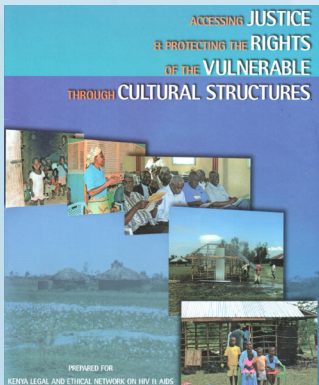


BRINGING JUSTICE TO HEALTH FOR WIDOWS LIVING WITH HIV IN KENYA

Authors : Belice Odamna, Allan Achesa Maleche

Background:

Women in Kenya have statutory rights to own and inherit property but these rights are rarely upheld because of patriarchy. As a result women do not obtain redress for violations of their property rights. Homa Bay and Kisumu counties have the highest HIV prevalence rates in Kenya, resulting in many deaths and a high number of disinherited widows.



Description:

We have implemented a “Cultural Structures Project” (CSP) in the two counties to facilitate access to justice for widows. The project builds upon existing dispute resolution mechanisms in the community. The CSP reconstructed them in a manner that respects human rights, training elders and widows on the use of the rights-based approach. Through this project, we have provided trainings on HIV, human rights and property rights to over 100 elders, widows and government officials. Of the 285 cases taken up by the CSP, 238 have been resolved successfully, while 47 are ongoing.

Lessons Learnt:

The choice to work with the elders was informed by the reality that widows whose property rights are disputed are often unable to access the formal legal system. Where they are able to access



it, cases take too long and widows are unable to attend court sessions due to the distance travelled to court. When they travel the long distances, they are often unable to adhere to anti-retroviral therapy and honor their clinic visits. The CSP has been well accepted by the community and the rights based approach has been incorporated into the elders' work as they seek to end practices that are discriminatory to women and in conflict with the Constitution.

Conclusion:

The Constitution of Kenya provides the legal backing to the CSP through articles 60(f) and 159 (2) (c) which provide for the use of alternative dispute resolution mechanisms (including traditional mechanisms) to determine disputes regarding land. Moving forward, it will be important to scale up the CSP to other regions of Kenya and to increase access to justice for all people living with HIV and key populations at risk of HIV.

USING LEGAL LITERACY TRAININGS TO CREATE AN ENABLING LEGAL ENVIRONMENT FOR PERSONS LIVING WITH AND AFFECTED BY HIV (PLHIV).

Authors : Belice Odana, Allan Achesa Maleche

BACKGROUND:

The Global Commission on HIV and the Law in its July 2012 report, "Risks, Rights and Health" identifies that good laws can widen access to prevention and health care services, improve the quality of treatment, and enhance social support for people affected by HIV. Kenya has both supportive and punitive laws on matters relating to HIV with the Constitution providing for the right to non-discrimination on the basis of one's

HIV status.

DESCRIPTION:

We have conducted training sessions on HIV and human rights for networks of PLHIV (30), health care workers (40), and lawyers (60) to discuss their respective roles in upholding the rights of PLHIV in five counties in Kenya. In addition, a regional judicial dialogue forum on HIV and the law was conducted in 2013. During the trainings and the dialogue, participants were taken through the complex legal and human rights issues raised around HIV and made aware of the many limitations to access to justice for PLHIV and members of key populations, including sex workers, people who inject drugs and gay men and other



men having sex with men. before judicial officers who now understand the complex legal issues raised around HIV. One success is that the industrial court in Kenya recently made a decision that upheld the right of a PLHIV to work and to equal pay for work done.

NEXT STEPS:

In the next years, it will be critical to scale up the trainings to reach more networks of PLHIV, health care workers, lawyers and government officials, to ensure rights-based delivery of HIV services throughout Kenya.

men having sex with men.

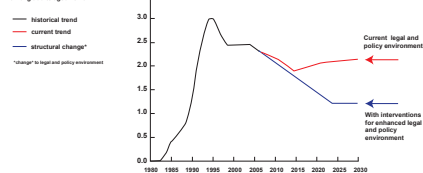
LESSONS LEARNT:

Thanks to the trainings, more PLHIV are now aware of and can assert their rights. Health care workers have been capacitated to promote and protect HIV related human rights by teaching them about a rights-based approach in service delivery. When violations occur, an increasing number of lawyers provide adequate legal support

WHY THE LAW MATTERS ?

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annual number of new HIV infections among adults aged 15-49



Source: Global Commission Report on HIV and the Law 2012