 United Nations (UN) system organisations to the global AIDS response.

Cosponsors include UNHCR, UNICEF, WFP, UNDP, UNFPA, UNODC, ILO, UNESCO, WHO and the World Bank. Based in Geneva, the UNAIDS secretariat works on the ground in more than 75 countries world wide.

PREFACE

According to the World Health Organization (WHO), as many as 40 million children under the age of 15 are victims of violence every year. Almost certainly, this statistic underestimates the problem and it is clear that violence against children is a serious problem and cause of concern.

Some four years ago, in its resolution 56/138, the United Nations (UN) General Assembly, upon the recommendation of the Committee on the Rights of the Child, requested that the Secretary-General conduct an in-depth study on the issue of violence against children. The Secretary-General thus appointed in February 2003 an independent expert, Professor Paulo Sérgio Pinheiro, to direct the study in collaboration with the Office of the UN High Commissioner for Human Rights, the United Nations Children's Fund (UNICEF) and WHO. This report will be based on available evidence, information and a series of regional consultations.

Girls in Africa are particularly vulnerable to various forms of violence – both by virtue of their gender and because of the socio-economic and cultural conditions prevailing in their communities. African girls experience violence in the classroom, at home and in the community, and, in times of conflict and crisis, are special targets of violence. And within this context of prevalent violence, they are particularly vulnerable to HIV infection.

This paper identifies links between gender-based violence and the higher rates of HIV infection among African girls than among their male counterparts. But it goes further, identifying strategies to reduce HIV prevalence among girls in Africa through tackling the violence they experience in their homes, at school and in the community.

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EXECUTIVE SUMMARY

In Africa the Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS) epidemic has already claimed more than 20 million lives. However, it has taken longer for Africa and the world to notice that unlike in other regions of the world, in Africa girls and women have become ill and died in greater numbers from AIDS-related illnesses than men and boys. Policy-makers still do not take into account the extent to which the prevalence of AIDS in Africa is a direct result of relentless human rights abuses that girls and women suffer because of their gender. Protecting women's and girls' rights in sub-Saharan Africa is key to turning around the continent's AIDS crisis.

This monograph is based largely on the moving - and often horrifying experiences - of African women and girls who have suffered abuse, and analysis of studies made in regard to the matter. It aims to provide some understanding of the human reality of these abuses and the enormity of their contribution to the spread of HIV.

It is difficult to find programmes of significant scale that attempt to protect African girls from sexual abuse and coercion as part of national AIDS programmes. Policy-makers rarely make the link between these sexual and gender-based abuses and the high HIV prevalence among girls and young women that is so much greater than among their male counterparts. Strategies need to be based upon consideration of both the specifically gendered and sexualised nature of this violence, and the need to address it at the level of policy, and within communities and cultures rather than at the level of individual perpetrators and victims. Effective responses require clearly defined policies, and strategies that are locally relevant and sensitive and provide support services for victims, including recourse to justice and punishment of perpetrators.

BACKGROUND

Violence can be understood as a show of physical force intended to hurt or harm an individual. It is generally taken for granted that violence should be avoided, prevented, and that those who suffer violence should have recourse to remedies, while those who make others suffer should be sanctioned.

Among the various forms of violence against women and girls, the most common ones are forced marriage, female infanticide, abuse, rape and verbal violence.

Forced marriage is a violation of girls' rights. A woman or girl is forced into a marriage engagement with a man who in most cases is much older than her. Its existence is used to justify sexual exploitation of children and young girls. In countries like Ethiopia and Turkey it is a common practice.¹ When girls are abducted they are taken by force from their family and married forcefully.

Female infanticide: In countries where there is a culture of son preference girls may be killed within weeks of being born. In India, China, and Bangladesh this is a common practice.² This form of violence has not been documented in Sub-Saharan Africa.

'**Abuse**' has been defined as the excessive use of power or unfair practices that have negative impacts on another person or an animal.³ It can be manifested in the denial of an individual's human rights by someone who has more power.

Women in most parts of the world have suffered, and continued to suffer, violence. The avenues open to them after the experience are limited and generally sanctions are not imposed on their violators who are often men. In African countries, and indeed many countries around the world, because of cultural and ideological understandings that have persisted for a long time, men are assumed to have more power and so are influential. As a result, women and children, especially orphans, are subject to several types of abuses.

Every day, in every corner of the world, girls and women are beaten in their homes, trafficked into forced prostitution, assaulted for not conforming to gender norms, and often left with no option but to trade sex for survival.⁴ These abuses are perpetrated by families and tolerated by governments. They are among the most pervasive and dangerous abuses for girls and women: in the context of HIV and AIDS, they can be lethal.

Human Rights Watch conducted an investigation into human rights abuses faced by orphans in several African countries including Zambia, Togo, South Africa and Kenya, and consistently were told by respondents that girls naturally are more suited than boys to care for sick persons.⁵ As a result of this, girls are removed from school to stay at home and care for ill family members while boys continue their studies irrespective of what is going on at home. Since they have no choice, orphan girls who are dependent on their abusers do not reveal the abuse they experience because they fear losing support to meet their basic needs.

Rape is defined as the sexual penetration, however slight of any part of the body of the victim with a sexual organ, or of the anal or genital opening of the victim with any object

¹ 2004, The NGO working group on Violence Against Women, *Glossary of Violence Against Women*.

² Ibid.

³ 2000, Oxford University Press, *Oxford Advanced Learner's Dictionary*, Oxford University Press.

⁴ 2005, Human Rights Watch, *A Dose of Reality: Women's Rights in the Fight against HIV/AIDS*, Human Rights Watch.

⁵ Ibid.

or any other part of the body.⁶ It is primarily carried out by forcing the injured party to take part in unwanted sexual action.

Women may be subjected to violations of rape because they are physically weaker or they have no one to protect them. In conflict situations, in prisons or in refugee camps the risk of violence increases dramatically with the breakdown of law and order.

Verbal harassment: In addition, many girls and women are verbally harassed and treated with a lack of respect. In schools, at home and elsewhere, girls commonly hear abusive language and are verbally harassed.

Verbal harassment degrades a girl without any physical effect and as a result is considered by men purely as fun. In reality it violates women.⁷

Violence against girls is only one manifestation of wider forms of violence that occur throughout the world. However, it is one that has special and specific implications for HIV and AIDS. Millions of women throughout the world live in conditions of deprivation of their fundamental human rights just because they are women. They are particularly vulnerable to abuse, rape, and other forms of violence due to war, poverty, and deprivation. They are prevented from attending school and in some instances even lose their lives.

Violence against girls needs to be understood in the context of broader practices of sexual violence and youth cultures that have a direct and indirect impact on girls and women. The direct impacts are those that are apparent immediately after violation and are easily observed. These are relatively simple to treat.

The **physical impact** of violence is its tangible effects including injuries. Indirect impacts on the other hand are not tangible and therefore not easy to observe. These take time to become visible and thus are much harder to treat.

Violence may also have a **psychological** or **emotional impact** both on the individual who experiences it and on its witnesses. Children who witness violence tend to imitate the violent behaviour that they see or experience, perpetuating the cycle from one generation to the next. A child who witnesses his father battering his mother or his sister may assume that is acceptable behaviour and practice it when he is older.

Violence may also result in abnormal behaviour, often referred to as its **psychological impact**. The disorder is primarily caused by a violent experience and it can totally or partially change the character of the individual who experiences it. Experiencing violence can also rob the individual of the ability to interact socially, which might have helped end the abuse. In such cases the violence is likely to continue. Individuals who experience violence also may have negative feelings such as fear, anger, guilt, abandonment, and may suffer emotional disturbance as a result of being subjected to violations such as rape, abuse, and even verbal violence.

The physical consequences of violence may be easier to understand than the psychological, emotional or mental damage. However, these may be devastating. This does not mean that any one of the impacts is more significant than the others. Each has its own levels of severity and consequences.

⁶ 2004, The NGO working group on Violence Against Women, *Glossary of Violence Against Women*.

⁷ 2004, Action Aid, *Violence Against Girls and the Right to Education*, Action Aid.

VIOLENCE AGAINST GIRLS

In this context, the term 'violence against girls' is used to describe violence including rape by acquaintances or strangers, by authority figures in the household (including husbands), incest, sexual abuse, pornography, stalking, and sexual harassment.⁸

Another addition to the definition can be traditional practices such as dry sex and female genital mutilation that increase the risk of HIV infection for girls and women.

Violence against girls is not limited to a specific age group since every girl is at a risk of being violated.

This document addresses such questions as: What are the causes of violence against girls? What policy instruments have been used in Africa to deal with the problem? What remains to be done? What types of sexual violence exist and what are their possible implications for HIV and AIDS? And what is the relationship between HIV and AIDS, and violence against girls?

The severity of the problem in Africa, and its link to women's rights abuses and the spread of HIV have gained recognition only in the last few years. This is too late for many girls and women who have already lost their lives to AIDS. In Africa, the relationship between violations of women's rights and their vulnerability to HIV is very clear: 58 per cent of those infected with HIV are women.⁹ Relative to the scale and severity of abuses, the laws, policies, and programmes established to combat HIV and AIDS by protecting the rights of girls and women are negligible.

Infection rates among adolescent girls, aged between 12 and 18 years old in much of Africa are significantly higher than those of their male counterparts. This reflects a reality where young women are exposed to shocking levels of violence and abuse. Violence against women continues to be widespread and it must be urgently addressed, particularly in the context of HIV and AIDS prevention, care and support programmes.

Manifestation and Categories of Violence against Girls

Girls are subjected to various forms of violations in different locations and each has its own consequences. For simplicity, the following categories have been developed: violence in school; domestic violence; social violence; political and legislative issues; and traditional and cultural practices:

Violence in school: Violence against girls results in low enrolment of girls in schools and in many school-related places.¹⁰ Violence is a major barrier to education for millions of girls across the globe.

Adolescent girls, particularly in Africa, are at risk of violence, such as rape, abuse and verbal harassment at school. Violence against girls takes place in schools, on the way to

⁸ It also includes violence against sex workers either from their clients or police in countries where anti-prostitution sanctions are exercised. In countries where prostitution is illegal, girls and women have no protection which leaves them vulnerable to abuse.

⁹ 2003, Human Rights Watch, *Policy Paralysis: Abuses of Women and Girls that Fuel HIV/AIDS*, Human Rights Watch.

¹⁰ 2004, Action Aid, *Violence Against Girls and the Right to Education*, Action Aid.

school and around schools. The violence itself takes many forms. A 2001 Human Rights Watch report indicates that in South Africa violence in school happens in school toilets, in empty classrooms and hallways, in hostel rooms and dormitories, and in other areas effectively off limits to girls across school grounds.¹¹

Widespread sexual abuse is perpetrated against girls in school by male peers, teachers, school administrators and other employees. And this often comes in the form of sexual 'favours' in exchange for grades.¹² It also includes sexual violence, sexual harassment, intimidation, teasing and the threats of violence. For example, studies show that in Nigeria one reason for not sending girls to school is fear of violence and the risk of abduction on the way to or from school.

Studies show that in Ethiopia's capital Addis Ababa, girls are far less likely to have ever been to school than boys and that girls have an average of two years less education than boys.¹³ The primary reason why girls do not attend school is prevailing poverty, but a study conducted in Ethiopia's Amhara region, indicated other reasons for girls not attending schools. In addition to the financial problems families faced, the second most common reason girls did not attend school was marriage. Marriage for girls occurs at extremely early ages, usually between 14 and 18 years old. Most married girls never have the chance to go to school. For a large number of girls within this rural population, marriage drives the timing of first sex.¹⁴

Domestic violence is responsible for much of women's HIV exposure. Most countries fail to prevent domestic violence, prosecute or otherwise punish perpetrators, and do not provide health or legal services to survivors. Most do not even recognise its link with HIV and AIDS. Marital rape is rarely treated as a crime and is in many countries under-reported. This may be because violence happening in the domestic sphere often is not treated by the authorities as a serious crime.¹⁵

Sexual abuse of girls by male family members is frequently kept secret, and law enforcement agencies are often complicit in hiding the abuses. Orphan girls who are dependent on their abusers say they fear losing support, including for education, if they reveal the abuse.¹⁶

Social violence may occur in workplaces and it may be in the form of rape and sexual violence, physical contacts, remarks and verbal harassment. This does not have a direct effect of exposing the individual to HIV infection. Nevertheless, if it is not addressed it can lead to further violations.

Political and legislative issues: In most regions of sub-Saharan Africa, women are denied equal property rights. Many widows and divorced women are left destitute when their spouse dies or they become separated. They are either restricted by law and custom from inheriting property, evicted from their lands and homes by in-laws, and stripped of their possessions or often expelled from their homes with only the clothes on their backs.

¹¹ 2001, Human Rights Watch, *Scared at School: Sexual Violence Against Girls in South African Schools*, Human Rights Watch.

¹² 1994, Omaar, R. and de Wall, A., 'Crimes without punishment: Sexual Harassment and Violence against Female Students in Schools and Universities in Africa.' Discussion paper 4, African Rights.

¹³ 2004, UNICEF, *The Experience of Adolescence in Rural Amhara Region Ethiopia*, The Population Council.

¹⁴ Ibid.

¹⁵ 2004, The NGO working group on Violence Against Women, *Glossary of Violence Against Women*

¹⁶ Human Rights Watch, 2005, *A Dose of Reality: Women's Rights in the Fight against HIV/AIDS*, New York: Human Rights Watch.

A woman's access to property usually hinges on her relationship with a man. When the relationship ends, the woman is likely to lose her home, land, livestock, household goods, and other property. While this discrimination stems from customs that favour men for inheritance and property ownership, it is also enabled by government policies and laws that discriminate in inheritance and divorce matters.

In countries like Kenya and Uganda, many women remain in violent relationships because leaving would mean losing their homes and other material belongings.¹⁷ Countless divorced women say that they have no hope of prevailing in property rights claims due to the biases against women among judges and traditional authorities. Denying women equal property rights upon divorce also facilitates domestic violence, again posing the risk of HIV infection.

Violent traditional and cultural practices: Just as discriminatory statutes must be amended to protect women's and girls' rights, harmful traditional practices must be transformed to eliminate abusive aspects.

The dangers of several traditional practices in the context of HIV and AIDS, among which are payment of bride price, widow inheritance and ritual sexual 'cleansing' are well documented.

Though the intent may be to show appreciation to the bride's parents, the payment of bride price by a man's family to his future wife's family is a considerable obstacle for women attempting to leave an abusive relationship. In some places, widows are coerced into engaging in risky sexual practices after the death of their husband. These practices include 'widow inheritance' (also known as 'wife inheritance') and ritual sexual 'cleansing'. 'Widow inheritance' is where a male relative of the dead husband takes the widow as a wife, sometimes in a polygamous family.

'Cleansing' usually involves sex with a social outcast who is paid by the dead husband's family, supposedly to cleanse the woman of her dead husband's evil spirits. In both of these practices, safe sex is seldom practiced and sex is often coerced. Rejecting these practices can result in social exclusion or rape. Succumbing to them puts women and girls at risk of HIV infection.

Two other traditional forms of violence against girls that increase the risk of HIV infection are dry sex and female genital mutilation (FGM).¹⁸ Although few clinical studies have been conducted, it is clear that at least some forms of FGM increase the risk of HIV transmission faced by girls and women. This is because unsterile instruments may be used in the cutting and because the practice is associated with chronic genital injury tearing, ulceration, and delayed healing of injuries, all of which may increase the risk of HIV infection. FGM has been criminalized in a number of sub-Saharan African countries including Burkina Faso, Ghana, Senegal, and Sierra Leone.¹⁹

In some parts of Africa, 'dry sex' is frequently practiced. Girls and women attempt to dry out their vaginas using certain herbs and ingredients that reportedly reduce vaginal fluids. This increases friction during intercourse in an effort to provide more pleasurable sex to men. In southern Ethiopia, there is a tribe which practices wife sharing. A respected guest spends a night with the wife of the head of the house. This practice is regarded as a show of great respect, and the fact that women are treated like a

¹⁷ 2003, Human Rights Watch, Policy Paralysis: Abuses of Women and Girls that Fuel HIV/AIDS, Human Rights Watch.

¹⁸ Ibid.

¹⁹ Ibid.

commodity is ignored. These acts of discrimination and violence are abusive and permissive. Further, in this age such practices are conduits for HIV infection.

While customs are important to community identities and the preservation of traditions, they cannot be perpetuated at the expense of women's and girls' rights and health. The consequence of these violations is that girls and women are further degraded, usually to the advantage of men. In the era of AIDS, these forms of violence make girls and women vulnerable to HIV infection.

LINKS BETWEEN VIOLENCE AND HIV AND AIDS

HIV is the virus that causes AIDS. AIDS is a disease that causes the body's immune system to fail, leaving it unable to fight off certain infections and other illnesses that take advantage of a weakened immune system.

A person who has HIV carries the virus in body fluids including blood, semen, vaginal secretions and breast milk. The virus can be transmitted only if such HIV-infected fluids enter the bloodstream of another person. Usually, HIV is transmitted in one of three ways:

- **Unprotected sexual intercourse with someone who is HIV positive:** Women are at greater risk of HIV infection through vaginal sex than men, although the virus can also be transmitted from women to men, and men to men.
- **Sharing needles or syringes with someone who is HIV positive:** Studies show that infectious HIV can survive in used needles for a month or more. Therefore if people who inject drugs reuse or share syringes, water, or drug preparation equipment this will result in a risk of HIV transmission.
- **Infection during pregnancy, childbirth, or breast-feeding (mother-to-infant transmission):** Any woman who is expecting a child or considering becoming pregnant and thinks she may have been exposed to HIV, even if the exposure occurred years ago, should undergo testing and counselling. Mother-to-infant transmission has been reduced to just a few cases by providing drugs to prevent transmission and advising pregnant women who are HIV-positive not to breast-feed.

The HIV and AIDS epidemic is a very complex problem in the context of violence against girls. Violence affects all girls, regardless of age, race, class, caste or location. Poverty, war and long journeys to school put girls at additional risk.²⁰ Women are also likely to be assaulted within the confines of their own family and household, and are more likely to be injured, raped or killed by a current or former intimate partner than by anyone else. Also, due to lack of education, awareness or poor environment many girls in Africa face particularly violent conditions.

Women are especially at risk in heterosexual marriages or long-term unions in societies where men commonly engage in sex outside the union and women face abuse if they insist on condom use. Many girls and women are subjected to rape, cannot stop husbands' infidelity, or are within abusive relationships and lack the negotiating power to insist on condom use. These factors contribute to exposure to HIV.

Although violence affects all girls, studies show that in all countries the problem peaks when girls are between 12 and 18 years old.²¹ The HIV infection rate among girls and women has risen in every region in recent years. In sub-Saharan Africa, girls and women constitute 58 to 60 per cent of those living with HIV.²²

In many countries in sub-Saharan Africa, HIV prevalence among girls under age 18 is four to seven times higher than among boys of the same age. Sexual abuse contributes directly to this disparity in HIV infection. A study in Rwanda revealed 17 per cent of women who had been raped tested HIV-positive, compared with 11 per cent of women who had not been raped.²³

²⁰ Action Aid, 2004, *Violence Against Girls and the Right to Education*, Action Aid

²¹ Ibid.

²² Human Rights Watch, 2005, *A Dose of Reality: Women's Rights in the Fight against HIV/AIDS*, Human Rights Watch.

²³ 2004, UNAIDS, *Global Report on the Global AIDS Epidemic*, UNAIDS.

Coercion, be it physical, psychological or economic, is inherent in many girls' sexual experiences. Yet governments fail to reduce girls' vulnerability to HIV infection by providing basic protection from sexual abuse.

The causes of violence against girls are many and complex. Primarily they are rooted in male-dominated cultures that encourage of turn a blind eye to violence against girls and women. Violence against girls relates to the prevailing structural inequalities and dominant ideologies that perpetuate beliefs and attitudes that discriminate against girls and women.

A major problem lies in societal perceptions and understandings of what constitutes violence and violation. Research in South Africa points to a culture of sexual violence, particularly among young people.²⁴ A related problem is the law on age of marriage and consent for girls. A study conducted by Action Aid in 2004 indicates that in many countries these are lower for girls than for boys. Acts of sexual violence against young girls are often excused on the grounds that the man wanted to marry the girl, for example in Tanzania and Zimbabwe.

In Ethiopia about 93 per cent of male student respondents in one research study confirmed that they know violence against females is a criminal act and punishable by law. However, about 33 per cent of them believe that it is right for male students to get whatever they want, either by charm or by force, and about 21 per cent admitted to behaving this way themselves.²⁵

In situations of conflict, the risk of sexual violence increases dramatically with the breakdown in law and order. In such situations it is difficult even for governments to address the issue. That is why many girls who are orphans, widowed or have no one to take care of them are abused and raped, or in some cases even murdered.

Abuses against women are relentless and systematic. They are widely tolerated, if not explicitly condoned. Violence and discrimination against women are global social epidemics, despite very real progress of the international women's human rights movement in identifying, raising awareness about, and challenging impunity for women's human rights violations.

The impact of violence on girls and women is huge and sometimes overwhelming. It includes loss of self-esteem, depression, anger, risk of suicide, unwanted pregnancy, HIV infection and fear of victimisation. In addition to the psychological and emotional consequences of sexual violence, survivors may experience physical injury, unwanted pregnancy and sexually transmitted infections.

For some, violence may be perceived as virtually inevitable. Sex workers, for example, depending upon the specific context and conditions in which they work, may be especially vulnerable to violence from clients, their managers and the police. They are unlikely to receive a sympathetic hearing or to obtain justice.

It is not unusual for men and boys to justify sexual violence by blaming it on the appearance, beauty and clothes of women and girls. The 'blame the victim' syndrome is a well documented justification for practicing violence.

We live in a world in which women do not have basic control over what happens to their bodies. Millions of girls and women are forced to marry and have sex with men they do

²⁴ 2004, Action Aid, *Violence Against Girls and the Right to Education*, Action Aid.

²⁵ Ibid.

not want. They cannot depend on governments to protect them from physical violence in the home, with sometimes fatal consequences, including increased risk of HIV infection.

Any violence or violations that increase women's and girls' exposure to unprotected sex, either directly or indirectly increase the potential for HIV infection. This is especially true in the many countries and societies in Africa where AIDS is a daily reality. The extent to which such exposure contributes to HIV seroprevalence cannot be determined, but this should not deter efforts to enhance the status of girls and women and to reduce violent sexual attacks, which may decrease exposure to HIV.

POLICIES, INSTRUMENTS AND INTERVENTIONS

Policy Discussion and Good Practice

In order to determine the magnitude of violence against girls in Africa, it is vital to have reliable information and data. This calls for global systems to be set up to collect sex-disaggregated data that focuses on the forms and prevalence of sexual violence experienced by girls. However, collecting data is problematic. Violence against girls is under-reported for complex social and cultural reasons.²⁶ It is generally recognised that the shame and stigma associated with the experience of rape, together with perceived or genuine obstacles throughout the judicial process, result in a significant degree of under-reporting of rape and sexual assault. This too is linked to the lack of understanding of violence and violations against girls and women, or what constitutes violent behaviour.

Although sexual violence appears to occur in many countries around the world, differences in how it happens have significant implications for responses in terms of policy and programmes. The complexity of cultures further complicates ways of understanding and dealing with the problem. The difficulty of designing policy instruments to adequately address the problem is not made easier by social and economic norms and practices. However, the complexity of the problem should not lead to paralysis or inaction.

The absence, in many countries, of laws and policies that specifically deal with violence against girls is not acceptable. In Africa, as in some other parts of the world, there are policy and legislative instruments that protect girls and women from violence despite being insufficient and weak in implementation. The instruments are based generally on international conventions or agreement that advances the cause of women and marginalised peoples.

The 1996 Second International Consultation on HIV/AIDS and Human Rights convened by UNAIDS and the Office of the High Commissioner for Human Rights is an example of a positive initiative. It lays out a set of 12 guidelines for countries to assist in designing programmes and policies that protect and promote human rights in the context of the HIV and AIDS epidemic (see Appendix 1).

In order to facilitate the use of these guidelines, the International Council of AIDS Service Organizations (ICASO) has developed an *Advocate's Guide* together with its NGO *Summary of the International Guidelines*.

Another example of good practice is the Protocol to the African Charter on People's Rights on the Rights of Women in Africa. The Protocol protects a broad range of women's rights, reinforcing international law on women's equality. The 15 countries that had ratified the protocol as of December 2005 were Comoros, Cape-Verde, Djibouti, The Gambia, Libya, Lesotho, Mali, Malawi, Mauritania, Namibia, Nigeria, Rwanda, South Africa, Senegal, and Togo. In some respects, it provides greater protection than under other international human rights treaties. Among other things, it calls on governments to:

- enact protections against and remedies for sexual harassment in the workplace and schools;

²⁶ 2001, Gordon, Peter and Crehan, Kate, *Dying of Sadness: Gender, Sexual Violence and the HIV Epidemic*, HIV and Development Programme, UNDP.

- promote women's sexual and reproductive health, including protection against HIV and AIDS;
- enact and enforce laws prohibiting violence against women, including forced sex, whether it occurs in public or private.

The protocol is needed because many women in Africa endure widespread and brutal human rights violations in their homes and in public, perpetuating their inequality and putting them at risk of poverty and disease, including HIV and AIDS.

All sub-Saharan African countries except Somalia and Sudan have ratified the Convention on the Elimination of all Forms of Violence against Women (CEDAW), which includes numerous commitments to eliminating gender inequality in the law and ensuring equal access to services. Governments that have adopted CEDAW are required to take steps to modify traditions that perpetuate the view that women are inferior.

The Declaration on the Elimination of Violence against Women, which exhorts United Nations member states to pursue a range of measures to prevent gender-based violence and ensure accountability of perpetrators, was passed by the General Assembly in 1993.

Changes in laws and policies are a necessary if insufficient step toward eradicating abuses. In countries with some measure of democratic processes, changes in law and policy are likely to generate wider debates that may eventually influence cultural and social norms. However, the efforts of governments around the world have done far too little for the chronic abuses of women's and girls' rights that put them at risk of HIV. Misguided HIV and AIDS programmes and policies, such as those emphasising abstinence until marriage, ignore the brutal realities many girls and women face. A prime example of limited HIV prevention programmes are those that emphasise an 'ABC' approach²⁷ over programmes promoting women's and girls' rights. ABC programmes advocate behavioural changes that do not address the social realities limiting women's and girls' sexual autonomy and putting them at risk of HIV.²⁸ How can a woman 'abstain' from being raped? At the onset of HIV and AIDS, such programmes might actually have been justified. As the epidemic has become better understood it has become clear that a lot more needs to be done beyond ABC to reduce the high level of infection of females.

By failing to enact and effectively enforce laws on domestic violence, marital rape, women's equal property rights, and sexual abuse of girls, and by tolerating customs and traditions that subordinate women, their exposure to HIV may be seriously increased.

Another policy issue on which little has been done is on the effects of violence on women. The trauma and emotional disability caused by violence is hardly documented nor catered for. Even where laws and policies exist to give recourse and compensation to women, no provision has been made for the social and economic aspects of post-violence induced suffering. Many girls and women live a burdened life after going through sexual and physical violence.

HIV post-exposure prophylaxis (PEP) is a short course of treatment with antiretroviral medicines. It can be administered after rape and helps to reduce the risk of HIV infection. In many countries, governments do not yet provide post-exposure prophylaxis to rape survivors.²⁹ In wealthy countries, PEP is the standard of care for rape survivors. In contrast, in poorer countries the treatment is given to rape survivors rarely. Many rape

²⁷ 'A' stands for abstinence, 'B' for be faithful, and 'C' for condom use.

²⁸ Human Rights Watch, 2005, *A Dose of Reality: Women's Rights in the Fight against HIV/AIDS*, New York: Human Rights Watch.

²⁹ Ibid.

survivors do not receive PEP services simply because neither they nor the police and nurses helping them had any idea that such services existed. Poor girls and women and those living in rural areas are often denied access to PEP altogether because of economic and social conditions.

Benefits in Adopting Policies and Protocols

Safeguarding human rights is an essential part of responding to HIV and AIDS at all levels. This is because the effects of the epidemic are felt particularly strongly where human rights are least protected. Conversely, safeguarding people's fundamental rights improves their ability to protect themselves and others at risk of HIV infection, and helps reduce their vulnerability to the virus.

Despite challenges, there have recently been positive developments in addressing human rights issues by countries. Through participatory processes, particularly the principle of non-discrimination, HIV-related human rights have been integrated into programme tools such as national AIDS policies, strategies and legislative frameworks. Several countries have adopted a rights based policy on HIV and AIDS.³⁰

³⁰ 2004, UNAIDS, *Global Report on the Global AIDS Epidemic*, UNAIDS.

EFFICACY AND PRIORITIES OF POLICIES AND INSTRUMENTS

Despite progress in various parts of the world in the fight against HIV and AIDS, violence against women and girls continues to occur with depressing regularity. Furthermore, serious delays prevail after governments pass laws and policies and when they actually implement them. Often implementation also is inefficient.

As part of the effort to improve the situation of girls and women, governments should create institutions and establish mechanisms where sexual violence can be reported with privacy and sensitivity toward survivors, staffed by trained police, medical personnel, and counsellors. The experiences of the special sexual offences courts in South Africa and the child protection units of its police department have elements that may serve as useful models, despite not being perfect.

The rights and physical security of witnesses and victims in sexual violence or abuse cases should be ensured when tried in courts. Withholding the victim's identity from the general public, providing protection for the security of witnesses and victims, and providing counselling services within the courts are important tactics in bringing such cases forward and punishing the violators. On the other hand, judicial staff should be trained to manage sexual violence cases, and efforts should be made to ensure sufficient trained women staff members work in judicial bodies. This could help encourage women and girls who have experienced violence to speak more freely.

In all countries, ministries of education should work with other relevant ministries and national AIDS control programmes to formulate and implement national programmes of protection against sexual violence in schools. This should include strengthening education on sexual abuse in the formal curriculum, and providing training and binding codes of conduct for school employees, guidelines for schools detailing appropriate responses to allegations of sexual abuse by students, and procedures for disciplining offenders. Mechanisms should be established to monitor schools' records in all these areas, and headmasters or other school directors should be held accountable for failure to respond to allegations or to follow guidelines adopted nationally.

Government policies and laws are the bedrock of programmes to control the spread of HIV. UNAIDS has identified key issues that must be taken into consideration when analysing the role governments can play in establishing national and regional policies.

In national efforts to prevent HIV and AIDS, political support has made a difference to countries' responses. Political will to provide funds for prevention interventions that have proved effective is essential.

Moreover, the legislative issues should be revised and assessed to make sure they discourage violence. Measures should be devised to discourage violent actions against women. The process in police stations and courtrooms should be as clear and precise as possible. In addition to this, laws and legislation should be designed to pre-empt and prevent violence before it happens.

There is a need for education to effect cultural and social change. Culture and social relationships have a strong influence on the beliefs and activities of individuals in society. Generally males are seen as superior. Such attitudes and behaviour do not facilitate the application of policies to ensure equity and fairness. Lack of understanding and non-acceptance of progressive policies result in under-reporting. Even where cases are reported, complications occur and the length of time taken to settle cases is long and frustrating. Unless societal attitudes change, progress will be slow or even impossible.

Care should be taken not to exclude males. Much violence is carried out by males and this makes them as much concerned parties as are females. Often men carry out violent actions due to a misconception of their roles or mere application of social norms. For example, in many cases of domestic violence, husbands hit their wives because they think it is a way of expressing affection and maintaining discipline. This attitude could only be changed through designing and implementing male-focused programmes with the aim of preventing or reducing such violence.

Young men and girls in school should have opportunities to learn about their fundamental rights and responsibilities. Text books should be prepared for primary and secondary schools and a course should be given on the matter as part of the educational curricula. Since youths are in the process of being socialised, a major part of the curricula should focus on making them considerate, mature and non-violent individuals. Respect and protection of women and girls should become the norm.

RECOMMENDATIONS FOR ACTION

There is no reason to believe that any specific HIV-focused programme will be able to resolve problems that have challenged development agencies for decades.

Nonetheless, experience demonstrates that there are policies and strategies that can reduce or alleviate the impact of sexual violence. These involve reinforcing activities conducted at local, national and international levels.

The disproportionate impact of AIDS on girls and women is no accident. It reflects pervasive abuses of their human rights. Despite the growing consensus that HIV is a women's rights issue, little has been done to change laws and practices that violate women's rights, put them at risk of HIV infection, and impede their access to HIV information and services.

Combating the abuses that put girls and women at risk of HIV is essential to turning around the AIDS crisis. Concrete policy measures are urgently needed and can have immediate and long-term impacts. Governments, with the support of their partners and international organisations, must act urgently to stop the abuses of women's and girls' rights that exacerbate the AIDS epidemic and impede society's response.

Recommendations for Action

Legislative reform can protect women's rights, especially in the areas of:

- Abuse, sexual violence and rape;
- Violence by authority figures and spousal rape;
- Property rights of women.

Programmatic reform to address violations of women's rights should be designed and implemented to improve the enforcement of women's rights. This includes:

- ensuring that national HIV and AIDS programmes include concrete measures to combat discrimination and violence against women;
- providing training for women, and judges, police and other officials on women's rights;
- improving data collection relating to violence and sexual abuse of girls to increase levels of reporting;
- ensuring that HIV test results and patient information remain confidential to encourage women to find out their HIV status, and providing proper care and support to positive women;
- raising awareness of violence against women and girls.

Public education campaigns on women's rights should be undertaken by developing and disseminating information in local languages. This should focus on:

- registering marriages to ensure they are legal contracts, so that when women are abused, they can go to court and get a fair trial.
- preventing domestic violence and providing assistance if it occurs.

Families must contribute to preventing violence:

- Fathers and males in the family should set examples so that each member becomes aware of the risks and consequences of violence against girls and women, and acts against it.
- All members of the family should show respect for males and females in the family, and treat them equally.

APPENDIX 1: INTERNATIONAL GUIDELINES ON HIV AND AIDS AND HUMAN RIGHTS

- 1.** States should establish an effective national framework for their response to HIV and AIDS to ensure a coordinated, participatory, transparent and accountable approach. HIV and AIDS policy and programme responsibilities should be integrated across all branches of government.
- 2.** States should ensure, through political and financial support, that community consultation occurs in all phases of HIV and AIDS policy design, programme implementation and evaluation. Community organisations should be enabled to effectively carry out their activities, including in the field of ethics, law and human rights.
- 3.** States should review and reform public health laws to ensure that they adequately address public health issues raised by HIV and AIDS. Provisions that are appropriate for other transmitted diseases should not be inappropriately applied to HIV and AIDS. They should be consistent with international human rights obligations.
- 4.** States should review and reform criminal laws and correction systems to ensure that they are consistent with international human rights obligations, and are not misused in the context of HIV and AIDS or targeted against vulnerable groups.
- 5.** States should enact or strengthen anti-discrimination and other laws that protect vulnerable groups, people living with HIV and AIDS, and people with disabilities. These must ensure privacy, confidentiality and ethics in research involving human subjects, and should emphasise education and conciliation. They should provide rapid and effective administrative and civil remedies for abuse.
- 6.** States should enact legislation to regulate HIV-related goods, services and information to ensure widespread availability of prevention measures and services, adequate HIV prevention and care information and safe and effective medication at an affordable price.
- 7.** States should implement and support legal support services to educate people affected by HIV and AIDS about their rights. They should provide free legal services to enforce those rights, develop expertise on HIV-related legal issues and establish additional means of protection in addition to the courts.
- 8.** States, in collaboration with communities, should promote a supportive and enabling environment for women, children and other vulnerable groups by addressing underlying prejudices and inequalities through community dialogue, specially designed social and health services and support to community groups.
- 9.** States should promote the wide and ongoing distribution of creative education, training and media programmes explicitly designed to change attitudes of discrimination and stigmatisation associated with HIV and AIDS, to understanding and acceptance.
- 10.** States should ensure that government and private sectors develop codes of conduct regarding HIV and AIDS issues that translate human rights principles into codes of professional responsibility and practice, with accompanying mechanisms to implement and enforce these codes.
- 11.** States should establish monitoring and enforcement mechanisms to guarantee the protection of HIV-related human rights, including those of people living with HIV or AIDS, their families and communities.
- 12.** States should cooperate through all relevant programmes and agencies of the United Nations system, including UNAIDS, to share knowledge and experience concerning HIV-related human rights issues. They should ensure effective mechanisms to protect human rights in the context of HIV and AIDS at the international level.

Note: These guidelines were drafted at the Second International Consultation on HIV/AIDS and Human Rights, organised by UNAIDS and the UN High Commissioner for Human Rights, Geneva, September 1996.

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Cover photo of Ugandan girls attending a school assembly about HIV: USAID/K. Burns

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