

**Fleishman, J & Csete, J. 2002. *Suffereing in Silence. The Links between Human Rights Abuses and HIV Transmission in Zambia.***

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The catastrophe of HIV/AIDS in Africa, which has already claimed over 18 million lives on that continent, has hit girls and women harder than boys and men. In many countries of eastern and southern Africa, HIV prevalence among girls under age eighteen is four to seven times higher than among boys the same age, an unusual disparity that means a lower average age of death from AIDS, as well as more deaths overall, among women than men.

Abuses of the human rights of girls, especially sexual violence and other sexual abuse, contribute directly to this disparity in infection and mortality. In Zambia, as in other countries in the region, tens of thousands of girls—many orphaned by AIDS or otherwise without parental care—suffer in silence as the government fails to provide basic protections from sexual assault that would lessen their vulnerability to HIV/AIDS.

Through girls' own testimonies, this report shows sexual assault of girls in Zambia in the era of HIV/AIDS to be widespread and complex. It documents several categories of abuse that heighten girls' risk of HIV infection, including (1) sexual assault of girls by family members, particularly the shocking and all too common practice of abuse of orphan girls by men who are their guardians, or by others who are charged to assist or look after them, including teachers, abuse of girls, again often orphans, who are heads of household or otherwise desperately poor and have few options other than trading sex for their and their siblings' survival, and abuse of girls who live on the street, of whom many are there because they are without parental care. All of these situations of abuse must be addressed as part of combating the HIV/AIDS epidemic in Zambia.

In addition, sexual violence and coercion of girls are fuelled by men's targeting for sex younger and younger girls who are assumed to be HIV-negative or seeking them out based on the myth that sex with virgins will cure AIDS: the phenomenon of "sugar daddies," unscrupulous older men who entice girls into sex with offers of gifts or money, has been a particular focus of media and other accounts of the impact of HIV/AIDS on girls in Zambia and elsewhere in Africa. The subordinate social and legal status of women and girls makes it difficult for them to negotiate safer sex and to take steps to protect themselves from HIV infection and other sexually transmitted diseases (STDs). The incidents of sexual assault documented in this report were exacerbated by a number of factors, including discrimination girls in Zambia face in access to education. Many of the girls interviewed by Human Rights Watch were unable to continue in school either because their income or labour or capacity for caring for a sick person was needed in an AIDS-affected family while most boys in the family stayed in school, or due to other exclusionary barriers faced more by girls than by boys. The AIDS epidemic itself, which continues to claim the lives of parents and leave orphans at a rate unprecedented in history, perpetuates situations of particular vulnerability for girls as orphans and household heads.

As this report notes, one of the key problems in the state response is the failure of the criminal justice system to deal appropriately with complaints of sexual abuse. There are many barriers to effective reporting and prosecution of crimes of sexual assault, including additional elements of coercion. For orphaned girls being abused by men who are meant to be their guardians or

otherwise to be helping to look after them, reporting the abuse may mean risking abandonment or violent punishment. Families will often go to great lengths to conceal this abuse. In other cases, victimized girls remain silent in the face of legal and social services systems that fail to act to protect girls' rights. To report a crime of sexual violence or abuse, a girl would face a police department that is rarely child- or gender-sensitive, health service providers that may scold her for being promiscuous, a court system lacking any facilities for youths, and a societal structure that teaches girls to be submissive to men. Even if she did report abuse, chances that officials would act against the abuser are minimal. As a result, the perpetrators remain free to abuse, and to infect, again.

The case of sexual abuse of girls, especially orphans, by members of their own family is particularly shocking, not least because adult female relatives often stand by, afraid or intimidated, but nevertheless silent in the face of this abuse. As the ranks of orphans continue to grow sharply, this silence and effective complicity within families bodes ill for Zambian society's ability to confront an epidemic that has favoured women and girls among its victims.

The complexity of the risk of HIV transmission among girls is painfully apparent and poses a clear challenge to the global response to the pandemic. However, one relatively simple place to start is to improve the criminal justice system's response to complaints of sexual violence or other abuse. Although criminal prosecutions will never reach all those guilty of such abuse they can ensure that some perpetrators are imprisoned and are unable to reoffend, and they also send an important signal to society that such behaviour is unacceptable, helping to change the attitudes that ensure social acceptance of, for example, the sexual exploitation of underage girls. The remedies required to improve the state's efforts to protect millions of girls in Africa represent a very small part of the cost and effort required to mount a comprehensive national program on HIV/AIDS. They do not require a massive overhaul of the justice system. In Zambia, as in many African countries, most of the laws that would protect girls from sexual assault are on the books, but they need to be enforced. The police need special training in gender violence and child abuse, as do medical professionals and educators. Abuses against girls must be investigated and prosecuted and appropriate punishments meted out. Discriminatory practices against girls and women, including under the customary law that is still widely applied in Zambia (even where statutory law or the constitution outlaws such practices), must be addressed. Communities need to be empowered to recognize and act upon signs of abuse. Governments, schools and communities should enhance programs to keep girls in school and in a safe environment. Traditional counsellors and healers should be encouraged to incorporate AIDS education into their work, and cultural practices that put girls at risk of HIV infection should be stopped.

This is an important moment for Zambia and for the international struggle against HIV/AIDS. Recent studies have indicated a reduction in HIV prevalence among young adults in Zambia, reportedly due to sexual behaviour change, including increased condom use. However, progress in reducing new cases will be stalled if the abuses that put girls at risk of infection are not addressed. In addition, significant resources are being made available for HIV/AIDS programs in Zambia through the Global AIDS Fund as well as through bilateral donors and the World Bank. International and national policymakers should muster the political will and take the steps necessary to break this cycle of abuse and transmission and must make protection of girls' human rights a central part of their anti-HIV/AIDS strategies. Allowing girls to suffer in silence not only

perpetuates serious human rights violations; it ensures that the HIV/AIDS epidemic will continue on its destructive course.

### **What were the recommendations of the report?**

#### **To the Government of Zambia**

- Design and implement programs that would afford girls some basic protections from sexual violence and exploitation. Such programs should include greatly increased capacity for reporting and investigating abuses and providing counselling and treatment for victims. These should include training of police, social welfare workers and legal officers to improve their capacity to work with girls and encourage them to report sexual violence and other human rights abuses, establishing clear procedures for reporting and follow up, and strengthening coordination among all service providers.

The government should consider creating special centres where abuses against girls can be reported, staffed by trained police, medical personnel, and counsellors, and should establish monitoring mechanisms to ensure that the procedures are effective and accessible. All of these improvements should be based on wide consultations with governmental and nongovernmental actors. Disseminate information about these initiatives as part of the national strategy to combat HIV/AIDS.

- Take all necessary steps to ensure that police and other law enforcement agencies fully investigate and prosecute cases of sexual violence and coercion of girls. Ensure that prosecutors treat cases of sexual violence seriously and seek appropriate penalties and punishment.
  - Train all police officers in the recognition and combat of gender-based violence and child abuse, including developing relevant forensic skills. In particular, target the Victim Support Unit for sustained and in-depth training in investigating sexual violence and child abuse, as well as in national and international law prohibiting sexual violence.
  - Strengthen support services for victims of rape and sexual assault, such as counselling, testing, health and medical services, legal and financial services, and providing the indicated short course of antiretroviral drugs (post-exposure prophylaxis) for rape victims. Promote the expansion of youth-friendly health services that address the physical and psychological health needs of girls, including counselling related to sexually transmitted diseases.
  - Make spousal rape a crime along with other categories of sexual violence.
  - Provide training to develop the capacity of medical, judicial, and law enforcement personnel to assist victims of child abuse and sexual violence. Train teachers, social workers, and counsellors to identify vulnerable or abused children and to take steps to provide protection.
  - Implement and enforce laws and regulations in conformity with the constitutional provision against discrimination and with international standards, with specific reference to discrimination against women and girls in education, inheritance rights and custody of children. Promote gender equality under law and take steps to remove discriminatory provisions of customary law. Launch awareness campaigns to inform and educate all Zambians about these rights.
  - Enact anti-discrimination laws to reduce human rights violations against children affected by HIV/AIDS, including abuses of their property rights.
- Ensure access of all children to HIV/AIDS-related information and education. Investigate and prosecute cases of police violence against girls who are street children or sex workers.
- Take steps to protect sex workers from violence, including training law enforcement and judicial personnel to treat their cases without discrimination or bias, and to provide them with HIV/AIDS information, counselling and treatment.

- Review and reform the legal system in light of the AIDS crisis to ensure legal protection for people infected with HIV/AIDS, as well as those orphaned or widowed due to HIV/AIDS. Where necessary, enact new laws to deal with specific problems raised by HIV/AIDS.
- Modify education policy to eliminate the practice of banning pregnant girls from school for any amount of time. Design and implement programs to ensure that pregnant students stay in school and return if desired after the birth of a child.
- Promote awareness of the dangers of cultural practices that put girls at risk of HIV infection. Engage traditional leaders, healers, birth attendants, and other guardians of tradition at the community level to recognize and address traditional practices that further girls' vulnerability to HIV infection.
- Enact national laws to ensure compliance with human rights instruments to which Zambia is a party, particularly the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Put in place national institutions to promote and protect these rights and to monitor their implementation.

#### **To the donor community**

- Assist in the development of governmental and nongovernmental programs designed to address the link between sexual violence and coercion and HIV/AIDS in Zambia. Target support at programs to enhance protection of girls' rights and to develop mechanisms to monitor these abuses. Provide financial and technical assistance to civil society organizations that seek to address abuses against girls, including legal services, counselling and testing, and medical assistance.
- Contribute to training law enforcement and judicial personnel on the links between sexual violence and HIV/AIDS, and on international legal standards. Assist law enforcement agencies in acquiring necessary forensic skills and equipment for investigating cases of sexual violence.
- Engage publicly and privately with the Zambian government to highlight the importance of including violence against girls and women in broader AIDS prevention programs. Ensure that the specific needs of girls at risk of HIV infection are addressed.

#### **To the United Nations**

- Engage in high-profile advocacy about the link between human rights abuses and HIV transmission to girls in Zambia, and reflect this link in HIV/AIDS programs support by the U.N. in the country. In particular, ensure that UNICEF programs reflect the special protection needs of girls with respect to the AIDS epidemic.

#### **What methods were used?**

Human Rights Watch conducted research for this report in Zambia in May and June 2002. Two Human Rights Watch researchers visited about thirty-six nongovernmental organizations (NGOs), orphanages or other centres for children and, with their help, interviewed approximately 100 girls under eighteen years of age. Most interviews were conducted in Lusaka, the capital city; Kitwe and Ndola in Copperbelt Province; and Kafue, a town forty-four kilometres outside Lusaka. Interviews were generally open-ended and covered many topics. In this report, the names of girls are changed for their protection. Human Rights Watch also met with a number of government officials, including representatives of the National AIDS Council, the police force, the Child Affairs Department of the Ministry of Sport, Youth and Child Development, and the Ministry of Community Development, Department of Social Welfare, as well as with United Nations agency and bilateral donor agency representatives.

Most interviews took place in NGO, government or donor agency offices or in orphanages or other service centres. Interviews with girls were conducted by one or two Human Rights Watch researchers in settings that were as private as possible. Some interviews were in English, but where that was not possible, NGO staff provided translation as necessary. In addition, Human Rights Watch collected information from a wide range of sources and conducted a number of interviews by telephone.

Sexual abuse of girls leading to heightened risk of HIV transmission is a widespread phenomenon, and research similar to that reported here could have been conducted in any one of a number of countries. Human Rights Watch chose to do this work in Zambia for a number of reasons, including (1) that the national AIDS policy and accompanying legislation are only now being finalized in Zambia, (2) that the recent influx of considerable donor resources to combat the epidemic presents an opportunity for strengthening protections for girls, and (3) that a range of organizations and institutions in Zambia are active in assisting children, including orphans and street children, in promoting the rights of women and girls, and in providing services and education related to HIV/AIDS.