

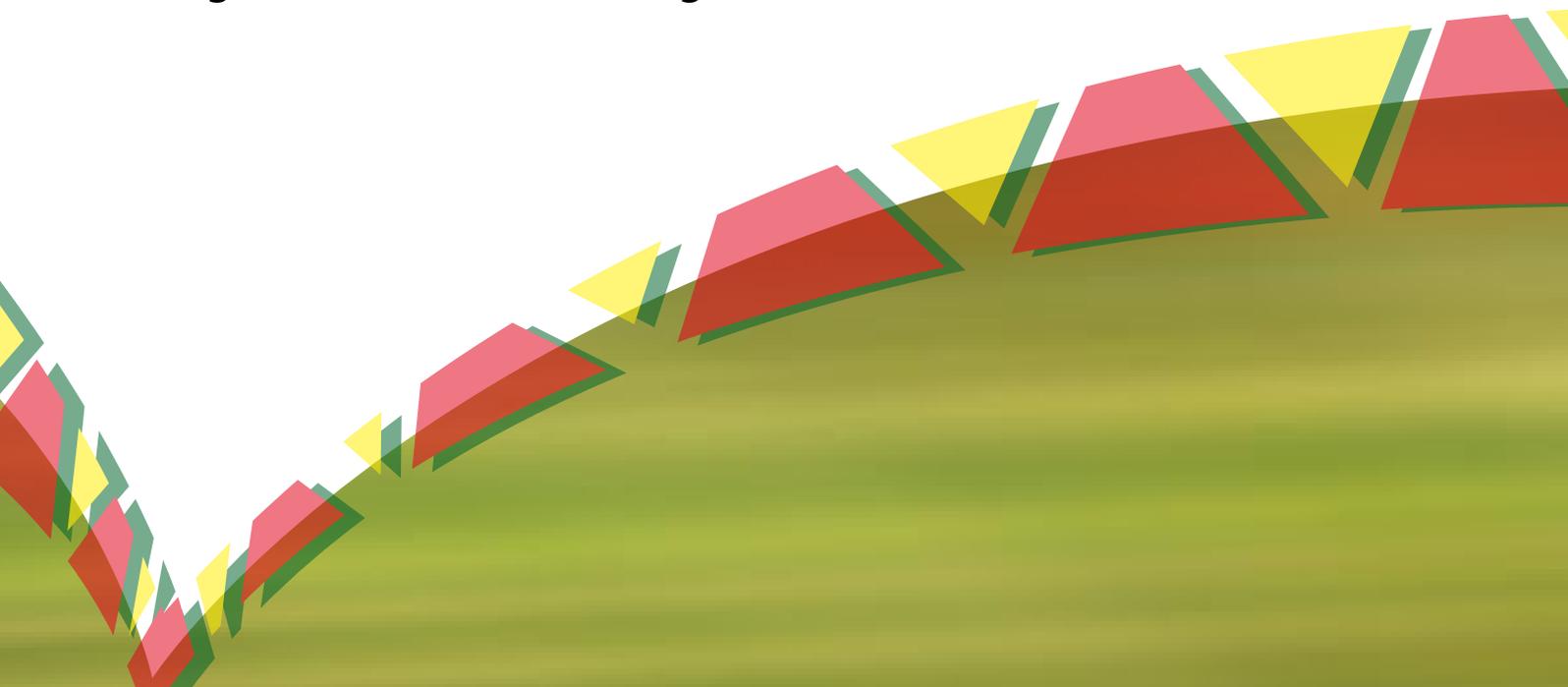


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SafAIDS Policy Brief: Lesotho

Violence against Women and HIV: Upholding the Zero Agenda by moving towards a Protective Legal and Social environment for Women



SUMMARY

Gender-based violence (GBV) is a significant driver of HIV infection among women in Lesotho. National efforts are increasingly focusing on the elimination of violence against women as key in combating the spread of the epidemic. As the World Health Organization noted, violence against women is often both 'a cause and consequence of HIV' (2005). Similarly, as noted by UNAIDS (2009), 'women living with HIV are more likely to have experienced violence, and women who have experienced violence are more likely to have HIV infection.'

In the southern African region, governments are responding positively by passing legislation to criminalise gender-based violence in its many forms; legislation exists to criminalise marital rape and other sexual offences. However, the problem remains at the level of implementation. This is the case in Lesotho where there is a comprehensive National Action Plan (2008) to end gender-based violence, yet a co-ordinated implementation strategy is missing. Similarly, the Domestic Violence Bill is yet to be passed. This poses the risk of a continued increase in domestic violence, and therefore in HIV infection. Advancing human rights offers a way of strengthening the legal instruments that counter women's risk and vulnerability to HIV infection.

As in other parts of southern Africa, the existence of a patriarchal society in Lesotho furthers gender inequality and normalises gender-based violence. This creates an unsafe environment for women that compromises HIV programming and is in fact, a direct departure from the zero agenda goal of ensuring zero new infections, zero AIDS-related deaths and zero discrimination by 2015. As this brief discusses, a protective legal and social environment is not just a possibility; it is a necessity. Without it, women will continue to be victimised and violated, with correspondingly dire implications for the HIV response. Without it, we risk undoing the gains made against HIV in Lesotho.

Lesotho: The Facts



- Population: 2, 2 million
- HIV Prevalence: 23%
- HIV prevalence is nearly three times higher in women (14.2%) than men (5.4%)

Lesotho has a high rate of rape, with approximately 92 out of 100,000 people raped annually (UNFPA, 2008).

The Current Policy Environment

An examination of Lesotho's policy landscape reveals that Lesotho's statutory instruments do not adequately define marital rape.

The Sexual Offences Act (2003) caters for the link between GBV and HIV, as it considers marital rape to be an offence but it does not explicitly refer to the state's obligation to legislate against rape in marriage. Annually, 35% of married women admit to having succumbed to marital rape (UNDP Report, 2009). Such cases often go unreported, yet they are linked to increased risk of HIV infection. In cases of sexual violence, negotiation for condom use is even more difficult and practicing safe sex is not ensured. Legal frameworks addressing GBV have to be clearly defined to prevent both GBV and HIV.

By delaying the passing and implementation of the Domestic Violence Bill, Lesotho is contradicting its own commitments including the following:

- 2009 AU Gender Policy
- 2008 SADC Protocol on Gender and Development
- 1997 SADC Declaration on Gender and Development
- 1995, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Provisions in numerous commitments compel member states to enact and enforce legislation prohibiting all forms of GBV. This has clearly not happened in Lesotho.

Socially, several forms of male dominance, while supported in greater numbers by men, are also widely accepted by women. For example, an HIV and sexual violence study observed that among 15-19 year olds, 28% of males and 27% of females believed that a girl did not have the right to refuse sex with her boyfriend; 55% of males and 54% of females thought that 'sexual violence does not include forcing sex with someone you know' (UNFPA, 2008). In the absence of behavioural change strategies to address patriarchal norms, promoting a protective social environment for women against violence and HIV is problematic. Until then, the subservience of Basotho women will continue to subject them to violence in all forms and expose them to the risk of HIV infection. This will not only increase GBV and HIV infection rates, but is a disservice to the decades of effort that have gone into the HIV response.

"Violence against women is a fundamental violation of human rights and is often fuelled by longstanding social and cultural norms that reinforce its acceptability in society"

- WHO, 2009

Linking Violence against Women and HIV

- Sexual violence (e.g. rape) increases the chances of HIV infection due to tearing of vaginal tissue that allows more efficient HIV transmission
- Violence (and fear of violence) can affect a woman's willingness to negotiate safer sex
- Violence can affect a woman's willingness to undergo HIV testing
- Violence can affect a woman's willingness to disclose her HIV status to her partner
- Violence can affect a woman's ability to access treatment services.

Identified Gaps

- There is a scarcity of financial and human resources to address GBV. This directly impacts on the successful implementation of laws and policies, as well as on the quality of the various structures necessary to address GBV (SADC Gender Protocol 2011 Barometer).
- Efforts to monitor and evaluate GBV issues are inadequate. This is due in part, to non-reporting by survivors of GBV.
- The Domestic Violence Bill not yet been passed. This represents a serious gap as it directly impacts on the services and programmes available to address GBV.

Hope for the Future

Lesotho has established specialised units throughout the country that include child and gender protection units. Integrated outreach centres that provide dynamic support services to survivors of GBV have also been established. Capacity building exercises on GBV case management for legal service providers are ongoing at all levels. A national co-ordination plan on GBV has also been outlined.

Conclusion

Drafting policies which address violence against women, without fully implementing them, is harmful to women. Only when legal instruments are strengthened, socially-constraining practices against women are addressed and there is political will and commitment to put GBV high on national agendas, can the zero agenda be upheld. Addressing these challenges could be a major step towards creating a protective legal and social environment for women, as a way of attaining the 2015 goal of zero new infections, zero AIDS-related deaths and zero discrimination.

Recommendations

- The Domestic Violence Bill must be passed and be supported by the creation of Domestic Violence Courts that are staffed by gender-sensitive and knowledgeable personnel
- Better co-ordination of government departments and stakeholders in monitoring and evaluating GBV issues is necessary
- More investment in HIV prevention (including GBV prevention and GBV support services) is needed
- Promotion of a protective social environment against both violence and HIV infection for women. This includes promoting legislation to curb violence, creation of structures to address GBV at community level and provision of services for those who experience GBV
- Review of current penalties for perpetrators of GBV as a deterrent to others and to prevent repeat offences
- GBV policy has to be reviewed with critical consideration and inclusion of problematic cultural practices
- Implementation of set strategies and policies that address GBV
- Economic empowerment of women to reduce their dependence on men.

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