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human rights

**Human Rights and Sexuality in the Context of Development**

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[1] The Sexual Rights Initiative is a coalition including: Action Canada for Population and Development (Canada); Coalition of African Lesbians (Africa), Creating Resources for Empowerment and Action (India), AKAHATA (Latin America), Egyptian Initiative for Personal Rights (Egypt), Federation for Women and Family Planning (Poland), and others. For more information, visit: **(**www.sexualrightsinitiative.com**).**

## *Background*

This thematic paper on sexuality and human rights in the context of development has been drafted in preparation for the ICPD Beyond 2014 International Conference on Human Rights, taking place July 7-10 in The Hague, Netherlands. This paper complements three other technical papers, as well as the main conference background paper.

The purpose of this paper is to provide a deeper analysis of the connections and intersections between sexuality and human rights in development. The paper provides an analysis of the relationships between sexuality and sexual rights on the one hand and development on the other, outlines the main legal and policy developments in the area of sexuality and human rights since the Cairo Conference in 1994, identifies emerging issues within the field, and ends with a look ahead towards strengthening the integration of sexuality and sexual rights in the ICPD Beyond 2014 and Post-2015 development agendas. Finally, the paper proposes a set of guiding questions to inform a discussion on emerging issues related to sexuality and sexual rights during the International Conference on Human Rights, and beyond.

## *Introduction*

Shaped by larger social and structural factors, sexuality not only impacts relationships, and the power relations within them, but also access to basic services, women's empowerment, young people's ability to make the best possible decisions regarding their futures, health, well-being and meaningful participation, and many other aspects central to development. This paper examines sexuality within the relevant international agreements which have come to make up the global development agenda: the Programme of Action of the International Conference on Population and Development (ICPD PoA) and the Beijing Platform for Action (PfA). Sexuality and sexual rights are then discussed within the context of the international human rights framework, examining how they have been addressed by human rights treaty bodies. Guided by the human rights framework and monitoring system, the paper then examines how issues related to sexuality have been addressed within development issues including: health, education, poverty and violence. Each analysis focuses on central aspects of sexuality and sexual rights, which include free and informed consent, bodily autonomy, choice, well-being, non-discrimination and respect, pleasure, among others. These are key because when they are integrated into development initiatives, they can have transformational effects on all aspects of development.

Sexuality encapsulates and intersects with essential aspects of individuals' lived experiences, including their ability to exercise basic human rights such as the right to health, education, decent employment, a life free from all forms of discrimination, privacy, equality, as well as many other rights. Sexual rights, as a concept that encompasses how human rights apply to sexuality, can therefore be seen as an integral component of human rights. When attempting to integrate sexuality, and the respect, protection and fulfilment of individuals' sexual rights, development initiatives have fallen short. Rather than adopting a comprehensive and integrated approach to individuals' sexuality and sexual rights, development initiatives have narrowly focused on disease control, often responding only to immediate, public health-driven needs, rather than longer-term aspirations related to well-being. This paper emphasizes the importance of adopting a holistic, rights-based approach to individuals' lived experiences, with one's sexuality being at the core of human experience. Placing sexuality, and sexual rights, at the centre of development initiatives not only facilitates the realization of other basic human rights but also individuals' access to programmes and services that truly respond to needs and realities. This paper seeks to identify ways in which development initiatives can meaningfully address issues related to sexuality and ensure respect, protection and fulfilment of beneficiaries' sexual rights.

## *Key Concepts*

**Sexuality**

A body of knowledge has developed on the meaning, role and place of sexuality within both the daily realities of individuals, groups and communities all over the world and the integration of sexuality within human rights dialogue, including the role of states in respecting, protecting and fulfilling sexual rights as human rights. The World Health Organization (WHO) has explored the concept of sexuality, through the lenses of sexual health and sexual rights. The WHO's definition of sexual health entails a comprehensive and integrated approach to sexuality, relationships, and pleasurable sexual experiences. It emphasizes the necessity of respecting, protecting and fulfilling sexual rights, as a means of achieving well-being. [2] The WHO defines sexuality as follows:

> Sexuality is a central aspect of being human throughout life and encompasses sex, gender identities and roles, sexual orientation, eroticism, pleasure, intimacy and reproduction. Sexuality is experienced and expressed in thoughts, fantasies, desires, beliefs, attitudes, values, behaviours, practices, roles and relationships. While sexuality can include all of these dimensions, not all of them are always experienced or expressed. Sexuality is influenced by the interaction of biological, psychological, social, economic, political, cultural, ethical, legal, historical, religious and spiritual factors.[3]

This definition positions sexuality and sexual rights as fundamental to the existence of individuals within and beyond intimate relationships. Sexuality and sexual rights play a role in individuals' rights to seek to experience their full sexual potential and pleasure[4] and the creation of an enabling environment in which to do so. Sexuality thus entails both entitlements and freedoms. Sexual rights include entitlements, which extend beyond the right to health, to include the right to choose whether, with whom and how one engages in sexual relations. Similarly, sexual rights include freedoms, including the right to live free from discrimination, violence and coercion. When both forms of rights are realized, they allow girls to avoid early and forced marriage and therefore stay in school, for example. They allow women to make the best possible choices regarding their desires and future through the freedom to decide if and when they wish to have children. They involve the ability of individuals of diverse sexual orientations and gender identities to secure decent employment, without fear of stigma, discrimination or violence.

Exercising one's sexual rights entails the freedom to express one's sexuality, free from socially constructed norms and stereotypes of femininity and masculinity. The fulfilment of both forms of rights can have a significant impact on development, as more individuals are able to obtain higher levels of education, gain meaningful employment, contribute to economic growth and exercise political, economic and social agency. In practice, this necessitates that development initiatives consider the intersecting nature of sexuality, and how this impacts upon individuals' access to education and employment, their standard of health, and other aspects of development.

Beyond their impact on development, sexual rights are human rights and therefore all individuals are entitled to them as rights holders. For that reason, all individuals are entitled to the essential components of sexuality, including bodily autonomy and the ability to make free and informed choices. According to the WHO's working definition, sexual rights entail all human rights related to the realization of sexual health, which include:

- the rights to equality and non-discrimination
- the right to be free from torture or to cruel, inhumane or degrading treatment or punishment
- the right to privacy
- the rights to the highest attainable standard of health (including sexual health) and social security
- the right to marry and to found a family and enter into marriage with the free and full consent of the intending spouses, and to equality in and at the dissolution of marriage
- the right to decide the number and spacing of one's children
- the rights to information and education
- the rights to freedom of opinion and expression, and
- the right to an effective remedy for violations of fundamental rights.[5]

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[2] World Health Organization. "Sexual and Reproductive Health: Defining Sexual Health." http://www.who.int/reproductivehealth/topics/sexual_health/sh_definitions/en/index.html. Accessed 4 June 2013.
[3] *Ibid.*
[4] International Planned Parenthood Federation. 2008. *Sexual rights: an IPPF declaration*. http://www.ippf.org/sites/default/files/sexualrightsippfdeclaration_1.pdf. Accessed 4 June 2013, Article 5
[5] World Health Organization. "Sexual and Reproductive Health: Defining Sexual Health."

Similarly, the International Planned Parenthood Federation's (IPPF) Sexual Rights Declaration, outlines ten principles understood as entitlements related to sexuality "that emanate from the rights to freedom, equality, privacy, autonomy, integrity and dignity of all people"[6]:

- Right to equality, equal protection of the law and freedom from all forms of discrimination based on sex, sexuality or gender
- Right to participation for all persons, regardless of sex, sexuality or gender
- Rights to life, liberty, security of the person and bodily integrity
- Right to privacy
- Right to personal autonomy and recognition before the law
- Right to freedom of thought, opinion and expression; right to association
- Right to health and to the benefits of scientific progress
- Right to education and information
- Right to choose whether or not to marry and to found and plan a family, and to decide whether or not, how and when, to have children
- Right to accountability and redress

IPPF's recognition of sexual rights as human rights speaks to their relevance within the context of development. In 2011 alone, as the largest non-governmental sexual and reproductive health services and information provider in the world, IPPF delivered 90 million sexual and reproductive health services to 33 million people worldwide.[7] IPPF recognizes the importance of realizing sexual rights, in and of themselves, and their role in creating a better and enabling environment for sexual and reproductive health services and information as well as in achieving improved health outcomes for women and marginalized populations.

While IPPF has committed itself to advancing sexual rights as key to positive and sustainable development, many other development actors have failed to address issues related to sexuality in the planning, implementation and evaluation of initiatives, resulting in further deepening of inequalities including poverty, or reinforcing the lack of capacity among certain groups to claim and exercise their sexual rights. Sexual rights are also often violated due to unequal power relations, which become much more complex in the context of sexuality. The ability to make autonomous decisions regarding one's health and well-being is often constricted due to structural factors whereby laws, policies and social norms prevent some individuals from accessing certain services and information. Attempts made by those in positions of power, including governments and those from dominant social, cultural and economic positions, to control individuals' bodies can limit their ability to obtain the highest standard of health, including their sexual and reproductive health. As one development agency notes: "From a rights perspective, sexuality matters because it is about power and without basic rights over our own bodies and over fundamental life choices, other rights may become simply unattainable...[S]exuality is important because sexual rights are everyone's rights."[8]

Unequal power relations as they relate to sexuality can be seen in gendered stereotypes which lead to discriminatory perceptions of femininity and masculinity. These manifest in desires to control women's bodies through sexual violence, including intimate partner violence, or through restrictive laws and policies which govern the circumstances under which a woman can access services to preserve her health and well-being or whether she can engage in sexual activities of her own choosing. They can also be seen in stereotyped perceptions of femininity and masculinity whereby 'acceptable' expressions of gender coincide with strict behavioural and bodily characteristics which can limit the ability among women, men and those with diverse sexual orientations and gender identities to live free of such norms and stereotypes. Transgressing these can lead to heightened levels of stigma, discrimination and violence. At the root of such forms of inequality are patriarchal assumptions which uphold strongly entrenched beliefs surrounding women's inferior status to men's.

These unequal power relations can also be seen in parents' or the broader community's desire to control adolescent and young people's sexual activities, including their ability to access services and information related to their sexual and reproductive health. Similarly, they can be seen in the upholding of spousal and parental

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http://www.who.int/reproductivehealth/topics/sexual_health/sh_definitions/en/index.html. Accessed 4 June 2013.

[6] International Planned Parenthood Federation. 2008. *Sexual rights: an IPPF declaration*. http://www.ippf.org/sites/default/files/sexualrightsippfdeclaration_1.pdf. Accessed 4 June 2013, iv.

[7] International Planned Parenthood Federation. 2012. "Annual Performance Report: 2011-2012." http://ippf.org/sites/default/files/apr.pdf. Accessed 25 June 2013.

8 Runeborg, A. 2008. *Sexuality: A missing dimension in development* – SIDA Concept Paper. Swedish International Development Agency: Stockholm, 8.

consent laws, which removes individuals' freedom of choice and decision-making, especially when it comes to their ability to access services such as contraception. Moreover, they can be seen in the promotion or tolerance of harmful traditional and cultural practices including female genital mutilation, a practice most often conducted without the consent of young women and girls and which is in direct violation of their right to bodily autonomy. These examples constitute not only gross violations of individuals' human rights, but also demonstrate the ways in which violations of sexual rights can intersect with educational attainment, gender equality, public participation and seeking meaningful employment, and therefore development as a whole.

**Development**

Prior to delving deeper into the intersections between sexuality and development, it is useful to define the concept of development. The international human rights framework grants individuals benefits under the 'right to development.'[9] The Declaration on the Right to Development identifies individuals as rights holders who are entitled to the benefits associated with improvements to economic, social, cultural and political processes.[10] The Declaration considers the realization of human rights as crucial to development and calls for the elimination of obstacles to development resulting from States' failures to respect, protect and fulfil human rights.[11] Principle 3 of the 1994 ICPD PoA also recognizes the right to development as a "universal and inalienable right" that is fundamental to human rights.[12] The ICPD PoA goes on to emphasize that development facilitates the enjoyment of all human rights and that the right to development be realized as a means of fulfilling the needs of current and future generations.[13]

Beyond the right to development, the ICPD PoA was among the first international development frameworks to recognize matters related to sexuality. Guided by the need for attention to individuals' human rights rather than demographic targets, the ICPD PoA sets out as a starting point the need to consider the relationship between sexuality and access to health information and services, education and gender equality. The focus on individuals' decision-making and autonomy allowed for a global shift away from population control policies (which violated women's reproductive rights, imposed restrictions on their right to decide if and when to have children, and limited their ability to access sexual and reproductive health services that met their needs) towards a development framework that prioritized the needs, realities and desires of individuals, by empowering them with the ability to exercise their human rights.

As such, the ICPD PoA creates a basis for making connections between development and the components which have come to define sexuality and sexual rights. It reflects on issues related to free and informed decision-making, individuals as sexual beings, bodily autonomy, control over one's reproductive choices, healthy sex lives and well-being – all of which have come to be understood as core components of sexuality and sexual rights. The PoA states:

> Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies that **people are able to have a satisfying and safe sex life** and that they have the capability to reproduce and the **freedom to decide if, when and how often to do so**. Implicit in this last condition are the **right of men and women to be informed** and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant. In line with the above definition of reproductive health, reproductive health care is defined as the constellation of methods, techniques and services that contribute to reproductive **health and well-being** by preventing and solving reproductive health problems. It also includes sexual health, the purpose of which is the **enhancement of life and personal relations**, and not merely counseling and care related to reproduction and

[9] United Nations. 1986. General Assembly. 97th Plenary Meeting. "Declaration on the Right to Development." A/RES/41/128.
[10] *Ibid*., OP2 and 16, Article 2.1.
[11] *Ibid*., Article 6.3.
[12] United Nations. 1994. "Report of the International Conference on Population and Development." Cairo, Egypt, 5- 13 September 1994. A/CONF.171/13/Rev. 1, Principle 3.
[13] *Ibid*., Principle 3.

sexually transmitted diseases.[14]

This language establishes clear intersections between sexual and reproductive health and broader issues related to development; including education, free and informed decision-making through access to information, equitable relationships and overall individual well-being. It also moves beyond individuals' right to live free from ill-health or in other words disease prevention, towards a more holistic approach to sexuality, based on the realization of broader human rights entitlements. Ultimately, the ICPD PoA recognizes that through application of a human rights-based approach to development, individuals are able to live longer, healthier and more productive lives; all of which are critical to achieving positive development outcomes.

In the wake of the 1994 ICPD PoA, the 1995 Beijing Platform for Action strengthens recognition of individual autonomy and decision-making, free from coercion, discrimination and violence, as it relates to women's sexual and reproductive health, recognizing these as human rights. Paragraph 96 of the Beijing PfA states:

> The human rights of women include their **right to have control over and decide freely and responsibly on matters related to their sexuality**, including sexual and reproductive health, **free of coercion, discrimination and violence**.[15]

While the above paragraphs do not include specific reference to the term "sexual rights", they do represent inter-governmentally agreed articulations of concepts related to sexual rights. Despite this, issues related to bodily autonomy, consent, a satisfying sexual life, among other issues, have often been ignored, or not appropriately integrated into subsequent development policies and programmes. This is made clear by the 2000 Millennium Development Goals (MDGs) which inadequately addressed sexual rights and sexuality, instead putting in place a series of health goals and targets, without references to the broader human rights framework. References to sexual rights issues were then only partially expanded upon five years later in the inclusion of a target on universal access to reproductive health (MDG 5b). The omission of sexuality from the MDGs has had a profound effect on planning for and funding of sexual and reproductive health and rights initiatives and therefore the realization of sexual rights.[16] In contrast to the UNAIDS 'Getting to Zero' 2011-2015 Strategy, which recognized the importance of sexual rights in achieving HIV-related goals and targets by eliminating stigma and discrimination, MDG 6 (combating HIV/AIDS, malaria and other diseases) failed to consider the realization of sexual rights as an effective prevention strategy.

## *Key international human rights accountability mechanisms*

Beyond development frameworks, the international human rights framework has considered the ways in which human rights interact with sexuality. For example, UN human rights treaty bodies and the Special Procedures of the UN Human Rights Council have all contributed to the interpretation of human rights as they relate to sexuality – in particular the nature of States' obligations in this area – in addition to providing some level of international accountability for the realization of such human rights.

The Universal Periodic Review (UPR) mechanism of the UN Human Rights Council has also been effective in raising questions and recommendations to States to address the non-implementation and violation of sexual rights. The pressure and review before all the Member States by the UN has pushed many States to take steps to affirm sexual rights. The UPR has led to the acceptance by States under Review of concrete recommendations aimed at establishing, modifying or eliminating national-level laws, policies and programmes, with a view to enhancing respect, protection and fulfillment of sexual rights. For example, Pakistan accepted recommendations to eliminate early and forced marriage by enacting a Criminal Law amendment entitled the "Prevention of Anti-Women Practices" Act of 2011 which strengthened protections for women against discrimination and harmful traditional practices. It criminalized forced marriage which is now punishable with imprisonment of up to 10 years and a fine.

Treaty bodies have developed clear guidance on the need to remove legal and other obstacles which prevent individuals from realizing their sexual rights by accessing sexual and reproductive health services and

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*14* United Nations. 1994. "Report of the International Conference on Population and Development." Cairo, Egypt, 5- 13 September 1994, Paragraph 7.2. Emphasis added.

15 United Nations. 1995. "Report of the Fourth World Conference on Women." Beijing, China, 4-15 September 1995. A/CONF.177/20, Paragraph 96. Emphasis added.

[16] Hawkins, K. And Standing, H. *Bringing Sexual and Reproductive Health and Rights In From the Margins*. http://www.eadi.org/fileadmin/MDG_2015_Publications/Hawkins_and_Standing_THINKPIECE.pdf. Accessed 25 June 2013.

information. In its General Comment No. 16, the Committee on Economic, Social and Cultural Rights requires States, at a minimum, to remove legal and other obstacles that prevent men and women from access and benefiting from health care on a basis of equality, including removing legal restrictions on reproductive health provisions.[17] Similarly, treaty bodies have expressed concern over access to reproductive health methods such as contraception counseling, prenatal testing, interruption of pregnancy[18] and sterilization procedures,[19] and have framed lack of access as violations of human rights guaranteed by various treaties. The Committee on Civil Political Rights in its General Comment 28, has stated that laws which require a woman to obtain her husband's consent to obtain sterilization procedures, or States that have general requirements for sterilization, such as having a certain number of children or being of a certain age, may represent a violation of the right to privacy as guaranteed by Article 17 of the Covenant.[20]

Treaty bodies have also promoted the realization of other sexual rights including adolescents' right to sexual and reproductive health services and information,[21] women's unrestricted access to safe abortion services,[22] and the elimination of laws and policies that discriminate on the basis of sexual orientation and gender identity.[23]

Moreover, treaty bodies have addressed gender equality through, in part, recommending the removal of laws which unjustly discriminate against women and the elimination of negative gender stereotypes and norms. For example, the Committee on the Rights of the Child has strongly urged States "to develop and implement awareness-raising campaigns, education programmes and legislation aimed at changing prevailing attitudes, and address gender roles and stereotypes that contribute to harmful traditional practices."[24] Similarly, in 2012, the UN Working Group on Discrimination Against Women in Law and Practice called for the elimination of laws and policies that criminalize adultery, claiming that upholding such laws and policies not only places women in vulnerable situations and violates their human rights to "dignity, privacy and equality, given continuing discrimination and inequalities faced by women,"[25] but also violates the International Covenant on Civil and Political Rights and the Convention on the Elimination of all forms of Discrimination Against Women.

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[17] United Nations. 2005. Office of the High Commission for Human Rights. Committee on Economic, Social and Cultural Rights. Thirty Fourth Session. "General Comment No. 16 (2005): Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights – The equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the International Covenant on Economic, Social and Cultural Rights. E/C.12/2005/4, p. 7, paragraph 29.

[18] United Nations. 2011. General Assembly. Sixty-sixth session. Human Rights Committee. "Report of the Human Rights Committee: 100-102th sessions. Volume One. Supplement No. 40." A/66/40, paragraph 84 (12).

[19] United Nations. 2000. Human Rights Committee. International Covenant on Civil and Political Rights (CCPR),*General Comment No. 28: Equality of rights between men and women*. CCPR/C/21/Rev.1/Add.10. Rev.1/Add.10. http://www.unhchr.ch/tbs/doc.nsf/0/13b02776122d4838802568b900360e80 Accessed 25 June 2013, paragraph 21.

[20] United Nations. 2000. Human Rights Committee. International Covenant on Civil and Political Rights (CCPR),*General Comment No. 28: Equality of rights between men and women*. CCPR/C/21/Rev.1/Add.10. http://www.unhchr.ch/tbs/doc.nsf/0/13b02776122d4838802568b900360e80 Accessed 25 June 2013, paragraph 21.

[21] In its Comment, the Committee indicated that State parties should "provide a safe and supportive environment for adolescents that ensures the opportunity to participate in decisions affecting their health." In its General Comment No. 20, the Committee on Economic, Social and Cultural Rights states that "unequal access by adolescents to sexual and reproductive health information and services amounts to discrimination." (United Nations. 2000. Economic and Social Council. International Covenant on Economic, Social and Cultural Rights, General Comment No. 14, The right to the highest attainable standard of health. E/C.12/2000/4. http://www.unhchr.ch/tbs/doc.nsf/(symbol)/E.C.12.2000.4.En. Accessed 25 June 2013, paragraph 29. & United Nations. 2009. Economic and Social Council. International Covenant on Economic, Social and Cultural Rights, General Comment No. 20, Non-Discrimination in economic, social and cultural rights. E/C.12/GC/20. )

[22] The Committee on the Rights of the Child has also expressed concern about the impact of highly restrictive abortion laws on the right to health of adolescent girls, as it leads to maternal mortality. The Committee on Economic, Social and Cultural Rights has framed lack of access to contraception and family planning information and services, which results in high rates of abortion as well as maternal mortality, as a violation of the right to health, which results in high rates of abortion as well as maternal mortality.

[23] The Committee on Economic, Social and Cultural Rights has called upon States to ensure that laws and policies do not discriminate on the basis of sexual orientation (CESCR General Comment No. 20 (paras 33, 36-38). The Committee on the Rights of the Child has stated that States have an obligation to prevent discrimination based on sexual orientation (in its General Comment No. 4 para 6). In its General Comment No. 28, the Committee Convention on the Elimination of all forms of Discrimination Against Women indicated that States must legally recognize intersecting forms of discrimination against women, including discrimination based on sex and gender compounded with discrimination based on sexual orientation, and adopt laws to prohibit them, and policies and programs to eliminate them. (CEDAW/C/GC/28 para 18 - see also CEDAW concluding observations on South Africa (CEDAW/C/ZAF/CO/4, para. 40); and Costa Rica (CEDAW/C/CRI/CO/5-6, para. 41). (United Nations, 2009. Economic and Social Council. International Covenant on Economic, Social and Cultural Rights, General Comment No. 20, Non-Discrimination in economic, social and cultural rights. E/C.12/GC/20. & United Nations. 2003. Convention on the Rights of the Child, General Comment 4, Adolescent health and development in the context of the CRC. CRC/GC/2003/4. http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G03/427/24/PDF/G0342724.pdf?OpenElement. Accessed 25 June 2013.

[24] United Nations. 2003. Convention on the Rights of the Child, General Comment 4, Adolescent health and development in the context of the CRC. CRC/GC/2003/4. http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G03/427/24/PDF/G0342724.pdf?OpenElement. Accessed 25 June 2013.
and CEDAW, General Comment 14.

[25] United Nations. 2013. Office of the High Commissioner for Human Rights. ""Adultery should not be criminal offence at all," says UN expert group on women's human rights." News and Events: Display News. 18 October 2012. http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12673&LangID=E Accessed 25 June 2013.

Despite the language of the international documents, sexual rights are seen in an ad hoc manner and not looked at holistically:

> The UN human rights treaty bodies examine sexual identities, practices and gender categories from certain perspectives. They tend to focus on: sexual orientation (but limit their concern to homosexual orientation); sexual violence against women; and links between sexuality and reproductive policy. This bias is reinforced by the practical reality that most of the documentation they receive focuses on these issues. Indeed it is striking how unevenly the various treaty bodies have developed doctrine on human rights protection in the context of sexuality.[26]

Human rights treaty bodies have approached specific sexual and reproductive rights issues as distinct issues, rather than viewing them more inclusively. For example, they have considered the right to sexuality education within the context of the right to health, which when guaranteed can contribute to reductions in maternal mortality, unwanted pregnancies and HIV transmission rates,[27] rather than looking more holistically at adolescents' sexuality and well-being. As a result, a framework that applies more generally to human rights protection related to sexuality and reproductive is missing. Such a framework, once created, can be applied to a wider diversity of situations that implicate sexual and reproductive rights.

## *Exploring sexuality through the lens of `development`*

Together, the international human rights framework and watershed development frameworks of the 1990s[28] have led to the formulation of laws, policies and practices that better respond to individuals' needs and better respect, protect and/or fulfill their human rights. However, individuals' sexual rights have often been left out of the equation or have been blatantly denied. Throughout the past two decades, the development sector has frequently adopted a limited view of and approaches to sexuality and sexual rights. Examples of these include health sector initiatives related to disease control and prevention initiatives (whereby individuals' broader sexual and reproductive health needs are sidelined), strategies aimed at controlling population dynamics through coercive reproductive practices and failure to provide adolescents with comprehensive sexuality education for fear of acknowledging adolescents as sexual beings and as holders of affirmative sexual rights. These represent violations of individuals' right to make free and informed decisions regarding their reproductive choices,[29] their right to the highest attainable standard of health (through access to comprehensive and integrated health services), and their rights to access information and to bodily integrity, all of which violate their sexual rights.

Violations of individuals' sexual rights can lead to negative development outcomes. For example, without access to information related to basic reproductive health, adolescents are more susceptible to contracting sexually transmitted infections (STIs), including HIV. Similarly, when women lack access to a range of modern methods of contraception, they are less likely to be able to plan if and when they want to have children, which can lead to poor health outcomes, including higher rates of maternal mortality and morbidity, and poverty.

Development initiatives also play a role in challenging or perpetuating existing norms and stereotypes. Initiatives that fail to adopt a holistic approach to sexuality have, in some cases, reinforced negative stereotypes whereby men are perceived as predators and women as victims, failing also to recognise the existence of transgender people.[30] Such approaches in addition often ignore the needs and entitlements of those who experience stigma, violence and discrimination, particularly their access to integrated health services, access to appropriately trained service providers, just legal recourse, and other needs. Without access to programmes that meet these needs, individuals can experience heightened levels of violence, poor health outcomes, loss of employment, among other consequences, all leading to poor development outcomes.

Ultimately, the most basic aspects of human sexuality have been left out of the development equation. "The idea of sex as a form of pleasure, intimacy, closeness, fun, love or indeed a way to survive the harshness of economic

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[26] International Council on Human Rights Policy. 2009. *Sexuality and Human Rights*: *Discussion Paper.* ATAR Roto Press: Vernier.

[27] Center for Reproductive Rights. 2008. Bringing Rights to Bear: The Human Right to Information on Sexual and Reproductive Health – Briefing Paper: Sexuality Education. http://reproductiverights.org/sites/crr.civicactions.net/files/documents/BRB_SexEd.pdf. Accessed 25 June 2013, p. 10.

[28] Including the 1989 Convention on the Rights of the Child (CRC), 1992 Earth Summit (Agenda 21), 1993 Vienna Declaration, 1994 ICPD Programme of Action, 1995 Beijing Platform for Action.

[29] Jolly. S. 2007. "Why the Development Industry should get over its obsession with bad sex and start to think about pleasure." IDS Working paper 283.

[30] *Ibid*.

circumstances simply does not enter the picture."[31] Rather, development initiatives have adopted the perspective that sex and sexuality are a problem that needs to be solved and controlled, as opposed to being human rights requiring safeguarding, rights which we are entitled to and something that can be channelled to bring about positive well-being.[32] The following sections explore entry points for more comprehensive and holistic conceptualizations of sexuality, and opportunities to realize the sexual rights of individuals, which can have positive development outcomes.

**Sexuality and health**

As shown in the recent Global Thematic Consultation on Health in the Post-2015 Agenda, health is critical to achieving sustainable development and is a basic human right. Yet, deeply rooted insecurities regarding sexuality and the recognition of sexual rights have permeated health and population-related programming and policy-making. Policies and programmes related to population dynamics and maternal health often fail to integrate consideration of women's sexual rights. Such programmes, which adopt a narrow approach to women's reproductive health and stereotype women with regard to their reproductive role typically do not respect women's bodily integrity, reproductive rights, free and informed choice, and multiple sexualities. As previously noted, coercive population policies (which promote involuntary sterilization or abortion, impose restrictions on abortion, or enforce certain methods of contraception) are in direct violation of women's sexual rights, and therefore their human rights. Rather, programmes that respect, protect and fulfil women's sexual rights through a holistic approach to women's sexuality, are grounded in the reality that women who are empowered within this context make the best possible decisions for themselves, their families and their futures. Therefore, supporting development initiatives that are rights-based, holistic and that enable choice and the full exercise of individuals' sexual and reproductive rights can contribute to positive development outcomes. In practical terms, this necessitates that development initiatives be committed to addressing sexuality and human rights through broader and intersectional approaches to addressing developmental challenges.

Often sexual and reproductive health services within health systems are developed in silos and as a result they fail to provide system users with comprehensive and holistic services. For example, maternal health clinics often do not provide women with contraceptive counselling or safe abortion services, among other services falling within a comprehensive package of sexual and reproductive health information and services. This emphasis on women's reproductive health has led to the sidelining of female sexuality and most particularly among unmarried women, women who do not want to have children, trans-women, and lesbians. The health needs of such groups include access to a range of modern methods of contraception, assisted reproductive technologies, and gender reassignment and hormone therapy. Importantly, women in these groups should be free to access these services without restriction, including requirements of parental and spousal consent. Instead, women's sexual rights tend to be subsumed under reproduction, service delivery, and mothers' health concerns.[33] Tendencies to neglect women's sexualities and reproductive rights are rooted in failures to view women as sexual beings. In situations where women's sexuality is recognized, it is often viewed as 'dangerous' or requiring 'sensitive consideration.'

Young people and adolescents' sexual rights have also often been violated due to ideological barriers which perpetuate fear and a lack of understanding regarding adolescents' sexuality, their sexual needs and realities. Such perceptions have prevented them from being recognized as sexual beings. Adolescents in particular often experience significant barriers when attempting to access sexual and reproductive health services such as contraceptives, abortion, testing and treatment for sexually transmitted infections and HIV, due to social and cultural taboos surrounding adolescent sexuality that create a culture of silence on the subject.[34] This means that adolescents may not have knowledge of the location of health centres providing sexual and reproductive health services and the range of services that are available, and may encounter other challenges including geographic proximity, travel and cost-related barriers. Taboos also manifest in the form of stigma and discrimination by service providers, with the consequence that adolescents, particularly those who are unmarried, often become reluctant to try to access sexual and reproductive health services. Positive examples of programs aimed at ensuring adolescents' access to sexual and reproductive health services include South Africa's 2005 Children's Act

[31] Jolly, S. 2006. "Sexuality and Development." *Institute of Development Studies Policy Briefing 29*. http://www.ids.ac.uk/files/PB29.pdf. Accessed 4 June 2013.
[32] *Ibid*.
33 Runeborg, A. 2008. *Sexuality: A missing dimension in development* – SIDA Concept Paper. Swedish International Development Agency: Stockholm, 8.
[34] United Nations. 2012. Office of the High Commission for Human Rights. "Children, Study Right to Health: Contributions Received." *Sexual Rights Initiative Contribution to the OHCHR Study on Children's Right to Health.*
http://www.ohchr.org/EN/Issues/Children/RightHealth/Pages/Contributionsreceived.aspx 4 June 2013.

which regulates, *inter alia*, consent to health services. The Act specifies that children above the age of 12 do not require parental consent to access contraceptives, provided adequate medical advice is given and the child is examined to determine if there is any medical reason why a particular contraceptive should not be used.[35]

Sexual orientation, disability, ethnicity, HIV status and socio-economic status are also grounds for discrimination in these settings. Adolescents with diverse sexual orientations and gender identities may experience stigma and discrimination in school and when attempting to access health services. This can lead to school drop-out and unwillingness to visit health clinics for fear of judgment or harassment. Lack of affordable health services can also pose a significant challenge to adolescents and young people with limited financial resources. For young people and adolescents, ensuring the affordability of health services extends beyond the services provided to include transportation costs associated with accessing health centres and potential costs associated with taking time off from work.

Apart from social, cultural and economic barriers, there exist different legal and administrative restrictions to adolescents' access to sexual and reproductive health services. Adolescents may need to obtain consent from their parent or guardian for medical treatment in general – as is the case in several countries – as well as for specific sexual and reproductive health services. Fear and stigma often deter adolescents from obtaining such consent and they may forego seeking information or accessing a service, or seek out back-street service providers. Further, statutory rape laws and other laws prescribing minimum age of consent for sexual activity act as a barrier in accessing sexual and reproductive health information and services.[36] Additionally, spouses or parents may be the perpetrators of violence or unwanted pregnancies which can prevent adolescents from seeking their consent to access services and information to deal with such situations. Overcoming barriers related to access to sexual and reproductive health services by young people, particularly adolescents, requires changing societal attitudes, ensuring that health care professionals receive rights-based training, and establishing conducive legal and policy environments so as to meet their needs and recognize their realities, without prejudice, discrimination or coercion, and with full respect for their privacy.

In his 2010 Report, the UN Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health discussed the negative impacts of laws, programmes and policies that fail to respect, protect and fulfil the sexual rights of individuals. Specifically, the Special Rapporteur discussed the negative health outcomes incurred due to criminalization (and thus stigmatization) of certain sexual behaviours. Poor health outcomes and heightened levels of stigma are often experienced by individuals who transgress norms associated with sexual behaviour, including sex workers and individuals with diverse sexual orientations, gender identities and expressions. According to the Special Rapporteur, "stigmatization prevents legislative and policymaking institutions from adequately addressing health-related matters in communities that are especially vulnerable to the infringement of the enjoyment of the right to health."[37] In response, development initiatives must respect, protect and fulfill individuals' sexual rights by acknowledging everyone's right to health, regardless of circumstance, and establishing programmes that seek to overcome structural inequalities and power relations.

One area in which the development community has seen progress regarding the integration of rights-based approaches to development and acknowledgement of sexuality-related considerations is the HIV/AIDS movement. According to S. Jolly, "the need to respond to HIV/AIDS and the adoption of human rights approaches have created openings for a franker debate on sexuality and more resources in this area."[38] Examples of successful HIV prevention and treatment strategies have brought greater respect, protection and fulfillment of the rights of sex workers, recognition of young people's sexualities,[39] efforts to target drug users and the adoption of harm reduction approaches. Such efforts have opened space to discuss heteronormative standards, gender roles and norms and to challenge gender inequalities. Without taking diversity in sexuality into account, effective prevention of the spread of HIV is not possible as programmes would not be tailored to the realities of

[35] *Ibid*.
[36] *Ibid*.
[37] United Nations. 2010. Human Rights Council. Fourteenth session. "Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover." http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.20.pdf. Accessed 4 June 2013. A/HRC/14/20, paragraph 23.
[38] Jolly, S. 2006. "Sexuality and Development." *Institute of Development Studies Policy Briefing 29*. http://www.ids.ac.uk/files/PB29.pdf. Accessed 4 June 2013.
[39] United Nations. 2012. Joint United Nations Programme on HIV/AIDS. "Fact Sheet: Adolescents, Young People and HIV." http://www.unaids.org/en/media/unaids/contentassets/documents/factsheet/2012/20120417_FS_adolescentsyoungpeoplehiv_en.pdf. Accessed 4 June 2013.

large key segments of the population. Similarly, structural inequalities, such as existing laws and policies that criminalize certain behaviours, can create added barriers to individuals' access to services and information and therefore limit the effectiveness of HIV response initiatives. A study undertaken by the Center for Advocacy on Stigma and Marginalization (CASAM) demonstrates the negative impacts of the HIV/AIDS initiative "100% Condom Use Programmes." One of the intended impacts of the initiative was to protect the health situations of sex workers by providing them with condoms and STI testing.[40] Unfortunately, the initiative led to the mandatory and forced STI testing of sex workers, which violated their right to voluntary and informed consent and led sex workers to avoid clinics, which in turn led to poor health outcomes for sex workers and their clients and increased HIV transmission rates.[41]

In such cases, adopting a rights-based approach to development initiatives, which considers the sexual rights of its intended beneficiaries, is critical to achieving positive development outcomes. Adopting a rights-based approach to HIV-related development initiatives entails consideration for both the needs and realities of its intended beneficiaries and the legal and social context in which they exist. Thus, implementing a human rights-based approach seeks to overcome negative stereotypes and generalizations experienced by, for example, sex workers, and develops effective strategies that meet their sexual and reproductive health needs. This analysis can determine what services meet their needs, without risking added levels of stigma or discrimination, or risking the implementation of ineffective development initiatives.

Other trends show increases in funding for treatment of HIV, but decreases in funding for reproductive health services and family planning. For example, financial assistance for STI/HIV/AIDS increased from 9% in 1995 to 75% of total population-related assistance in 2007, while basic reproductive health services saw a drop in funding from 33 % in 1996 to 17% in 2007, and family planning reduced from 55% in 1995 to 5% in 2007.[42] These figures point to the verticalization of health sector funding, which can have a negative impact on individuals' ability to access comprehensive and integrated sexual and reproductive health service. Concretely, such funding initiatives can lead to 'key affected populations' being able to access limited services, while others are unable to obtain modern methods of contraception as a means of preventing the transmission of HIV.

Throughout the broader health sector, respect for human rights, specifically sexual rights, is not meaningfully integrated into responses. This often occurs due to a lack of human rights training for health services providers or a lack of a human rights-based approach in the planning, implementation, monitoring and evaluation of laws, programmes and policies related to health and population as well as a failure to address other structural inequalities. When health service providers lack human rights-based training and/or institutional support for delivering services from a human rights perspective, coupled with structural factors related to legal and policy barriers, individuals can experience heightened levels of stigmatization and powerlessness, and thus their further marginalization. Those most at risk to such treatment are HIV-positive people, women, young people, those with non-conforming sexual orientations, gender identities and expressions, and others who challenge socially accepted norms and behaviours. Practically, medical professionals lacking appropriate training have refused to treat transgender individuals, or have failed to provide them with information that meets their needs and is respectful of their human rights.

Lacking access to comprehensive, rights-based and integrated health services, individuals are often left with no option but to choose to avoid seeking essential health services, particularly sexual and reproductive health services, for fear of stigma and discrimination, or may be denied access altogether. Such situations result in poor health outcomes, which can lead to socio-economic consequences, including reduced income, inability to stay in school or access decent employment, among other related impacts. Unequal power relations within couples, between employers, with parents and service providers, which perpetuate situations in which certain individuals are unable to access essential services and information on the grounds of sexuality, or refusal to respect their sexual rights, can have detrimental impacts on overall development outcomes at individual, community and national levels. Health services should be grounded in human rights, with specific consideration of individuals' sexual rights.

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[40] Center for Advocacy on Stigma and Marginalization (CASAM). 2008. "Rights-Based Sex Worker Empowerment Guidelines: An Alternative HIV/AIDS Intervention Approach to the 100% Condom Use Programme."
Sampada Gramin Mahila Sanstha (SANGRAM): India. http://www.sangram.org/resources/rights_based_sex_workers_empowerment_guidelines.pdf. Accessed 25 June 2013, 11

[41] *Ibid*, 11.

[42] Reproductive Health Matters (RHM) and Asian-Pacific Resource & Research Centre for Women (ARROW). 2011. Repoliticising sexual and reproductive health and rights: report of a global meeting, Langkawi, Malaysia, 3-6 August 2010. v, 68p

Numerous Special Procedures and resolutions at the Human Rights Council (HRC, formally the Commission on Human Rights) have brought greater attention to the relationship between the right to health and sexuality and have identified ways in which governments can better respect, protect and fulfil individuals' sexual rights.[43] Specifically, the 2009 Resolution on Preventable maternal mortality and morbidity and human rights,[44] called on governments to address root causes such as gender inequality which lead to maternal deaths. Similarly, the Special Rapporteur on the Right to Health has written extensively on the need to eliminate laws and other legal restrictions related to sexual and reproductive health which violate the right to health. Specifically, the Special Rapporteur has focused on the importance of enabling individuals to make free and informed decisions, respecting bodily autonomy and adopting a holistic approach to sexuality.[45] Mandated by HRC Resolution 19/37, the Office of the High Commissioner for Human Rights, in 2012, produced a report on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health, which states that childrens' evolving capacities allow them to make autonomous decisions regarding their health, including their access to health services.[46] These documents not only provide useful interpretations of how the human rights framework applies to issues of sexuality and thus can be used to advance sexual rights and holistic approaches to sexuality, but also provide mechanisms by which states can be held accountable to their human rights obligations, as they relate to respecting, protecting and fulfilling individuals' sexual rights.

The realization of individuals' right to health, with full respect, protection and fulfilment of their sexual rights, requires action beyond the strengthening of health systems and governance structures. As discussed throughout this section, the realization of sexual rights entails the acknowledgement of those structural inequalities and power relations which establish and maintain the heteronormativity of development initiatives and the stigmatization of sexuality. Ensuring individuals have access to comprehensive and integrated sexual and reproductive health services, without fear of stigma, discrimination or violence, entails full support for the integration of a rights-based approach to health-systems strengthening and the meaningful engagement of diverse constituencies. Participatory methodologies offer spaces for diverse voices to challenge dominant discourses on sex.[47]

**Sexuality and Education**

Education has been widely recognized as one of the most effective means of contributing to developmental outcomes, and creating economically, socially and politically sustainable societies. Refusal to deal with young people's sexuality in an affirming manner leads to an invisibilization of key issues that could otherwise have been addressed through Comprehensive Sexuality Education (CSE). Power imbalances between girls and boys can result in diminished ability by girls to refuse sex or negotiate sex on their own terms. They can also result in imbalances between youth and adults which can lead, for instance, to denial of services through parental consent requirements and sexual exploitation.

Denying young people`s access to information and services and their existence as sexual beings, puts them at greater risk for contracting STIs and HIV. Moreover, insufficient knowledge regarding sexual and reproductive health can lead to unintended pregnancies and early and forced marriage, which can impact upon the ability of young women to remain in school. Most often in such cases, education will not be continued. Furthermore, complications from pregnancy and childbirth remain the leading cause of death among young women aged 15 to 19 in developing countries. At the same time, sexually active young women and men may be denied access to contraceptive advice and provision. Girls may stay away from school during menstruation due to social stigma, lack of sanitary towels and inadequate school toilets.

Many of these issues place a greater burden on health care systems, including through new HIV infections and its ripple effects on other social services. It is estimated that those under 25 years old account for 50 per cent of

[43] United Nations Human Rights: Office of the High Commissioner for Human Rights. "Special Procedures of the Human Rights Council." Accessed 4 June 2013. http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx

[44] United Nations. General Assembly. 2011. Human Rights Council. "Resolution on Preventable Maternal mortality and morbidity and human rights." A/HRC/18/L.8. http://daccess-dds-ny.un.org/doc/RESOLUTION/LTD/G11/162/25/PDF/G1116225.pdf?OpenElement. Accessed 4 June 2013.

[45] United Nations. 2011. General Assembly. Sixty-Sixth Session. "Right of everyone to the enjoyment of the highest attainable standard of physical and mental health: interim report prepared by the Special Rapporteur of the Human Rights Council on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover." A/66/254.

[46] United Nations. 2012. Office of the High Commission for Human Rights. "The right of the child to the enjoyment of the highest attainable standard of health." http://www.ohchr.org/Documents/Issues/Children/Study/RightHealth/OHCR_Brochure_Report%20Health_2012_Eng.pdf. Accessed 4 June 2013,. 13.

[47] Gosine, A. 2005. "Sex for pleasure, rights to participation, and alternatives to AIDS: placing sexual minorities and/or dissidents in development." *IDS Working Paper 228*. http://www.ids.ac.uk/files/Wp228.pdf. Accessed 25 June 2013, 18-19.

new HIV infections,[48] and that girls and young women are most at risk. A lack of CSE, which incorporates information related to the prevention of HIV, has significant impacts on transmission rates among young people. According to UNAIDS, "only 24% of young women and 36% of young men responded correctly when asked five questions on HIV prevention and HIV transmission."[49] Most importantly, failing to acknowledge the reality that young people are sexually active, results in the systematic denial of information that would otherwise help empower them to protect themselves from sexually transmitted infections and unwanted pregnancies. Addressing this reality requires that health care professionals provide youth-friendly services in a confidential and non-discriminatory manner. It also requires enabling legal and policy environments that enable young people to obtain the information they need to live healthy lives.

Governments are at times responsible for failing to provide young people with essential sexual and reproductive health information and the integration of curricula related to young people's sexual and reproductive health, needs and realities. An example includes abstinence-based approaches to sexuality education which encourages young people to not have sex outside of marriage. Such approaches also fail to include information on sexually transmitted infections, including HIV, and effective preventions strategies, let alone basic information related to individuals' reproductive health systems. Research has shown that abstinence-based approaches in fact do not delay sexual activity, but rather put women and girls at greater risk of unwanted pregnancies (due to a lack of information related to contraception), and higher levels of STIs transmission.[50] This kind of sexuality education, or in many cases an absolute ban on sexuality education, further reinforces the stigma associated with young people's sexual activity, can lead to discrimination, and can have detrimental effects on the level of education young people attain and on their overall well-being. There is therefore a strong case to be made for ensuring access to, monitoring and standardizing (based on international standards), the kind of information that is provided to young people regarding sexuality and sexual rights.

The ICPD Beyond 2014 Bali Global Youth Declaration strongly advocates for comprehensive sexuality education that is "non-discriminatory, non-judgmental, rights-based, age appropriate, gender-sensitive…youth friendly, evidence based…education that is context specific."[51] The Bali Declaration goes on to state that diverse stakeholders must engage in ensuring that young people and adolescents are "aware of their rights to staying healthy through formal and non-formal education."[52] This approach seeks to address power in relationships, strategies to address negative gender stereotypes and norms, how to negotiate safe sex, live healthy lives, and be productive members of society. It also recognizes young people's agency and ability to meaningfully participate in decision-making that affects their lives.

Unfortunately, young people and adolescents encounter barriers to accessing education often because of the denial of young people as sexual beings, or real or perceived expressions of their sexualities. For example, sexuality and gender norms affect educational opportunities and prospects whereby young women may be stereotyped as mothers and caregivers, which can affect their ability to complete their educations and obtain decent employment. Young women are also more susceptible to early and forced marriage and unwanted pregnancies which may have similar consequences. Children of sex workers and young people who transgress gender and sexuality norms face discrimination in schools which may deter them from staying in school, or limit the attention they receive from teachers and support staff. Barriers affecting young people's access to education, and failure to integrate CSE into curriculums can have significant economic implications; namely as a result of poor health outcomes, social exclusion, lack of employability and lower incomes.

Gender inequalities can also prevent young women from obtaining the highest levels of education, which limits their ability to obtain decent employment. At the root of these consequences is the blatant denial of young women's sexual rights and sexualities. This is made evident through the upholding of spousal consent laws and negative gender-stereotypes that paint women as 'pure,' 'modest' and without sexual desire or meriting agency –

[48]United Nations. 2012. Joint United Nations Programme on HIV/AIDS. "Global Report: UNAIDS report on the global AIDS epidemic 2012." http://www.unaids.org/en/media/unaids/contentassets/documents/epidemiology/2012/gr2012/20121120_UNAIDS_Global_Report_2012_en.pdf. Accessed 4 June 2013.

[49] United Nations. 2012. Joint United Nations Programme on HIV/AIDS. "Fact Sheet: Adolescents, Young People and HIV." http://www.unaids.org/en/media/unaids/contentassets/documents/factsheet/2012/20120417_FS_adolescentsyoungpeoplehiv_en.pdf. Accessed 4 June 2013.

[50] Guttmacher Institute. 2011. "Advancing Sexuality Education in Developing Countries: Evidence and Implications." Guttmacher Policy Review, Summer 2011, Vol. 14, No. 3. http://www.guttmacher.org/pubs/gpr/14/3/gpr140317.html. Accessed 25 June 2013.

[51] United Nations Population Fund. 2012. *Bali Global Youth Forum Declaration*. http://www.icpdyouth.org/uploads/Bali_Global_Youth_Forum_Declaration.pdf . Accessed 4 June 2013, 8.

[52] United Nations Population Fund. 2012. *Bali Global Youth Forum Declaration*. http://www.icpdyouth.org/uploads/Bali_Global_Youth_Forum_Declaration.pdf . Accessed 4 June 2013, 3.

all of which violate the right to equality and to be free from discrimination. Moreover, preventing women from staying in school and accessing higher levels of education directly violates their right to education, which can lead to social exclusion and reductions in their ability to operate as economic and social agents. Specifically, young women and girls who have their sexual and reproductive rights guaranteed, are better positioned to prevent unwanted pregnancies and early and forced marriages which enables them to stay in school longer. This in turn facilitates their access to decent employment and improved income-earning prospects.[53] These conditions ultimately contribute to positive impact on societal development.

**Sexuality, Poverty and Inequality**

Many forms of poverty exist. Deeper understandings of poverty extend beyond a lack of financial resources to include a lack of political agency or physical ability, social exclusion, barriers to accessing educational and political institutions, and other interrelated factors. Robert Chambers has explored the multiple dimensions of poverty which he describes as the 'Web of Poverty's Disadvantages.'[54] There are many ways in which sexuality intersects with poverty. Stigma and discrimination facing those who transgress dominant norms relating to gender and sexuality can lead to marginalization, limited access to social services, loss of employment and other factors which can contribute to poverty. Lacking adequate support systems, adolescent girls who become pregnant are often forced to discontinue their education[55]. When excluded from society, individuals may experience challenges accessing basic services and have limited ability to participate in public spaces and political processes.[56] As such, those who experience social exclusion are often at greater risk of having their sexual rights violated or denied.

Many studies and literature have picked up on the significance of sexuality as it relates to poverty. As stated by Cornwall, Correa and Jolly:

> ...several productive points of entry for making explicit the connections between sexuality, human rights and development can be identified…three significant shifts took place in the 1990s. The first was a move within mainstream development thinking beyond narrow income- and consumption-based measures of poverty towards a more multidimensional approach to the analysis and measurement of poverty…broader understandings of poverty make possible considerations of how violence and discrimination around sexuality can intensify poverty, and how sexual fulfillment and autonomy can contribute to well-being. The second shift was the rise of rights talk in development. The third shift was the increasing attention given to issues of gender by development actors... [57]

These shifts, particularly the importance of bringing a gendered and rights-based approach to economic structures, create the space to consider sexuality and economy as "interconnected." This interconnectivity is often viewed through the lens of power relations; specifically through the unequal distribution of financial and political resources. Research in the area highlights the negative socio-economic impacts associated with economic systems based on a particular model of heterosexual relationships.[58] This implies the formulation of laws, policies and programmes that respond to traditional conceptualizations of the family, which often ignore same-sex couples and other types of family structures, as well as that individuals may not be in relationships or choose to found a family. Such models ignore the needs and realities of diverse populations and can have negative impacts on their economic, social and political empowerment.

Demonstrative of this is the lack or noticeable imbalance of women, among other individuals marginalized based on their sexualities, in senior decision-making roles within the public service, financial institutions and private corporations. Specifically, gender non-conforming individuals, for example "butch" women, may face discrimination and barriers to employment as they may generally be either unable to access employment or forced out of employment and may then not have access to networks within the informal economy that are vital to survival on the margins.[59]

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[53] High-Level Task Force for the International Conference on Population and Development. 2013. Priorities for the Post-2015 Development Agenda: the Case for Sexual and Reproductive Health and Rights.

[54] Chambers, R. 2005. "Participation, Pluralism and Perceptions of Poverty', paper for conference 'The Many Dimensions of Poverty', Brazil.

[55] Armas, H. 2007. "Whose Sexualities Count: Poverty Participation and Sexual Rights." *IDS Working Paper 294*, Brighton: IDS, http://www.ntd.co.uk/idsbookshop/details.asp?id=939. Accessed 25 June 2013.

[56] *Ibid*.

[57] Cornwall, A., Correa., S., and Jolly, S. (ed). 2007. *Development with a Body: Perspectives on Sexuality, Rights and Development*. Zed: London, 6.

[59] Falu, A., Duron, B. ADEIM-Simbiosis, Artemisa, Cattrachas, Criola, International Gay and Lesbian Human Rights Commission. and Red Nosotras LBT. 2006 '"Unnatural", "Unsuitable", Unemployed! Lesbians and Workplace Discrimination in Bolivia, Brazil, Colombia, Honduras and Mexico.'

A similar example comes from a recent World Bank-funded project, entitled "Family Strengthening and Social Capital Promotion Project." While the project was designed to increase women's role in the labour market, it resulted in putting added pressure on individuals to marry or stay in heterosexual relationships, thereby putting women who may be experiencing intimate partner violence at greater risk for continued violence and forcing LGBTI individuals to enter into heterosexual relationships.[60] The project also supported "unpaid family labour as a solution to poverty, and gave considerable clout to religious institutions which endorsed more traditional gender roles."[61]

When the views of those who are marginalized based on their sexuality are not incorporated into mainstream media, political decision-making and other realms of public life, they are at greater risk to become more socially and politically marginalized. Moreover, their access to financial resources and public services can become increasingly restricted, thereby putting them at greater risk of falling into poverty, experiencing poor health outcomes, among other negative outcomes associated with limited access to resources and political voice.

Often motivated by financial considerations and unequal power relations between parents and their children, young women and girls may pay a material price when they are forced into marriages at young ages. Many young women and girls are forced out of school and denied the ability to make choices regarding their own futures. Early and forced marriages constitute violations of human rights, and can impact the right to education, health (including their sexual and reproductive health), to be free from all forms of stigma, discrimination and violence, among other rights. When young women and girls are forced to marry, they are often not able to continue their education and may also be subject to rape and sexual violence as well as physical violence and forced pregnancies. These situations can prevent them from pursuing decent employment which has a direct impact on their and their families' financial sustainability. Similarly, gender stereotypes and norms can have negative impacts on the ability of individuals and couples to be financially sustainable. Traditional conceptualizations of the family and heterosexual relationships position men as the primary 'breadwinner.' Such situations can lead to unequal division of power within relationships and increases in occurrence of violence.[62] For example, women in heterosexual relationships who undertake primary responsibility for childcare and other responsibilities in the private sphere are often financially dependent on their partners' income which can limit their ability to leave the relationship for fear of economic insecurity.

In the context of employment, studies have shown that, for example, transgender persons, or persons with alternate sexualities, hide their sexual and gender identities from employers for fear of increased stigma and discrimination, or loss of employment and therefore income.[63] In countries where sex work is criminalized, sex workers often live in conditions of poverty for fear of legal reprisal or imprisonment, in addition to experiencing heightened levels of harassment and violence. Often lacking stable employment and therefore consistent income, sex workers, transgender persons, people who do not conform to dominant expressions of sexuality, including gender norms, people living with HIV/AIDS, divorcees, single women and other individuals marginalized based on their sexualities, can be more vulnerable to falling into or escaping cycles of poverty. According to Hawkins, Cornwal and Lewin: "Those who are marginalised by dominant norms around gender and sexuality... may face not only pressure to conform, but stigma, discrimination and violence if they do not. Prejudice and discrimination weaken networks of families, friends and colleagues, which are a significant safeguard against poverty particularly for those women who are working in the informal economy."[64] This also reinforces the need to recognize the interdependent nature of poverty whereby such individuals may be responsible for the financial stability of their families. As such, financial implications of social exclusion experienced by marginalized individuals can have consequential effects on their partners, children, relatives and communities.

**Sexuality and Violence**

The global development framework has progressively engaged on the issue of violence to the extent that it has recognized the issue as a violation of individuals' human rights, and its elimination, including the elimination of sexual violence, as contributing to enhancing well-being and positive developmental outcomes. In the past

[60] Jolly, S. 2010. *Poverty and Sexuality: What are the connections? Overview and Literature Review. September 2010.* Swedish International Development Agency. Edita, 23.
[61] *Ibid*, 23.
[62] Jolly, S. and Ilkkaracan, P.. 2006. Gender, sexuality and sexual rights: an overview. In BRIDGE Gender and Development in Brief, Issue 18**,** Publisher: IDS: Brighton.
[63] Jolly, S. 2010. *Poverty and Sexuality: What are the connections? Overview and Literature Review. September 2010.* Swedish International Development Agency. Edita, 27.
[64] Hawkins, K., Cornwall, A., Lewin, T., 2011. "Sexuality and Empowerment: An Intimate Connection." Parthways of women's empowerment: Pathways Policy Paper. http://www.pathwaysofempowerment.org/Sexuality%20_and_Empowerment_Policy_paper.pdf. Accessed 25 June 2013, 6.

decade domestic, familial and intimate partner violence have also been recognized as violations of human rights.

However, rarely have development initiatives been recognizant of, or effectively addressed the root causes associated with violence, particularly sexual violence, which lie in the patriarchal notions of the need to control women's bodies or otherwise to prevent women, and other marginalized populations, from exercising autonomous decision-making, freedom of expression, among other means of seeking independence and living free from coercion, stigma and discrimination. Other forms of violence, including physical violence, represent equally serious attacks on women's integrity and autonomy. The UN Special Rapporteur on Violence against Women has stated that "in recognizing women's sexual and reproductive autonomy, rather than protecting women's sexual purity, one can tackle the roots of gender-based violence."[65] In development discourse, sex and sexuality has often been labelled as a problem, positioning 'third world women' as victims, lacking agency and power.[66] An image is constructed of a homogenous and victimised population of third world women.

The impacts of violence on development are multiple and complex. Young women and girls who experience physical violence encounter challenges, such as being able to stay in school, and unable to seek justice. These challenges stem from their age, poor knowledge of and access to the legal system, and the lack of availability of youth-friendly services. Similarly, victims of psychological violence, particularly marginalized populations, encounter challenges in accessing public services, specifically those related to health and justice, and fear of societal pressures and judgement. Often these challenges stem from fear of experiencing further forms of violence if the survivors' experience becomes known to the extended family or members of the community. Survivors of sexual violence often experience high levels of stigma and discrimination, which may deter them from accessing health services, including emergency contraception, counselling and other essential services, for fear of family or community members becoming aware of their experience.

Another component of violence requiring further focus within the realm of development relates to individuals with non-conforming genders and expressions of sexuality, particularly trans- and intersex individuals and women who are attracted to women. Governments continue to uphold laws, policies and programmes that discriminate against individuals with diverse sexual orientations, gender identities and expressions. In practice, this happens through, for example, the criminalization of same-sex consensual activities and the failure to recognize same-sex parents. Individuals with diverse sexual orientations and gender identities are often invisible to the benefits of development, which typically identify beneficiaries from heterosexual and traditional family formations and formal sectors of the economy – rather than those who challenge dominant discourse, including sex workers, trans and intersex individuals, women with same-sex desires and those who work in the informal economy.

Numerous resolutions at the HRC have brought greater attention to the relationship between human rights and sexuality, paying particular attention to marginalized women. Specifically, the 2009 Resolution on Violence Against Women[67] addressed issues related to sexuality and sexual rights including the elimination of policies and practices which violate the human rights of individuals to have control over and make decisions related to their sexuality. Also, the 2011 Resolution on Human Rights, Sexual Orientation and Gender Identity[68] acknowledged the universality of human rights, regardless of circumstance and impunes violence on the basis of sexual orientation and gender identity.

## *Forward looking vision to take this agenda forward beyond 2014*

The current context presents numerous challenges and opportunities to strengthening the integration of sexuality, and sexual rights, in global development agendas. One of the most significant challenges relates to persisting conservative forces that attempt to derail any moves to draw greater attention to sexuality and sexual rights. Many of these forces are grounded in resistance to sexuality and sexual rights on the basis of attempting to control women and young people's bodies and choices, among other ideologically-driven motivations and

65 United Nations. 2003. Economic and Social Council. Commission on Human Rights. Fifty-Ninth Session. "Report by Special Rapporteur on Violence against Women, Radhika Coormaraswamy, on Integration of the Human Rights of Women and the Gender Perspective." E/CN/.4/2003/75. Accessed 4 June 2013. http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G03/101/00/PDF/G0310100.pdf?OpenElement, 18.
66 Jolly, S. 2007. "Why the Development Industry should get over its obsession with bad sex and start to think about pleasure." *Institute of Development Studies Working paper 283*.
67 United Nations. 2010. General Assembly. Human Rights Council Fifteenth Session. Resolution on the elimination of discrimination against women. A/HRC/RES/15/23. http://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/A.HRC.RES.15.23_En.pdf. Accessed 25 June 2013.
68 United Nations. 2011. General Assembly. Human Rights Council. "Resolution on Human rights, sexual orientation and gender identity." A/HRC/RES/17/19. Accessed 4 June 2013. http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/148/76/PDF/G1114876.pdf?OpenElement

misconceptions. Examples of these trends include recent attempts made at the UN Human Rights Council to introduce a resolution on traditional values and on the 'protection of the family.'[69] Similarly, the 2013 UN Commission on the Status of Women saw an extreme backlash against women`s rights, specifically upholding arguments based on religion, culture and tradition to allow human rights violations relating to young people's sexualities.[70]

Alternatively, the ongoing reviews of the ICPD PoA and MDGs offer opportunities to integrate issues that were not included during their formulation. Throughout both review processes, diverse stakeholders have collectively advocated for the ICPD Beyond 2014 and Post-2015 development agendas to adopt a human rights-based approach, which pays particular attention to the human rights of the most marginalized populations and addressing inequalities.

There is strong evidence demonstrating the positive impacts of adopting a rights-based approach to development policies. The challenge lies in overcoming resistance to the recognition of sexual rights and sexuality:

> Rights based approaches are increasingly seen as useful in seeking to ensure that development projects and programmes are guided by the priorities and needs of the primary stakeholders. Many people are denied their basic rights by social rules around sexuality, where they conform to or diverge from these. Supporting rights around sexuality could help redress such injustices.[71]

Situating individuals' needs and realities at the centre of development creates opportunities to address the multiple and intersecting factors that lead to and perpetuate inequalities. This, coupled with a holistic and empowering approach to sexuality, can have a transformative impact on individuals' daily lived realities.

The ICPD Beyond 2014 review process and the discussions around the post-2015 development framework are important opportunities to strengthen the recognition of central role of sexuality and sexual rights to human existence. In this regard, the following actions could be considered in efforts to fully integrate human rights into these discussions:

- Directing efforts towards empowering individuals to exercise and claim their human rights and in the health sphere policies and programmes should be centred around principles of bodily autonomy, choice and the ability to make autonomous decisions, and informed consent as a means of achieving positive development and adopting a holistic approach to sexuality. A holistic approach to sexuality and health is one that empowers people to make safer and happier choices around sex and relationships.
- Ensuring the meaningful participation of diverse groups of women, including young and unmarried women, adolescents, and marginalized groups in the design, implementation and evaluation of population and economic and social development policies and programmes as key means of ensuring that these efforts are not harmful but relevant and beneficial to the realization of their human rights, including their sexual rights.
- Undertaking *ex ante* assessments of policies and programmes prior to their implementation by Governments and international donors. Specific projected impacts on the sexual rights of diverse groups and populations should be assessed in a participatory manner.
- Encouraging the regular review of laws and policies in the areas of sexuality and reproduction with a view to ensuring that those which are inconsistent with human rights, such as those which criminalize specific types of consensual sexual activity or which impose barriers for specific groups such as adolescents or women on access to sexual and reproductive health services and information, are removed or reformed.
- Providing scientifically accurate and non-judgemental comprehensive sexuality programmes in and outside of schools, with supportive policy and legal frameworks in place and accompanied by appropriate teacher training, supervision and performance review mechanisms. To ensure high quality and for accountability reasons, young people, and adolescents in particular, need to be actively involved

[69] This resolution was a ploy to cement the traditional family as a subject of human rights protection in and of itself. This initiative supports efforts to oppose the protection and promotion of sexual and reproductive rights, and in particular issues of sexual orientation and gender identity, abortion, adolescents' access to sexual and reproductive health services and comprehensive sexuality education, and to privilege parental rights over children's rights.

[70] Egyptian Initiative for Personal Rights. 2013. "A Call from the Arab Caucus at the 57th Commission on the Status of Women." 14 March 2013. http://eipr.org/en/pressrelease/2013/03/14/1655. Accessed 25 June 2013.

71 Jolly, S. 2006. "Sexuality and Development." *Institute of Development Studies Policy Briefing 29*. http://www.ids.ac.uk/files/PB29.pdf. Accessed 4 June 2013.

in the design, implementation, monitoring and evaluation of sexuality education programmes. Other qualitative information as to the quality of sexuality education should be measured in terms of the extent to which young people have felt informed and empowered to carry out sexual and reproductive decisions that are right for them. Do young people themselves feel prepared by the sexuality education they received? This is important information that can help indicate what corrective actions are needed.

- Analysing social and economic development programmes and policies, including for example anti-poverty strategies, to determine if underlying assumptions are heteronormative or reinforce dominant social or familial structures, which then will often result in programming only suited to the needs of the majority or that further exacerbates economic or social exclusion or disadvantaging of people with non-conforming sexualities.
- Avoiding siloed SRHR programmes and instead ensure that integrated approaches designed to meet the SRH needs of the most marginalized or excluded are preferred.
- Addressing the root causes of human rights violations related to sexuality, including power relations and gender stereotypes, that prevent integration of sexuality into development programmes: these are deeply rooted in patriarchal notions of the need to control women's bodies and uphold socially constructed gender norms and stereotypes which perpetuate gender-based inequalities.
- Conducting research on the interlinkages between sexual rights and poverty, including on the disproportionate impact of economic crises on the exercise of sexual rights by the most vulnerable or marginalized.
- Increasing work on the intersections of these issues with social and economic rights issues and the diverse economic realities that result from sexual rights violations or exclusions based on sexuality and/or gender and that can exacerbate the likelihood or impact of SR violations.
- Supporting the meaningful engagement of diverse stakeholders and voices on action on the above issues.

### *Questions for discussion*

- What are some of the systemic factors within international development agencies and policies that hinder the full consideration of the sexual rights of diverse groups of women, adolescents, and marginalized groups, such as sex workers, men who have sex with men, women who have sex with women, and transgender persons?
- Taking note of the 2009 commitment made by parliamentarians from around the world during the International Parliamentarians Conference on the Implementation of the ICPD PoA (which committed governments to ensuring that at least 10% of ODA is directed towards supporting the realization of sexual and reproductive rights), what can donor countries do to support integrated approaches to development which meet the SRH needs of the most marginalized or excluded?
- What tools exist to assist international donors or governments in conducting *ex ante* impact assessments that can predict the impact of policy implementation on the sexual rights of the most marginalized?
- In specific cases where there have been moves away from the provision of scientifically-accurate and comprehensive sexuality education, what have been the reasons for these shifts? What needs to happen in these cases to ensure that young people are able to receive this vital education?
- What are good practices for reaching adolescents out of school with sexuality education?
- What are good practice examples of governments leading regularized participatory processes to assess and reform laws and policies? How can these be applied in the context of sexuality and reproduction?
- What are key areas for international accountability bodies to consider further in the area of sexual rights and development?
- Taking note of IPPF's 2008, 'Sexual Rights Declaration,'[72] what role do civil society organizations and in particular development organizations have in advancing development goals to promote sexual rights, health and well-being?

72 http://www.ippf.org/resource/Sexual-Rights-IPPF-declaration

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