

Dear all,

It's a matter of great concern that how certain chronic abuses of women's human rights compound the problem of HIV and AIDS. The abuses discussed are domestic violence, violations of women's property and inheritance rights, bride price, widow inheritance, ritual sexual "cleansing", and the sexual abuse of girls. Today's article then considers how traditional HIV and AIDS prevention programmes are insensitive to women's human concerns. The article concludes with a call to governments and international organizations to put in place concrete protections of women and girls' rights to prevent the violations that fuel the spread of HIV and makes concrete recommendations to both groups.

A Dose of Reality

Women's Rights in the Fight against HIV and AIDS

The global HIV and AIDS pandemic is taking a catastrophic toll on women and girls. The number of HIV infections among women and girls has risen in every region in recent years, and in sub-Saharan Africa, women and girls constitute nearly 60 percent of those living with HIV. In some countries, the HIV infection rates for girls are many times higher than for boys. The rising number of HIV infections among women and girls is directly related to violence against women and their unequal legal, economic, and social status.

Abuses of women's and girls' human rights impede their access to HIV and AIDS information and services, including testing and treatment. Those who do obtain HIV services sometimes face disclosure of their confidential HIV test results by public health officials without the women's consent. This heightens women's risk of being ostracized by their communities and abused by their intimate partners.

Governments around the world have done far too little to combat the entrenched, chronic abuses of women's and girls' human rights that put them at risk of HIV. Misguided HIV and AIDS programs and policies, such as those emphasizing abstinence until marriage, ignore the brutal realities many women and girls face. 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, governments are enabling HIV and AIDS to continue claiming the lives of women and girls.

Chronic Abuses Made Deadlier by HIV and AIDS

Human Rights Watch has interviewed hundreds of women and girls living with HIV around the world. Their accounts are harrowing, ranging from trafficking to rape during armed conflict. This briefing paper focuses on the links between HIV and AIDS and abuses of women's and girls' human rights that literally hit closest to home:

- domestic violence, including marital rape;
- violations of property and inheritance rights;
- the harmful traditional practices of bride price, widow inheritance, and ritual sexual “cleansing”; and
- Sexual abuse of girls.

These abuses are perpetrated by families and tolerated by governments. They are among the most pervasive and dangerous abuses for women and girls. In the context of HIV/AIDS, they can be lethal.

Domestic Violence

Domestic violence is not only inherently dehumanizing, it is a central cause of women’s HIV exposure. Domestic violence limits women’s capacity to resist sex and to insist on their spouse’s fidelity or condom use. Yet most countries dismally fail to prevent domestic violence, prosecute or otherwise punish perpetrators, or provide health or legal services to survivors. Most do not even recognize its link with HIV and AIDS. Marital rape is rarely treated as a crime.

Human Rights Watch has interviewed woman after woman across Africa and in the Caribbean, many of whom said that domestic violence and spousal rape caused or contributed to their HIV infection. Hadija Namaganda, a Ugandan woman living with HIV, told Human Rights Watch that her husband routinely forced her to have unprotected sex with him and beat her viciously. Himself HIV-positive, he once attacked her so violently that he bit off half of her left ear. When he lay dying of AIDS and was too weak to beat her, he ordered his younger brother to do so. Gabriela López, a twenty-four-year-old Dominican woman with five children, told Human Rights Watch that she became infected with HIV after repeated rapes by her husband. After she tested positive for HIV, her husband abandoned her and their children.

Studies have shown that domestic violence contributes to higher HIV infection rates. A recent South African study found significantly higher rates of HIV infection in women who were physically abused, sexually assaulted, or otherwise mistreated by their intimate male partners.

Abuses of Women’s Property and Inheritance Rights

In some regions, most prominently in sub-Saharan Africa, women are denied equal property rights.

- Many widows are barred by law and custom from inheriting property, evicted from their lands and homes by in-laws, and stripped of their possessions.
- Divorced women are often expelled from their homes with only the clothes on their backs.

A woman's access to property usually hinges on her relationship to a man. When the relationship ends, the woman stands a good chance of losing her home, land, livestock, household goods, and other property. While this discrimination stems from customs that favor 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, where twice as many women are HIV-positive as men, the AIDS epidemic magnifies the devastation of women's property violations. AIDS deaths expected in the coming years in Africa will result in millions more women becoming widows at younger ages than would otherwise be the case. These women and their children will likely face not only stigma against people affected by HIV and AIDS, but also deprivations caused by property rights violations.

Imelda Orimba, a Kenyan widow with AIDS, told Human Rights Watch that when her husband died, she told her in-laws that she had AIDS and wanted to stay in the house. They grabbed her property anyway. She recalled: "I told my in-laws I'm sick . . . but they took everything. I had to start over. . . . They took sofa sets, household materials, cows, a goat, and land. I said, 'Why are you taking these things when you know my condition?' My in-laws do not believe in AIDS. They said that witchcraft killed my husband."

Children orphaned and affected by HIV and AIDS, especially girls, are also at risk of property-grabbing when their parents are sick or die. A sixteen-year-old orphan girl in Zambia told Human Rights Watch that after her father died, "The relatives grabbed all our property, even my clothes. I didn't even get a single spoon. This was my father's relatives." When her mother died, she ended up living with an uncle who sexually abused her and who is feared to be HIV-positive.

Divorced and separated women fare no better. Many countries have no statutory law on division of family property upon divorce, leaving the matter to the discretion of judges or traditional leaders. Countless divorced women have told Human Rights Watch 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. Women in Kenya and Uganda told us that they remained in violent relationships because leaving would mean losing their homes and other material belongings.

Harmful Traditional Practices

Traditional practices of some communities heighten the HIV risk for women and girls. While customs are important to community identities and human rights law supports the preservation of customs and traditions, this cannot be at the expense of women's and girls' rights and health. Just as discriminatory statutes must be amended to protect women's and girls' rights, harmful traditional practices must be transformed to eliminate abusive aspects.

Human Rights Watch has documented the dangers of a number of traditional practices in the context of HIV and AIDS, including:

- payment of bride price;
- widow inheritance; and
- Ritual sexual “cleansing.”

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 abusive relationships. Though the intent may be to show appreciation to the bride’s parents and reinforce relations between families, bride price is perceived by many to be an outright purchase of a wife. Masturah Tibegwya, a Ugandan woman, told us, “They take you as property so if the man comes for sex you don’t say no.” A study of several districts in Uganda found that 62 percent of the respondents identified bride price as a major cause of domestic violence, as it encouraged men to beat wives who did not “measure up.” This dynamic also obstructs women’s ability to negotiate safer sex.

In some places, widows are coerced into engaging in risky sexual practices upon 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 over 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, safer sex is seldom practiced and sex is often coerced. While some women consent to these practices, others are coerced into them in order to stay in their homes and keep their property. Rejecting these practices can result in social exclusion or rape. Succumbing to them can contribute to HIV infection.

Emily Owino, a Kenyan widow, told us that shortly after her husband died, her in-laws took all her possessions—including farm equipment, livestock, household goods, and clothing. They insisted that she be “cleansed” by having sex with a social outcast as a condition of staying in her home. They paid a herdsman the equivalent of U.S. \$6 to have sex with Owino, against her will and without a condom. She told us, “I tried to refuse, but my in-laws said I must be cleansed or they’d beat me and chase me out of my home.” The in-laws eventually forced her out of her home anyway. She and her children were homeless until someone offered her a small, leaky shack. No longer able to afford school fees, her children had to drop out of school.

Sexual Abuse of Girls

In many countries in sub-Saharan Africa, HIV prevalence among girls under age eighteen is four to seven times higher than among boys the same age, and girls have a lower average age of death from AIDS. Sexual abuse contributes directly to this disparity in HIV infection

and mortality. Coercion—physical, psychological, and economic—looms large in many girls' sexual experiences. Yet governments are failing to provide basic protections from sexual abuse that would lessen girls' vulnerability to AIDS.

Sexual abuse of girls by male family members is frequently kept secret, and law enforcement agencies are often complicit in hiding the abuses. In Zambia, where nearly 17 percent of the population aged fifteen to forty-nine is living with HIV, girls told Human Rights Watch of sexual and other physical abuse at the hands of uncles, stepfathers, fathers, cousins, and brothers. Orphan girls dependent on their abusers said they feared losing support, including for schooling, if they revealed the abuse. A twelve-year-old girl told Human Rights Watch, "My uncle used to beat me with electricity wires. Before I went to live my uncle and auntie, I stayed with my big sister's mother, and my brother used to take me in the bush. Then he raped me. I was eight or nine. I was scared. He said 'I'm going to beat you if you ever tell anyone.'"

HIV Information and Services: Insensitivity to Women's and Girls' Concerns

HIV prevention, testing, and treatment programs are central to fighting AIDS. Yet insensitivity to the concerns of women and girls in these programs often make the solution part of the problem.

Misguided HIV Policies and Programs

HIV risk is fundamentally linked to abuses of women's and girls' rights, yet prevention policies and programs often ignore this link. A prime example of misguided HIV prevention programs are those that emphasize an "ABC" approach ("A" for abstinence, "B" for be faithful, and "C" for condom use) over programs promoting women's and girls' rights. ABC programs advocate behavioral changes that do not address the social realities limiting women's and girls' sexual autonomy and putting them at risk of HIV. Many women and girls cannot "abstain" from being brutally raped, cannot stop their husband's infidelity, and lack the negotiating power within their abusive relationship to insist on condom use. Sules Kiliesa, a Ugandan widow, told Human Rights Watch that her husband "would beat me to the point that he was too ashamed to take me to the doctor. He forced me to have sex with him and beat me if I refused. . . . Even when he was HIV-positive he still wanted sex. He refused to use a condom. He said he cannot eat sweets with the paper [wrapper] on."

The focus on marriage as a preventive factor in HIV policies (as in "abstinence until marriage" programs) is also misguided. In some countries, married young women have higher HIV prevalence than their unmarried counterparts. A recent study among sexually active young women in Kenya and Zambia found that HIV infection levels were 10 percent higher for married than for sexually active unmarried girls. In rural Uganda, another study found that 88 percent of young women living with HIV were married. Another disturbing study in Zambia found that only 11 percent of women believed they had the right to ask

their husbands to use a condom—even if he had proven to be unfaithful and was HIV-positive.

Abusive HIV Testing Practices

Testing for HIV is the first step toward obtaining necessary support and treatment. But if testing is done without respect for women’s human rights it can have devastating consequences.

Women who test positive for HIV are at increased risk for domestic violence and social exclusion. Sadly, many women Human Rights Watch interviewed said that health workers had disclosed the women’s confidential HIV test results without their consent. Moreover, some women described grossly inadequate pre-and post-HIV test counseling, calling into question whether the tests were truly voluntary. In some cases, HIV-positive women had necessary medical procedures denied due to discriminatory attitudes of health care providers.

Rosa Polanco, an HIV-positive Dominican woman, told Human Rights Watch that when she was hospitalized for a liver disease, her doctor disclosed her HIV-positive status to her daughters without her consent. When Polanco’s mother discovered her status, she evicted Polanco from the home she had shared with her parents and children. Having no money and no hope for employment in a country where many employers deny work to people with HIV, Polanco moved to a makeshift wooden shack without sanitation, electricity, or running water in a dangerous, remote informal settlement.

As health care providers around the world rush to embrace provider-initiated rather than patient-initiated HIV testing, more women will have the opportunity to test for HIV. But unless testing protocols adequately address the need to protect women’s rights to informed consent and confidentiality, women will also face dangers in their homes and communities. There is an urgent need for greater clarity on what provider-initiated HIV testing means, and what counseling, confidentiality, and other rights protections must accompany such testing. At a minimum, such measures must ensure that women know their options and are given tools to adequately deal with the consequences of both a negative and a positive test result. Meanwhile, governments must act now to ensure that confidentiality measures are in place and enforced.

Rape Survivors Denied Post-Exposure Prophylaxis

HIV post-exposure prophylaxis (PEP), a short course of treatment with antiretroviral medicines administered after rape, can keep rape from being a death sentence by reducing the risk of HIV infection from an HIV-positive attacker. PEP is the standard of care for rape survivors in wealthy countries. Poorer countries have begun to offer PEP to rape survivors, but not without challenges.

In South Africa, for example, the explosive AIDS epidemic and shocking rates of rape and sexual violence make an effective PEP program critical. Unfortunately, Human Rights Watch found that government inaction and misinformation from high-level officials have undermined the effectiveness of its program to provide rape survivors with PEP. The government's failure to provide adequate information and training on PEP has left both service providers and rape survivors in the dark. Many rape survivors did not receive PEP services simply because neither they nor police and nurses helping them had any idea that such services existed. Poor women and girls and those living in rural areas were often denied access to PEP altogether.

Inequalities in Access to HIV Treatment

As countries gear up for massively expanded antiretroviral treatment programs, urgent attention is needed to ensure that women and girls will access ARVs equitably. Due to pervasive discrimination, women are less likely than men to have the income or assets needed to pay for antiretroviral therapy. Even where treatment is free, basic costs like diagnostic tests or transportation to the hospital may be out of reach of women. In some families, men determine whether women and girls will be allowed to leave the home and take time away from household duties to visit health centers. When male and female family members are HIV-positive and resources are scarce, evidence in some countries shows that men are the first to receive treatment. If a woman defies a man and seeks treatment anyway, there can be violent consequences.

Many Ugandan women told Human Rights Watch that violence, or the fear of violence, prevents them from freely obtaining HIV and AIDS testing and treatment. Service providers reported that many women came to them secretly, fearing that their husbands would beat them if they sought HIV testing or medical attention. Jane Nabulya, a Ugandan woman, said that she secretly tested for HIV in 1999 when she found out her husband had AIDS. She explained: "I was scared to tell him that I had tested HIV-positive. He used to say that the woman who gives him AIDS, 'I will chop off her feet.' I have never told him."

In Kenya and Uganda, women told Human Rights Watch that they could not reach HIV testing and treatment centers because they had no money to travel or pay for care, were too afraid to ask abusive husbands for funds, or were not allowed to leave the home. Rebecca Samanya told us, "I got counseling after he [her husband] had died. I wanted to go before but I didn't have the means. I wouldn't ask him. He would quarrel [fight]." Many widows told us that after they had been denied inheritance and lost everything to property-grabbing in-laws, they had no money to survive, much less pay for antiretroviral therapy and other health care.

Conclusion

The disproportionate impact of AIDS on women and girls is no accident. It is the direct

result of the pervasive abuses of their human rights. Despite the growing consensus that HIV and AIDS 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 and AIDS, and impede their access to HIV information and services.

Combating the rights abuses that put women and girls 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 impact. Governments, with the support of donors and international organizations, must act urgently to stop the abuses of women's and girls' rights that fuel the AIDS epidemic and impede society's response.

Recommendations for Action

Human Rights Watch calls on all governments, donors, and international organizations to address gender inequity as an abuse in its own right and as a central element of HIV and AIDS policy and programs. Essential first steps include:

Governments

- **Legal Reform.** Reform laws to protect women's equal rights, especially in the areas of:
 - inheritance
 - sexual violence
 - domestic violence and spousal rape
 - marriage
 - division of property upon divorce
 - land use and ownership
 - access to housing and social services

- **Programmatic Reform.** Implement programs designed to address women's rights violations and improve enforcement of women's rights. This includes:
 - ensuring that national HIV and AIDS programs include concrete measures to combat discrimination and violence against women
 - providing training for judges, police, and other officials on women's rights
 - improving data collection relating to domestic violence, women's property rights, and sexual abuse of girls
 - designing ARV distribution systems to recognize the challenges women and girls face in accessing treatment
 - ensuring the protection of confidential HIV test results and other confidential patient information

- **Public Education.** Undertake public education campaigns on women's rights by distributing information in local languages and using appropriate media about:
 - rights to inheritance and division of family property
 - writing wills
 - registering marriages
 - co-registering property
 - the health risks of customary sexual practices tied to property rights
 - preventing domestic violence and obtaining assistance in the event it occurs

Donors and international organizations

- **Assistance.** Donor organizations should support NGO and government initiatives to promote women's rights. This should include initiatives that provide:
 - legal services
 - shelter
 - educational assistance
 - food and medical care (including ARVs)
 - human rights education programs on women's property rights, domestic violence, and sexual abuse
 - credit for land purchases
 - job training and economic opportunities
 - training of authorities on women's rights

- **Political Influence.** Donors and international organizations should actively encourage governments to enact and implement laws and policies that protect women's rights. They should use their unique leverage to question programs that are not gender sensitive or fail to take into account human rights abuses that place women and girls at disproportionate risk of HIV and impede their capacity to seek HIV-related services.

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