

Briefing note

HIV AND THE HUMAN RIGHTS OF WOMEN AND GIRLS

Where the human rights of women and girls are not protected, women and girls are highly vulnerable to HIV infection and to the impact of AIDS.

Governments have recognized the relevance of women's rights to the response to HIV and have made commitments to fully address them in national AIDS programmes.¹

Responding to women's vulnerability to HIV with human rights

Protection of women's rights in the context of HIV is not only the right thing to do, but also protects women's health and public health. When the human rights principles of non-discrimination, participation, inclusion, transparency and accountability ensure that women have full participation in planning and implementation of HIV programmes, national HIV responses will better meet their needs. When States provide HIV information and services that work for women and girls, women and girls do not get infected with HIV; or if infected, are able to live, work, and take care of their children.

Examples of violations of the rights of women and girls in the context of HIV

- After rape, a woman or girl is denied timely access to post-exposure prophylaxis to prevent HIV infection. **Right to health**
- Women and girls are denied access to the full range of information and health services, including reproductive health care, to prevent and mitigate the impact of HIV. **Rights to health and non-discrimination**
- Authorities fail to prevent, prosecute, and redress violence against women and girls within the home, the community or in the context of armed conflict. **Rights to liberty and security of person; freedom from torture and cruel, inhuman and degrading treatment**
- A hospital or health care worker tests a woman without her knowledge and/or fails to maintain confidentiality of a woman's HIV status. **Rights to security of person and to privacy**
- Medical personnel force a woman living with HIV to undergo abortion or sterilization, rather than providing her with information and services to prevent mother-to-child-transmission of HIV. **Right to marry and found a family, security of person**
- A woman is denied equal rights in marriage, and in access to divorce and to property, thus decreasing her ability to negotiate safer sex or leave a relationship that poses a risk of HIV. **Rights to non-discrimination and equality under the law**
- Girls are denied equal access to education. **Rights to education and non-discrimination**
- A girl under the age of 18 is forced to marry an older man. **Rights to liberty and security of person**
- Schools deny young people information about HIV, safer sex, sexuality and condoms and/or do not protect girls from sexual violence in schools. **Freedom of expression, information, security of person**

¹ Declaration of Commitment on HIV/AIDS (2001) and the Political Declaration on HIV/AIDS (2006), see <http://www.unaids.org/en/Goals/UNGASS/default.asp>

What are some of the human rights of women and girls that are relevant in the context of HIV?²

Harmful gender norms

- States should eliminate prejudices, customary and other practices based on stereotyped roles for men and women (and which make both sexes vulnerable to HIV infection).

Health

- States should ensure equal access to health services, and to information and education relating to health (which would protect women and girls from HIV).
- States should eliminate barriers women face in access to health, including high fees, permission by a spouse or parent, distance from health facilities and lack of affordable public transportation (which would help women and girls use HIV health services).
- States should make health services acceptable to women, e.g. ensure a woman's informed consent, respect her dignity, guarantee her confidentiality. States should not permit coercion, (such as forced sterilization, or mandatory HIV testing).
- States should ensure, without prejudice or discrimination, the right to sexual health information, education and services for *all* women and girls, including those who are engaged in sex work, or have been trafficked.

Education

- States should ensure equal access to education for women and girls.

Violence

- States should do everything in their power to prevent, punish and redress private acts of violence (including marital rape, domestic violence, and child abuse that cause vulnerability to HIV).
- States should ensure that laws give adequate protection to all women against violence, that support services are provided for survivors of violence (including post exposure prophylaxis for HIV), and that judges and police receive gender sensitive training.
- States should provide equal protection against rape and other forms of violence to women whose marginalized and sometimes unlawful status makes them particularly vulnerable to violence at the hands of state and non-state actors (including sex workers and trafficked women and girls).

Marriage

- States should eliminate discrimination against women in the context of marriage and family relations, including with regard to divorce, child custody, and support (so that women can leave relationships that threaten them with HIV infection).
- A woman's right to choose when, if and whom she marries should be protected, and the minimum age of marriage should be 18 years for both men and women (to prevent child/forced marriage which makes girls vulnerable to HIV).

Equality before the law

- States should accord women equality with men before the law, giving them the same legal capacity and opportunity to exercise that capacity (so that women do not have to have permission of men/family members to access HIV prevention, treatment, care and support).
- States should take measures to ensure the same rights for women to family benefits, bank loans, mortgages, financial credit, ownership of property and inheritance (so that women have access to economic resources in the context of the impact of HIV and AIDS).

National HIV Strategic Planning and Implementation

- States should include a gender equality perspective in all HIV programmes and involve women in the planning, implementation and monitoring of such programmes.
- States should allocate adequate budgetary, human and administrative resources to women's health, taking into account women's different health needs.
- States should collect reliable sex disaggregated data on the incidence of diseases, and on the access to prevention, treatment, care and support.

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² See, in particular, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the CEDAW Committee General Recommendations: 12 and 19 on violence against women; 21 equality in marriage and family relations; 23 women in political and public life; 24 women and health. <http://www.un.org/womenwatch/daw/cedaw/>