

Criminalisation of Deliberate Transmission of HIV: A Subtle Perpetuation of Gender Inequality in Zimbabwe?

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Abstract

The sudden wake of the HIV epidemic in the 1980s, when most people had a poor understanding of the epidemic, led to an increase of HIV criminalisation laws. Yet, decades later, with the epidemic well understood, the laws remain in force. 1 Zimbabwe, which has the sixth highest HIV prevalence in sub-Saharan Africa at 13.5 per cent, with 1.3 million people living with HIV in 2016,² is no exception. However, suffice to say, in 2016 new infections dropped to 40,000 from 79,000 in 2010, with behaviour change communication, high treatment coverage and prevention of mother-to-child transmission services thought to be responsible for this decline. 3 Be that as it may, an estimated 720,000 women are living with HIV in Zimbabwe. 4 Gender inequality – which is a common feature within relationships and marriages, courtesy of the patriarchal nature of the African society (and Zimbabwe is no exception) – is the main cause for HIV infections. 5 For instance, according to the 2015 Zimbabwe Demographic Health Survey Report, only 69 per cent of men believe a woman has the right to refuse sexual intercourse if she knows he has sex with other women. 6 In addition, although in the minority, 23 per cent of females believe women do not have the right to ask their partner to use a condom if he has a sexually transmitted infection (STI). 7 This shows how women are still regarded as perpetual minors whose role is to be subordinated to their male counterparts. Zimbabwe, in light of the high HIV prevalence rate, also introduced HIV criminalisation laws that prohibit the deliberate transmission of HIV. 8 The introduction of HIV specific laws in Zimbabwe and the rest of the world was meant 9 to deter and thus prevent the spread of HIV by aggravating charges against HIV-positive accused persons who deliberately transmit to third parties. As already mentioned above, the criminalisation laws were put in place when HIV was barely understood and the laws are still in place. Decades later, the laws still apply without any amendments to suit the technological advancements that have been made in dealing with HIV. Existing research has focused mainly on the impact of criminalisation on HIV prevention and behaviour change among people living with HIV or those who are at a high risk of contracting constitutionality of criminalisation of deliberate transmission of HIV, 12 public health implications of criminalisation, among others. However, no research has been conducted on whether or not

criminalisation perpetuates gender inequality in Zimbabwe. This paper therefore seeks to discuss the impact such criminalisation laws have on gender equality in Zimbabwe. Methodologically, the study relied on literature review and opinions of parliamentarians, magistrates and health officials. This study contributes to the debate on the impact of criminalising the deliberate transmission of HIV in Zimbabwe.

Key Words: Criminalisation, Deliberate Transmission, HIV, Gender Inequality, Zimbabwe.