

Brief supporting Evidence Report 3

SEXUAL AND REPRODUCTIVE HEALTH RIGHTS OF WOMEN LIVING WITH HIV IN SOUTH AFRICA

Sexuality, Poverty and Law

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The IDS programme on Strengthening Evidence-based Policy works across six key themes. Each theme works with partner institutions to co-construct policy-relevant knowledge and engage in policy-influencing processes. This material has been developed under the Sexuality, Poverty and Law theme.

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Defining sexual and reproductive health rights

The World Health Organisation (WHO) has identified five core aspects of sexual and reproductive health: (1) improving antenatal, perinatal, postpartum, and newborn care; (2) providing high-quality services for family planning, including infertility services; (3) eliminating unsafe abortion; (4) combating sexually transmitted infections, including HIV, reproductive tract infections, cervical cancer, and other gynaecological morbidities, and (5) promoting sexual health. It is noted that, because of the close links between the different aspects of reproductive and sexual health, interventions in one area are likely to have a positive impact on the others (WHO 2004: 21).

South Africa's constitutional and legal framework reflects the country's commitment to women's Sexual and Reproductive Health and Rights (SRHR), in line with international commitments. Numerous policies detail the provision of services around sexual and gender-based violence, fertility, maternal, perinatal and newborn health, sexually transmitted infections (including HIV), and cancers of the reproductive system. In a recent review of sexual and reproductive health, the South African Department of Health follows the WHO's comprehensive definition of SRHR, and includes the following areas in SRHR policy planning: sexuality, desire, pleasure and function; sexual and gender-based violence; fertility; maternal, perinatal and newborn health; sexually transmitted infections, including HIV and AIDS; cancers of the reproductive system, and additional SRHR issues, to be determined on an as-needed basis (Department of Health 2011a: 6). However, these policies exist in a social climate of extreme inequality, with high rates of poverty and unemployment. Despite almost equal representation of women in government and other high-profile areas, women in South Africa experience unprecedented rates of sexual and gender-based violence, and women's autonomy is all too often compromised by poverty, limited access to education, limited access to health care, and ongoing gender inequality that is bolstered by patriarchal norms.

South Africa has one of the highest rates of HIV worldwide. The latest antenatal HIV prevalence survey by the South African Department of Health shows that 29.6 per cent of pregnant women who attend antenatal services are HIV positive (NDoH 2011a). UNAIDS estimates that 17.3 per cent of the South African adult population (between 15 and 49 years of age) are living with HIV. Of these, almost three million are women (UNAIDS 2011). South Africa remains one of the most unequal societies in the world. Current estimates show that up to 59 per cent of South Africans are unemployed, and up to 53 per cent live in poverty (Statistics South Africa 2012). Despite the country's commitment to gender equality at government and constitutional levels, patriarchy and gender discrimination are prevalent in all sectors of society. South Africa has among the highest rates of sexual and gender-based violence in the world (Jewkes *et al.* 1999).

In this context, women living with HIV are particularly vulnerable to rights violations, due to persisting stigma and discrimination. This paper reviews the existing SRHR policies in South Africa, with a special focus on the SRHR of women living with HIV. It identifies gaps in the current policies, examines the effect of these on the realisation of SRHR for women living with HIV, and analyses current violations of the SRHR of women living with HIV. The paper reviews past and present advocacy strategies around SRHR in order to identify successful examples, challenges and gaps. To this end, the review analyses the key actors, networks and institutions relevant for the policy process around SRHR. It further summarises the existing sexual and reproductive health and HIV policies in South Africa, and provides a synthesis of the academic literature, as well as insights from interviews with key informants in the academic, civil society and policy arenas. The case study example in this paper highlights the challenges in the implementation of the existing SRHR policies, and identifies areas of action as well as advocacy strategies to address these.

Situating SRHR in South Africa

In the South African context, the language of 'reproductive rights' is used to describe the rights to accessible, affordable, appropriate, and quality health services; to information; to autonomy in sexual and reproductive decision-making; and to freedom from discrimination, coercion, and violence as they relate to reproduction.

A strong and strategic civil society movement achieved crucial successes for women's sexual and reproductive rights in the early years after the country's democratic transition in 1994. By forging alliances with academic institutions and through strategic lobbying of key government stakeholders, these activists were instrumental in passing the new abortion act in 1996. However, in the following years, the movement started to decline, mostly due to a lack of leadership, a lack of funding, and the perception that key goals had been achieved. Concurrently, an activist movement for the rights of people living with HIV emerged in the late 1990s. While it gained vital support for the rights of people living with HIV, it did not have a specific focus on women's sexual and reproductive health rights.

Women's rights are undermined by poverty as well as by discrimination on the basis of gender, race or ethnicity, sexual orientation, disability, and other forms of discrimination (NDoH 2001). The realisation of enshrined sexual and reproductive health and rights of all women, but especially of women living with HIV, poses complex and serious challenges – to the point that women living with HIV can be denied certain sexual and reproductive rights. Moreover, certain violations are difficult to identify and address.

Methodology

The paper is based on a review of current literature on SRHR issues for women living with HIV in South Africa, including academic literature, grey literature, a review of policy briefs and research reports. A review of the legal framework has been performed to examine the relevant legislation and policies. Following the analytic framework on policy processes by Keeley and Scoones (IDS 1999), the actors, networks and institutions involved in the process of SRHR policy were mapped. This desk-based research was complemented with interviews with key informants on SRHR for women living with HIV in South Africa from civil society organisations and academic institutions, including people involved in policy reform.

Key findings

This case study presents five examples of the violation of sexual and reproductive health rights of women living with HIV, and explores the underlying causes and dynamics. The misalignment between the national cervical cancer screening policy and recommendations on cervical cancer screening in HIV management highlights the need to harmonise existing policies and take into account the specific needs of women living with HIV. Documented cases of women living with HIV being coerced into accepting sterilisation have been collected by South African activists and illustrate how the directive power of health care workers undermine women's agency and autonomy. This problem is also reflected in the critical appraisal of the new provider-initiated HIV testing policy, which has led to reports of the violation of women's rights to autonomy and access to health care services. Access to fertility treatment (and information about childbearing options) as well as to contraception, (including abortions), is limited for women in general, but even more so for women living with HIV.

Recommendations

The review presents a number of key recommendations for South African activists, the South African government, and international donors. These recommendations suggest measures to harmonise existing policies to fit the needs of women living with HIV; to establish and

institutionalise rights-based training for health care workers; to institute redress mechanisms for women whose rights have been violated; and to strengthen the capacity of civil society to support affected women and adopt appropriate advocacy strategies.