

Preventive Health Measures, PrEP, and the Right to Health:

A Human Rights Case Study on Access to Pre-Exposure Prophylaxis for Female Sex Workers in South Africa

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Introduction

Background

- ▶ Female sex workers (FSW) are a uniquely vulnerable population to HIV because of factors such as gender-based violence, stigma, difficulties negotiating condom use, and structural issues such as poverty, the criminalization of sex work, and police harassment.
- ▶ There is a lack of human rights-based research on access to biomedical HIV prevention tools such as PrEP for vulnerable populations.

Methods

- ▶ A case-study approach was used to critically examine the rollout of PrEP for FSW in South Africa, drawing on the country's Bill of Rights, national healthcare policies, and de facto PrEP implementation.

Research Questions

- ▶ 1) How are human rights frameworks currently guiding the provision of PrEP for female sex workers in South Africa?
- ▶ 2) To what extent does the right to the highest attainable standard of health, as outlined under Article 12.1 of the *International Covenant on Economic, Social, and Cultural Rights (ICESCR)* include preventive health measures such as PrEP for HIV-negative female sex workers in HIV-endemic countries?

The Right to Health in South Africa

- ▶ The Republic of South Africa adopted the Universal Declaration of Human Rights (UDHR) in 1996, and later ratified the ICESCR in 2015.
- ▶ The right to health is enshrined in the Constitution and Bill of Rights of the Republic of South Africa, suggesting a strong commitment to apply and enforce international human rights law within the country's borders.

Table 1: Relevant Human Rights Articles Adopted, Ratified, or Domesticated in RSA

Universal Declaration of Human Rights (1948)

- **25.1:** Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food, clothing, housing, and medical care and necessary social services.
- **27.1:** Everyone has the right freely [...] to share in scientific advancements and its benefits.

International Covenant on Economic, Social and Cultural Rights (1966)

- **12.1:** The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
- **12.2c** The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for [...] the prevention, treatment and control of epidemic, endemic, occupational, and other diseases.
- **15.1b:** The States Parties to the present Covenant recognize the right of everyone [...] to enjoy the benefits of scientific progress and its applications.

Constitution and Bill of Rights of the Republic of South Africa (1996)

- **10:** Everyone has inherent dignity and the right to have their dignity respected and protected.
- **11:** Everyone has the right to life.
- **27.1.a:** Everyone has the right to have access to health care services, including reproductive health care.
- **27.2:** The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of each of these rights.

Implementation of PrEP Policies in South Africa

- ▶ FSW were targeted as priority for initial PrEP research & rollout through urban public healthcare centres in RSA
 - ▶ 2015 - *Treatment and Prevention for Female Sex Workers (TAPS) demonstration project*
 - ▶ 2016 - *National Policy on HIV Pre-exposure Prophylaxis (PrEP) and Test and Treat (T&T)*
 - ▶ 2016 *Guidelines for Expanding Combination Prevention and Treatment Options for Sex Workers: Oral Pre-Exposure Prophylaxis (PrEP) and Test and Treat (T&T)*
 - ▶ 2017 - *South Africa's National Strategic Plan for HIV, TB and STIs 2017-2022*
- ▶ FSW uptake of PrEP was low, representing only 13% of PrEP users in South Africa.¹

Critical Analysis

- ▶ The realization of the right to health requires a health system or program to meet the conditions of *availability, accessibility, acceptability, and quality*.²

Table 2: Elements of the Right to Health & The Right to Benefit from Scientific Progress in South Africa's PrEP Implementation

Availability	<ul style="list-style-type: none"> • Free PrEP services offered for FSW in urban centres and through TAPS study • Lack of availability of free PrEP services for FSW outside of select healthcare centres in urban centres. • Lack of research dissemination for FSW from ongoing PrEP trials • No FSW-specific PrEP information on government website: www.myprep.co.za
Accessibility	<ul style="list-style-type: none"> • Limited physical accessibility for FSW in rural areas • Limited economic accessibility for FSW in rural areas in public health clinics • Limited information accessibility, as PrEP information was not well disseminated to FSW and healthcare providers did not initiate PrEP conversations. • Limited ability to participate in and benefit from research trials; benefits of participation end when research trials are complete
Acceptability	<ul style="list-style-type: none"> • PrEP acceptability was limited among FSW, as a result of medical mistrust and concerns about medication efficacy. • PrEP was found to be acceptable for FSW who received treatment and adherence counselling
Quality	<ul style="list-style-type: none"> • PrEP quality has been confirmed through multiple clinical and demonstration trials • Overburdened public health system may reduce quality of PrEP services and continued care for FSW

1. PrEP for female sex workers: non-judgmental attitudes and community involvement are keys to success | aidsmap, n.d. Available at <https://www.aidsmap.com/news/aug-2018/prep-female-sex-workers-non-judgemental-attitudes-and-community-involvement-are-keys>

2. UN Economic and Social Council, "General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant)," UN Committee on Economic, Social and Cultural Rights (CESCR) (2000)

Conclusion and Recommendations

- ▶ Article 12.1 of the ICESCR includes HIV prevention medicines such as PrEP for HIV-negative FSW in HIV-endemic countries.
- ▶ Greater work must be undertaken to ensure that PrEP is accessible, available, acceptable, and of high quality for FSW in HIV-endemic countries.
- ▶ PrEP programs should prioritise counselling, disseminate information in culturally and socially acceptable ways, and utilise existing social networks among FSW to increase awareness and reduce stigma.
- ▶ Programs should ensure free access to PrEP in both urban and rural healthcare centres.
- ▶ States should adopt specific legal instruments to ensure access to PrEP for FSW, including regulated training for healthcare providers.
- ▶ Recognising that many HIV-endemic countries face resource challenges, the use of generic PrEP and international pharmaceutical assistance is recommended to minimise financial burden and to ensure PrEP access in both urban and rural settings, through both private and public healthcare systems.
- ▶ In order to increase the overall health of FSW and reduce the rate of HIV infection, it is recommended that HIV-endemic countries address deterrents of health for FSW such as housing, safe water, and decriminalization of sex work.