



HIV/AIDS, Gender and Human Rights

How do human rights relate to HIV/AIDS?

A poor respect for human rights increases the prevalence and worsens the impact of HIV/AIDS. For those denied or with only poor access to information, education and health care services, the risk of contracting HIV is increased and the impact of the virus felt more keenly. The ability of any individual to access their human rights outlined in the table below is thus closely linked with the spread of HIV/AIDS and its impact on people and communities around the world. The spread of HIV/AIDS also undermines progress in the realisation of human rights, as the pandemic places strain upon the country's resources, depleting its social capital and undermining attempts to provide a full complement of services as of right to all citizens. The disproportionate incidence of HIV/AIDS among certain groups including in many countries women and girls, those living in poverty, and specific groups such as disabled people illustrates this broad correlation between access to basic rights and risk from sexual abuse and HIV/AIDS.

HIV/AIDS-related human rights include:

the right to life	the right to the highest attainable standard of mental and physical health
the right to liberty and security of the person	the right to freedom of association
the right to non-discrimination, equal protection and equality before the law	the right to freely receive and impart information
the right to equal access to education	the right to marry and found a family
the right to privacy	the right to freedom of movement
the right to freedom of expression and opinion	the right to be free from torture and other cruel, inhuman or degrading treatment or punishment
the right to work	the right to seek and enjoy asylum

Key Issues

The link between human rights, HIV/AIDS and gender

Heterosexual transmission, while being only one aspect of the epidemic, is now the most common mode of HIV transmission globally. In developing countries women are more likely than men to be infected with HIV, with young women outnumbering young men among newly infected 15-24 year olds by two to one (WHO 1995; Weiss et al. 1996).

Women continue to bear the burden of care for family members with HIV/AIDS, and very often assume the responsibility of children orphaned by AIDS. Gender-based discrimination hinders women's ability to know about, access and negotiate use of effective protection methods and to respond to the consequences of HIV infection for themselves and their families. The vulnerability of women and girls to HIV and AIDS is compounded by other human rights issues including lack of adequate access to the information, education and services necessary to ensure sexual health; by sexual violence; by harmful traditional or customary practices affecting the reproductive health of women and children (such as early and forced marriage); and by lack of legal capacity and equality in family matters.

Stigma and discrimination associated with HIV/AIDS reinforces prejudices, discrimination and inequalities related to gender, poverty, sexuality, disability and ethnicity. This contributes to the vulnerability to infection of minority or otherwise weaker groups, as those members at risk or affected by HIV and AIDS may be reluctant to contact health



and social services. The result is that those most in need of information, education and counselling will not benefit even where these services are available.

How can observance of human rights help to address the gender dimensions of HIV/AIDS?

International human rights law guarantees the right to equal protection before the law and freedom from discrimination on grounds including sex, race, colour, language, religion, political or other opinion, national or social origin, property, birth or other status. States' obligations in relation to equality and non-discrimination - and to the promotion and protection of all human rights - are defined in a series of international treaties. These treaties provide the overarching legal framework for a rights-based approach in relation to HIV/AIDS. Equality and non-discrimination are not only cornerstone principles of international human rights law; they are also vital to HIV/AIDS prevention and to ensuring equitable access to care, treatment and support for those infected and affected by HIV/AIDS. Some countries have succeeded in slowing the spread of HIV/AIDS by combating gender inequalities and promoting access to information and services as of right regardless of sexuality, marital status or gender.

The UN General Assembly Declaration of Commitment on HIV/AIDS of June 2001 places human rights at the heart of the international response to the epidemic and sets goals and targets based on human rights law in a number of key areas. It calls on states to take measures to eliminate discrimination against people living with HIV/AIDS as well as members of vulnerable groups. Empowering women is essential for reducing vulnerability, and strategies, policies or programmes that recognise the importance of family in reducing vulnerability should be strengthened or developed. Strategies are needed for educating and guiding children and young people which take into account cultural, religious and ethical factors, and which reduce their vulnerability by ensuring access for both girls and boys to primary and secondary education; by ensuring safe and secure environments especially for young girls; and by expanding good quality youth-friendly information and sexual health services.

National strategies that lead to the empowerment of women and increase the capacity of women and girls to protect themselves from the risk of HIV infection need to be complemented by increased understanding of male vulnerability and responsibility for changing the status quo. Regional and national courts, and national human rights institutions are important tools for ensuring the application of these rights. The UN human rights mechanisms (including the human rights treaty bodies and special rapporteurs, special representatives and independent experts) provide additional sources for monitoring and reporting on their implementation.

KEY INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

International Covenant on Economic, Social and Cultural Rights
International Covenant on Civil and Political Rights
Convention on the Elimination of All Forms of Discrimination against Women
Convention on the Rights of the Child

OTHER IMPORTANT DOCUMENTS

General Assembly Declaration of Commitment on HIV/AIDS
General Assembly Declaration on Violence against Women
Committee on the Elimination of Discrimination against Women, General Recommendation No 24, 'Women and Health'
Committee on Economic, Social and Cultural Rights, General Comment No 14 on 'The right to the highest attainable standard of health'
Committee on the Rights of the Child, General Comment No 3, 'HIV/AIDS and the rights of the child'
International Guidelines on HIV/AIDS and Human Rights



Key Actions Required

What should a gender-sensitive human rights strategy against HIV/AIDS include?

HIV/AIDS responses should include strategies for ensuring equal access of men and women to their full rights as citizens. They must address equality and non-discrimination in areas such as education, political rights, marriage and family, property, employment, health and protection from violence. They should promote participation, the empowerment of women and other weaker groups and the networking of organisations such that citizens can collectively demand and obtain their rights.

The International Guidelines on HIV/AIDS and Human Rights provides a framework for a rights-based response to the HIV/AIDS epidemic by outlining how human rights standards apply in the context of HIV/AIDS and suggesting legislative and other practical measures to be undertaken at the national level. Guideline 8 suggests that 'States should, in collaboration with and through the community, 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.'

In line with the Guidelines, a gender-sensitive human rights strategy against HIV/AIDS should include:

- Combating stigma and discrimination in relation to gender, poverty and HIV/AIDS. Laws, policies, strategies and practice should address all forms of discrimination that increase the impact of HIV/AIDS. This includes the promotion of education and training programmes designed to counter discrimination and stigma associated with gender and with HIV/AIDS.
- Devoting attention to promoting the human rights of women including equal right to legal rights and status within the family, in particular in areas such as inheritance, divorce, child custody, ownership of property and employment rights.
- Combating sexual and economic exploitation of women and girls, including through the development and implementation of laws, policies, strategies and practices.
- Promoting the right of everyone to the enjoyment of the highest attainable standard of mental and physical health, including by:
 - o ensuring access to appropriate information related to HIV/AIDS prevention and treatment;
 - o empowering women to make decisions in relation to their sexual and reproductive health, free of coercion, violence and discrimination;
 - o promoting access to HIV/AIDS-related treatment, care and support, including the provision of essential drugs;
 - o ensuring accessibility of voluntary and confidential HIV-counselling and testing services;
 - o implementing strategies to prevent HIV infection among pregnant women; to prevent HIV transmission from HIV-infected women to their infants; and to provide care, treatment and support to HIV-infected women, their infants and families.



Resources and References

UNIFEM (2001). "Turning the Tide: CEDAW and the Gender Dimensions of the HIV/AIDS Pandemic" New York: UNIFEM.

WHO (1995). "Women and AIDS: Agenda for Action", Geneva: WHO.

Weiss, E, D Whelan, and G Rao Gupta (1996). "Vulnerability and Opportunity: Adolescents and HIV/AIDS in the developing world", Washington DC: International Center for Research on Women.