

# Role of Building Capacities for Sexual Consent in Reducing HIV Vulnerability among MSM and Transgender Women in South Asia

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## 1. Background

Sexual violence against MSM and trans women in South Asia (by their male sexual partners) is an under-researched area.<sup>1</sup>

Recent studies in the region indicate links between sexual violence and HIV prevalence among MSM and trans women.<sup>2</sup>

Regional legal advocacy forums on key populations emphasize integrated interventions against sexual violence and HIV.<sup>3</sup>

LGBT community dialogue on same-sex sexual violence is also gaining roots.



**Left:** Participants at South Asia Roundtable Dialogue on legal and policy barriers to HIV response, Kathmandu, Nepal, 2011.

**Below:** Community dialogue series on decoding sexual consent, Kolkata, India, 2016.

Photos: Above: IDLO; below: Arunabha Hazra / Varta



In this context, the UNDP MSA DIVA programme supported a regional study on gender-based violence in 2015-16:<sup>4</sup>

- Focussed on MSM and trans women in 7 countries: Afghanistan, Bangladesh, Bhutan, India, Nepal, Pakistan and Sri Lanka
- Explored different forms, causes, perpetrators, impact and the pathways of violence leading to HIV vulnerability
- Found 'compromised sexual consent' and 'sexual violence' to be among key factors of vulnerability
- Pointed at the need to build individual capacities for providing informed sexual consent to prevent violence and HIV

## 2. Methods

### Qualitative study design:

- Literature review
- Focus group discussions (FGDs) using case vignettes with MSM and trans women (irrespective of sexual reassignment status)
- Key informant interviews (KIIs) with counsellors, doctors, lawyers, police officers, community leaders, PLHIV, government officials

### Purposive sampling:

**FGDs:** Self-identified MSM, trans women at least 18 years old

- Across country and culture-specific gender and sexual identities
- Approached by outreach staff of country sub-recipients of UNDP's MSA DIVA Programme<sup>4</sup>
- At sites where country sub-recipients had outreach/services for MSM and trans women

**KIIs:** People with rich experience in working among MSM/trans women

- Selected in consultation with UNDP, LGBT activists and MSA DIVA sub-recipient leaders

### Data analysis:

- Data analyzed using coding tree emergent from reading of FGD and KII transcripts and application of Atlas ti software
- Codes used to glean data from transcripts and compile in an MS Excel framework for content analysis
- Analysis themes were inter-linked or cross-cutting in nature:

Forced social inclusion	Social exclusion	Exploitation	Impact of violence	Coping with violence	Recommendations
Religious and cultural beliefs	Gender-blind policies	Extortion and blackmail for money and sexual favours	Loss of shelter	Self-exclusion (from family or community)	Individual and family levels
Forced marriage	Discrimination in education	Forced sex, unprotected sex, exploitative sex work	Loss of education	Giving in or appeasing (normalization)	Community level
Imposing rigid gender/sexual roles	Discrimination in employment and workplace	Economic and other abuse in intimate partner relationships	Loss of livelihood or reduced options	Building resilience (community mobilization)	Programmatic level
Discriminatory laws	Denial of stable, secure shelter	Economic violence by family	Depletion of social capital		Structural level (constitutions, laws, policies, systems)
Threat of honour killings	Denial/discrimination in health and other services		Breakdown in relationships		
	Negative media portrayal		Poor overall health status		
	Social boycott, neglect of basic needs		Mental health and HIV vulnerability		

### Ethical issues:

- Individual verbal consent sought from FGD and KII respondents
- No names used in FGDs/KIIs, no contact information collected
- All FGDs and KIIs conducted in private spaces, no sit-in's by non-researchers allowed
- FGD respondents were involved in setting ground rules, including keeping discussions confidential
- FGD and KII quick notes, audio recordings and transcripts stored in password-protected or other secure spaces
- Study protocols were reviewed by country-specific institutional review boards or expert panels
- Training for research team on qualitative research, gender and sexuality concepts; mock sessions for practicing consent forms, FGD/KII guides



Graphic: Prosenjit Pal

## 3. Results

Analysis shows sexual violence against MSM and trans women (adults or minors) by their male partners is more than 'absence of sexual consent'

Thus sexual violence is not just forced sex (rape) where victim is physically overpowered

**Sexual violence is also the 'presence of compromised sexual consent', which:**

- Is a violation of human rights
- May contribute to mental health vulnerabilities
- May enhance HIV exposure through unprotected sex with one or multiple partners, including commercial sexual partners

### Why compromised consent happens:

**In sex work because of financial compulsions around:**

- Livelihood, daily survival, feminization
- Meeting expenses of intimate partners (and their families)
- Appeasing family members (earning a place and peace at home)
- Meeting monetary demands of community leaders

**In the context of sexual or romantic relationships:**

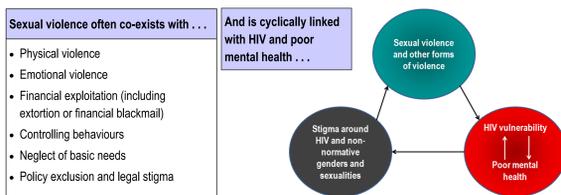
- Fear of violence by intimate partner and/or break-up with him
- Fear of loneliness and uncertain availability of reliable partners
- Peer pressure to live up to norms of femininities and masculinities
- Lack of awareness of right to not give or withdraw consent

**In the context of threats (sexual blackmail):**

- Fear of harassment, arrest or other violence by men in uniform
- Fear of violence by sex work client
- Fear of disclosure of gender, sexuality or sex work profession

**In the context of other reasons:**

- Poor self-esteem around gender, sexuality or body image
- Under influence of substance use
- Emotional escape from endless family or intimate partner violence



## 4. Conclusions

Capacity to negotiate and give informed sexual consent or withhold it can be a strategic tool in reducing HIV vulnerability

National, regional and local HIV interventions in South Asia must capacitate MSM and trans women to:

- Give only informed sexual consent to their partners
- Otherwise withhold it without fear of loss or violence

**Capacitating people for informed sexual consent requires consent to bold structural and programmatic changes!**

**Advocacy for constitutional, legal and policy changes:**

- Constitutional recognition of LGBT people (test case: Nepal)
- Decriminalization of: (a) All LGBT people; (b) Sex work
- Policies sensitive to gender and sexuality diversity
- Police sensitization and trust building

**Individual, family, community and programmatic actions:**

- Inter-personal and mass communication to reduce stigma against MSM and trans women and enhance their self-esteem
- Inter-personal/mass communication to change perceptions around sexual consent: **Significance of Yes! No! Maybe!**
- Interactive exercises to build skills to negotiate sexual consent
- Provision of psycho-social, relationship and family counselling
- Access to mental health, social welfare, feminization and legal aid services along with STI/HIV prevention and treatment
- Supporting people willing to report sexual violence with unbiased legal aid and mitigation services
- Social support systems for ageing or aged individuals.

### References

- <sup>1</sup> India HIV/AIDS Alliance. *Pehchan Policy Brief: Violence in Intimate and Family Relationships among Men who have Sex with Men, Transgender Women and Hijras and its Impact on HIV Vulnerability in India*. India HIV/AIDS Alliance, New Delhi, 2015
  - <sup>2</sup> Shaw S. Y. et al. *Factors Associated with Sexual Violence against Men Who Have Sex with Men and Transgendered Individuals in Karnataka, India*. "PLOS One", March 20, 2012
  - <sup>3</sup> International Development Law Organization. *South Asia Roundtable Dialogue: Legal and Policy Barriers to the HIV Response, November 2011*. International Development Law Organization, 2011
  - <sup>4</sup> Under its Global Fund Multi-country South Asia HIV Programme (DIVA)
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Perpetrators of sexual violence may be:
• One person or more (gang rape)
• First male sexual partner
• Regular intimate partner
• Commercial sexual partner
• Casual sexual partner
• Men in uniform or others with institutional power

### Some reasons for giving consent to unprotected sex:

"Many people don't use condoms with their regular intimate partners, but then the partners change often, which means that condom use is rare. Also, commercial sexual partners pay double the usual amount if there is no condom use (though some of them are quite conscious about condom use)" – *Transgender FGD respondents in Nepal*.

### Attitudes on withdrawal of consent:

"If I start having sex, and then say no, the other person will not leave me... the other person will complete his sex and only then leave me. We can't call it forced also as I had gone into it with my own wish... If I say I like this or don't like this after starting sex, the other man will not leave at all... he will leave after sex is complete... can't call it forced and can't say it is with one's wish also" – *MSM FGD respondent, India*.

### Compromised consent in first same-sex sexual encounter

"I think it started when I was 7-8 years old. I used to share my bed with my cousin. The first encounter was with him... I used to hug him while preparing for sleep... I had a habit of deep sleep. So, I couldn't know what used to happen while asleep. One day he started having sex with me while I was sleeping. My anus was severely injured.

"After that first time, whenever I shared the bed with him, he forced me to have sex. He used to frighten me by saying that he would tell everything to my parents... I liked him but I didn't like the sexual intercourse. I liked to touch his genital organs but not to have intercourse" – *MSM FGD respondent in Bangladesh*.