

# The sexual and reproductive health and human rights of people living with HIV



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# Introduction

- Globally, 34.0 million people were living with HIV at the end of 2011.
- The access to antiretroviral treatment has been increasing for people living with HIV (PLHIV), which in turn extends their life expectancy and their productivity.
- As for any human being, sexuality and reproduction is an important part of the lives of PLHIV.
- PLHIV have the right to a satisfying, safe and healthy sexuality and reproductive health.

World Health Organization. Global Health Observatory: HIV/AIDS. Available from: <http://www.who.int/gho/hiv/en/>

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# Introduction

- Health service providers and decision makers should recognize that PLHIV have the right to enter into relationships, have sex and bear children.
- Ensuring that PLHIV can enter a relationship, have sex and bear children safely contribute to their own health as well as the health of their partners and families.

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# PLHIV and stigmatization

- Refusing to care for a patient with HIV/AIDS.
- Refusing to admit a patient with HIV/AIDS to hospital.
- Giving confidential information about patients with HIV/AIDS to other people (family members and unrelated individuals) without the patient's consent.
- Expressing the need for education and counseling to address discrimination by health care professionals with regard to: modes of transmission of the virus, universal precautions, and the rights of PLHIV.

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# Health system and People Living with HIV(PLHIV)

- The health system often fails to take into account the sexual and reproductive health needs of PLHIV.
- In many places existing laws and policies fail to support people living with HIV to achieve their sexual and reproductive needs.
- In some places laws and policies severely restrict the sexual and reproductive rights of PLHIV.
- Health services should provide equitable access to PLHIV, in order to maintain their sexual and reproductive health as well as that of their sexual partners and families.

EngenderHealth, GNP+, ICW, IPPF, UNAIDS, Young Positives. Advancing the sexual and reproductive health and human rights of people living with HIV. Guidance package. Amsterdam: GNP+; 2009. Available from: <http://www.who.int/reproductivehealth/publications/linkages/9789490241018/en/>

# National policies and PLHIV

- National and international laws should prohibit discrimination against PLHIV and protect their sexual and reproductive health.
- National human rights institutions and national court systems, regional human rights commissions and civil society organisations can help enforce legal obligations to protect sexual and reproductive health and address alleged violations of human rights.
- It is essential that PLHIV like any one else have access to justice and should be aware of their rights.

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# Criminalisation of HIV transmission

- In some places, transmitting HIV to another person is a criminal offence but relying on criminal laws to prevent HIV transmission is counterproductive.
- These laws prevent people living with HIV to disclose their status because of fear of negative consequences.
- Such laws fail to encourage everyone to take appropriate measures to protect him /herself from communicable diseases and to practice safe sex.
- A person who does not seek testing and treatment increases the risk of HIV transmission.
- Testing and counselling provide opportunity for information and support towards changing behaviours that increase the risk HIV transmission or to access treatment, care and support services.

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# Criminalisation of HIV transmission

- Criminalising high-risk sexual and drug injecting behaviours among PLHIV can deter the effectiveness of educational activities destined to HIV infection prevention as the PLHIV may not trust the counsellors, if they fear that the information will be transmitted to the authorities.
- Criminalisation of HIV transmission may prevent pregnant woman living with HIV to benefit from antenatal care and antiretroviral treatment.
- Criminal laws should be limited to the exceptional circumstances of intentional transmission of HIV (where someone deliberately sets out to infect another person).



# HIV testing and counselling

- The majority of PLHIV do not know they are HIV-positive and do not seek appropriate treatment and support. Many of them continue to transmit the infection to others.
- There is a crucial need to expand HIV testing treatment and counselling.
- The policies should ensure that testing is voluntary and confidential. Health service providers should not disclose HIV status of the clients without their fully informed consent.

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# HIV testing and counselling

- HIV mandatory testing has been practiced in certain groups in some countries. The targets for mandatory test include migrants, refugees, or travellers; military personnel; pregnant women; prisoners; injecting drug users; men who have sex with men; health-care workers, pilots, sex workers etc.
- UNAIDS and WHO both oppose mandatory HIV testing, which violates human rights with no demonstrable public health benefit. The International Guidelines on HIV/AIDS and Human Rights state that public health, criminal and anti-discrimination legislation should prohibit mandatory HIV testing of targeted groups, including vulnerable populations.

EngenderHealth, GNP+, ICW, IPPF, UNAIDS, Young Positives. Advancing the sexual and reproductive health and human rights of people living with HIV. Guidance package. Amsterdam: GNP+; 2009. Available from: <http://www.who.int/reproductivehealth/publications/linkages/9789490241018/en/>

# Family planning and abortion

- PLHIV have the same need as anyone else for contraception. Policies should ensure that PLHIV have the right to make their informed decision about contraceptive use.
- All family planning methods, including hormonal contraceptives and emergency contraception could be used for HIV-positive women but health providers should decide about the contraceptive methods, based on client's condition and the treatment that she receives.

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# Family planning and abortion

- An HIV positive woman may want to seek an abortion. Many countries have laws that prohibit or restrict access to safe abortion. Some have restrictive laws and some other allow legal abortion to protect a woman's health.
- Under these policies women living with HIV may be eligible for abortion services.
- If HIV infection is the reason for legal abortion, pregnant woman should be informed and counselled, but never pressured to undergo an abortion because she is HIV-positive.

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# Sterilisation

- In some countries women living with HIV have been pressured to undergo sterilisation.
- The policies should prohibit forced sterilisation or forced abortion in women living with HIV.
- Women living with HIV should receive comprehensive information about available family planning methods, the right to choose abortion (where it is legal) and post-abortion care.

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# Marriage, divorce, and child custody

- Marriage and childbearing are internationally recognised human rights.
- These rights should be preserved for people living with HIV.
- PLHIV should not be denied custody of their children following separation or divorce, if they can lead full productive lives and be supportive parents.
- Family laws should protect the parental rights of people living with HIV.

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# Male circumcision

- Studies have shown that under clinical trial conditions, male circumcision can reduce the risk of HIV-negative men becoming infected with HIV by their HIV-positive female partners during vaginal intercourse by up to 60% (Gray RH 2007).
- The development and expansion of male circumcision services should ensure that the procedure are carried out safely, based on informed consent, and without coercion or discrimination.
- Men living with HIV should be permitted to undergo the procedure (unless it is medically contraindicated), but they should be informed that there is no evidence that the procedure will protect their partners from infection.

Gray RH, Kigozi G, Serwadda D, Makumbi F, Watya S, Nalugoda F, Kiwanuka N, Moulton LH, Chaudhary MA, Chen MZ, Sewankambo NK, Wabwire-Mangen F, Bacon MC, Williams CF, Opendi P, Reynolds SJ, Laeyendecker O, Quinn TC, Wawer MJ. Male circumcision for HIV prevention in men in Rakai, Uganda: a randomised trial. *Lancet*. 2007 Feb 24;369(9562):657-66.

EngenderHealth, GNP+, ICW, IPPF, UNAIDS, Young Positives. Advancing the sexual and reproductive health and human rights of people living with HIV. Guidance package. Amsterdam: GNP+; 2009. Available from: <http://www.who.int/reproductivehealth/publications/linkages/9789490241018/en/>

# The greater involvement of people living with HIV

- In-order to ensure that laws and policies support the sexual and reproductive health and human rights of PLHIV, it is essential that people living with HIV play a significant role in decision-making .
- The personal experience of living with HIV provides an invaluable expertise and unique perspective on the real-world impact of abstract policies .
- Governments and international agencies should ensure the participation of people living with HIV in the choice, design, implementation, monitoring and evaluation of sexual and reproductive health related policies.

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# Policies affecting population at higher risk

## 1. Young people

- Some 5.4 million people worldwide between the ages of 15 and 24 are living with HIV.
- Health system should promote youth-friendly clinics and services as much as possible.
- Schools and other public institutions should also provide protective environments and policies for young people living with HIV.
- Comprehensive and age specific sexual and reproductive health education should be provided for all young people, including those living with HIV.

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# Policies affecting population at higher risk

## 1. Young people

- Confidentiality is a critical issue for young people living with HIV. They should be reassured that their HIV status will remain private. They should receive support to decide to disclose their status to families and partners.
- In some places in-order to access sexual and reproductive health services, young persons have to obtain as legal requirement authorisation from their parents or guardian. Such a law restrict young person access to services.
- Existing programmes should also consider the needs of young people who have been HIV-positive since birth or infected at a later stage. Guidelines should be revised to address the situation of this group of young people.

# Policies affecting population at higher risk

## 2. Sex workers

- HIV prevalence is usually higher among sex workers than in the general population.
- Most of the programmes that address HIV and sex work often focus on reducing risk by ending sex work or preventing people living with HIV from selling sex.
- Such laws may discourage sex workers from getting tested, or from seeking treatment.
- Policies and laws should empower sex workers, including those who are HIV-positive, to protect and care for their own health as well as that of their clients.
- Laws should also provide sex workers with confidential and voluntary HIV testing and treatment as well as HIV and other STI prevention and management.
- Where sex work is illegal, policies should to protect those who have been forced into sex work, instead of prosecuting them. They should receive appropriate counselling, care and support.

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# Policies affecting population at higher risk

## 3. Drug users

- Worldwide, an estimated 13 million people inject drugs, while millions more use non-injected drugs. Needle sharing among injecting drug users accounts for some 5-10% of HIV infections globally.
- Using drugs is highly stigmatised at general population and health care workers levels.
- Drug users may also be unable or unwilling to seek services for fear of accusation or incarceration.

World Health Organization. Injecting drug use. Available from:  
<http://www.who.int/hiv/topics/idu/about/en/index.html>

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# Policies affecting population at higher risk

## 3. Drug users

### Harm Reduction Programmes:

- Harm reduction programmes such as sterile needle and syringe exchange programmes have proven effective and are considered an international ‘best practice’ in HIV prevention (Beyrer C 2010).
- Some governments have adopted these programmes that allow anonymous needle exchanges and supervised injecting sites. When expanded HIV prevention services are made available at such sites, drug users can better access sexual and reproductive health services without fear of arrest.
- The benefits of harm reduction programmes increase considerably when they go beyond syringe exchange alone to include HIV education, counselling, and referral to treatment options.

Beyrer C, Malinowska-Sempruch K, Kamarulzaman A, Kazatchkine M, Sidibe M, Strathdee SA. Time to act: a call for comprehensive responses to HIV in people who use drugs. *Lancet*. 2010 Aug 14;376(9740):551–63.

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# Policies affecting population at higher risk

## 4. Men who have sex with men

- Sex between men occurs in every culture and society, though it is not always publicly acknowledged.
- In many countries sex between men is socially disapproved and in some countries it is legally prohibited.
- Health workers and employers may discriminate against men who have sex with men, and police may harass or arrest them. As result me who have sex with men may not seek testing and medical care.

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# Policies affecting population at higher risk

## 4. Men who have sex with men

- All people are entitled to the full protection of their human rights, regardless of their sexual orientation or gender identity.
- In March 2007, international human rights experts released the Yogyakarta Principles which specifically apply existing international human rights law to issues of sexual orientation and gender identity.

EngenderHealth, GNP+, ICW, IPPF, UNAIDS, Young Positives. Advancing the sexual and reproductive health and human rights of people living with HIV. Guidance package. Amsterdam: GNP+; 2009. Available from: <http://www.who.int/reproductivehealth/publications/linkages/9789490241018/en/>

International Commission of Jurists. Yogyakarta Principles - Principles on the application of international human rights law in relation to sexual orientation and gender identity. 2007 Mar. Available from: <http://www.refworld.org/docid/48244e602.html>

# Policies affecting population at higher risk

## 5. Transgender people

- Transgender people may face difficulty getting HIV treatment, care, and support for fear of discrimination based on their transgender identity.
- They may be verbally harassed and mistreated, excluded from health care programmes, or health workers do not know how to provide appropriate care to them.
- The stigmatisation of transgender people increases their risk of HIV infection and diminishes their ability to obtain HIV-related care and treatment.
- The legal status of transgender people varies from country to country. To improve access to services, governments should legally recognise transgender people rights.

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# Policies affecting population at higher risk

## 6. Prisoners

- HIV/AIDS is a serious health threat for prison populations in many countries. The HIV infection prevalence among prison population is higher than in population outside prison.
- The prisoners should receive the same access to health care that is available outside of prison including HIV treatment and care.

# Policies affecting population at higher risk

## 7. Migrants, refugees and internally displaced people

- Providing these groups of population with better HIV prevention, care, and treatment, as well as sexual and reproductive health care more generally, would have broad public health benefits for the receiving communities as well as among migrants themselves.
- In some countries, governments mandate HIV testing of refugees and internally displaced persons due to a mistaken belief that this will help prevent HIV transmission.
- As among the general population, HIV testing among these groups of population should be voluntary and confidential.
- These population groups should also receive appropriate counselling, treatment and care.

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# Conclusion

- Human rights and public health require that health care and legal systems support the sexual and reproductive health and rights of people living with HIV.
- People living with HIV have the right to healthy, satisfying sex lives.
- Laws should protect this right and health system should provide appropriate services to ensure their sexual and reproductive health.

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# Recommended Readings

1. EngenderHealth, GNP+, ICW, IPPF, UNAIDS, Young Positives. Advancing the sexual and reproductive health and human rights of people living with HIV. Guidance package. Amsterdam: GNP+; 2009. Available from:

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