

The link between access to justice and comprehensive health for women

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HIV

Introduction

The human rights principle of 'Equality and Non-discrimination' entails a number of concepts including equality before the law and access to justice .

The right to health is also closely linked to access to other rights and the ability to check inequalities and discriminations that create vulnerabilities that enhance risks that undermine comprehensive health.

ICESCR

The definition of the right to Health in the International Covenant on Economic Social and Cultural Rights (Article 12) attests to this link.

(a) the reduction of the . still birth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

CESCR General Comment No. 14

ICESCR committee general comment's (General comment 14 of 2000) best describe this definition:

The right to health contains both freedoms and entitlements. The right to control one's health and body, including sexual and reproductive freedom, and the right to be free from interference (right to be free from torture, non-consensual medical treatment and experimentation etc. The entitlements include the right to a system of health protection, which provides equality of opportunity for people to enjoy the highest attainable level of health.

CESCR General Comment No. 14

The Committee's states that the right right extends not only to **timely and appropriate health care** but also to the underlying determinants of health, such as **access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health.**

Participation in all health related decision-making at the community, national and international levels is also included in the committees interpretation of this right.

CEDAW and Maputo Protocols

CEDAW (Articles 12 and 15) emphasize equality before the law and in accessing health care.

Maputo protocol most comprehensive in its description of health. Article 5 calls for elimination of all harmful practices against women including inter alia, **the prohibition, through legislative measures and the provision of necessary support to victims of harmful practices through basic services such as health services, legal and judicial support, emotional and psychological counselling as well as vocational training to make them self-supporting and protection of women who are at risk of being subjected to harmful practices or all other forms of violence, abuse and intolerance.**

Inter-relation and Interdependence of rights

The concept that human rights are inter-related and interdependent is affirmed by the objective of this meeting which is to raise awareness that women health is not only a public health issue but one that requires other complementary social, economic and cultural interventions.

Indeed HIV is getting out of hand because of failure to deal with the acknowledged legal, social, economic and cultural causes to vulnerabilities relating to the epidemic.

MDGs

MDG 5 is about improving the health of women but it cannot be achieved without the simultaneous investment in the achievement of the other MDGs.

To achieve true enjoyment of human rights and a high score on its core principle on equality and non-discrimination, there is a need for States to have effective laws, policies and systems that facilitate implementation of these laws.

Access to Justice

The reason for the feminization of HIV in Africa has a direct link to the level of vulnerabilities faced by these women which in turn are directly linked to the political, social, economic and cultural injustices that they suffer.

SGBV

This presentation suggests that those planning and working on the women's health need to admit the need to working in complementarity with other disciplines as an affective strategy in the improvement of women's health in Africa and meeting the expectations under the human rights instruments on the right to health.

- ✓ The meeting will hopefully recommend the meaningful investment in approaches that address injustices that contribute undermining of women's health in Africa.

SGBV

The case of Sexual and Gender based Violence best demonstrates the link between the lack of access to justice and bad health for women.

The different forms of SGBV that have been visualized in the wake of HIV.

- 1) Physical Abuse-Psychological abuse/emotional abuse- compromised ability to benefit from the right to information and the right to choose, inability to make correct choices **Vulnerability to HIV , other bad health.**

SGBV

2) Sexual abuse (defilement, rape, marital rape, sex slavery etc)- **Vulnerability to infection with STIs and HIV, psychological trauma.**

3) Abuse of the right to property- happening a lot to widows in the wake of HIV- poverty- risk seeking of refuge in urban slums with poor living conditions (limited access to clean water, environment and sanitation, food, shelter, education for children)- survival measures- risky behavior (sex work, child sex work)- **vulnerability to infections including to HIV- lack of access to health care and health programmes,**

PMTCT

The issues of PMTCT should not be designed around a pregnant woman as they currently are:

They should also be designed around scientific knowledge and social and cultural events relating to reproduction.

Sex- marriage- childbirth/ delivery - breastfeeding.

Vulnerable Populations

Are you addressing the legal, social, economic and cultural perspectives affecting the different vulnerable populations?

- female and male sex workers
- widows
- adolescent girls and boys
- HIV positive adolescents
- young girls and boys
- HIV positive infants and children
- rural and urban populations
- emergency populations

Working with communities

Access to healthcare, legal and justice services must also be functional and work with our environments?

- Physical proximity
- Cost
- Technicalities
- Functionality
- Responsive to the social and cultural responsive
- How much are we investing in effectively working with and in communities.
 - ✓ Partnerships with community structures (CBOs, Women's, youth other groups, cultural structures etc)

Conclusion

If we protect women against the above violations we remove the associated vulnerabilities and the need for some of the public health interventions.

In turn we save resources and are able to prioritize our health care needs better.

Empowerment of women must be practical and real. Right to comprehensive and correct information (not selective information). The right to choose together with real choices to make. The right to protection with real access to justice.

Conclusion

Lets invest in a rights approach to health programming where all perspectives will be seen as important to the effective addressing the health needs of women