

Programming Idea 13: Promoting laws to address violence against women and gender equality

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What it involves: Law reform needs careful research and analysis of how various laws, provisions within the laws, and religious and customary laws and practices might impact women's vulnerability to violence and HIV. Promoting law reform involves advocacy activities, including strategic communication, building alliances and partnerships, budget tracking and analysis, and mobilizing civil society. It requires investing in and ensuring the active involvement of civil society, such as women's organizations and networks; sex work organizations; and women living with HIV. It also requires active engagement with and strengthening capacities of professionals from the legal, health and education sectors. It can include litigation activities, participating in drafting and amendments of laws, and dialogue with key law- and policy-makers. Equally important is advocacy aimed at religious and community leaders to encourage them towards prohibiting religious and customary laws and practices that increase violence and discrimination against women.

Summary of evidence: Nearly 125 countries have some legislation criminalizing at least some forms of violence against women (e.g. domestic partner violence, sexual violence, child sexual abuse, sexual harassment). Despite this progress, there continues to be many weaknesses in specific provisions, definitions of what constitutes violence against women, sanctions and penalties, and requirements for evidence for establishing a crime in many countries. For example, only 52 countries recognize rape within marriage as a crime, making it difficult for women to protect themselves from sexual violence within marriage and negotiate safe sex (151). Legal reforms to protect women from violence have

shown some evidence in increasing the reporting of violence and improving the quality of police and judicial response. However, no studies have directly examined the impact of law reforms on overall rates of partner violence, arrests, prosecutions, and convictions, particularly in low- and middle-income countries (28).

There is insufficient evidence on whether efforts at law reform alone have had an effect on preventing or reducing violence against women and their vulnerability to HIV. Part of the challenge is that pathways by which laws influence individual behaviours and practices are complex and impact is not experienced in the short term. However, case studies on law reforms highlight that there is an inherent value in the reform process itself as campaigns to pass or amend legislation serve as important platforms for public discussion and can strengthen partnerships among civil society, government officials, parliamentarians, and other stakeholders (e.g. judiciary, police) (28). Modelling analysis on impact of various HIV interventions shows that changes to the legal and policy environment, including those aimed at reducing violence against women and stigma and discrimination against people living with HIV, can substantially reduce the annual number of new HIV infections (152). See Annex 1.11 for examples of law reform efforts.

Conclusion: While laws alone cannot reduce or prevent violence against women, most experts who work on violence against women agree that laws addressing violence against women and gender equality are instrumental in bringing these issues out into the open (i.e. changing the culture of silence and stigma) and dispelling the idea that violence is a private matter.

Annex 1.11. Good practice examples, programming idea 13: Promoting laws to address violence against women and gender equality

1. *Advocacy and activism by women's organizations* in Latin and Central American countries have been instrumental in bringing about reforms on legislation related to violence against women in the past 15 years (158). Organizations such as the Latin American Committee for the Defense of Women's Rights (CLADEM), as well as women's commissions in national legislative bodies, have engaged in legal analysis, lobbying and raising awareness of the weaknesses of existing legislation, as well as the need for reforms. These organizations have worked with women parliamentarians, political leaders, cabinet advisers and ministers of health to exchange experiences, define priority issues for actions and press for changes in laws. Some important achievements of the legal reforms have been:

- Establishing protective measures (Belize, Costa Rica, El Salvador, Guatemala and Nicaragua) including for psychological damage such as depression or post-traumatic stress disorder resulting from abuse as a criminal offense (Nicaragua).
- Establishing family ties as an aggravating circumstance in the case of injury, warranting the use of more severe penalties (Nicaragua).
- Changing the status of sex crimes and spousal violence to public offenses, and broadening the definitions and the sanctions for rape and incest (Belize, Costa Rica, Honduras, Nicaragua, and Panama).

2. *Decriminalizing sex work and implications for violence against sex workers*: In New Zealand, the 2003 *Prostitution reform act* decriminalized sex work and enabled sex workers to operate safely in public. The New Zealand Prostitutes' Collective, brothel operators and the labour inspectorate collaborated to develop workplace health and safety standards for sex work. Sex workers can bring employment discrimination complaints to the Human Rights Commission. The Mediation Service on Employment adjudicates disputes. The police support sex workers in reporting violence (191).

3. *Working with community elders to change customary laws and practices*: The Kenya Legal and Ethical Issues Network on HIV and AIDS is educating community elders in alternative dispute resolution to property and inheritance disputes between widows and their in-laws. They are also training widows and local law enforcement officials to create awareness of human rights so that traditional legal systems can be adapted to facilitate promotion and protection of women's rights (151).

4. *Resources for law reform on violence against women*:

- *Handbook for drafting legislation on violence against women* (2012) (192)
- *Global commission on HIV and the law: Risks, rights and health* (2012) (151)
- *Respect, protect and fulfill: Legislating for women's rights in the context of HIV and AIDS – Volume One: Sexual and Domestic Violence* (2009) (193)