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Building stronger national responses to AIDS - the role of the law

The Experience Exchange Conference of International
Cooperation Programs on AIDS Prevention in China

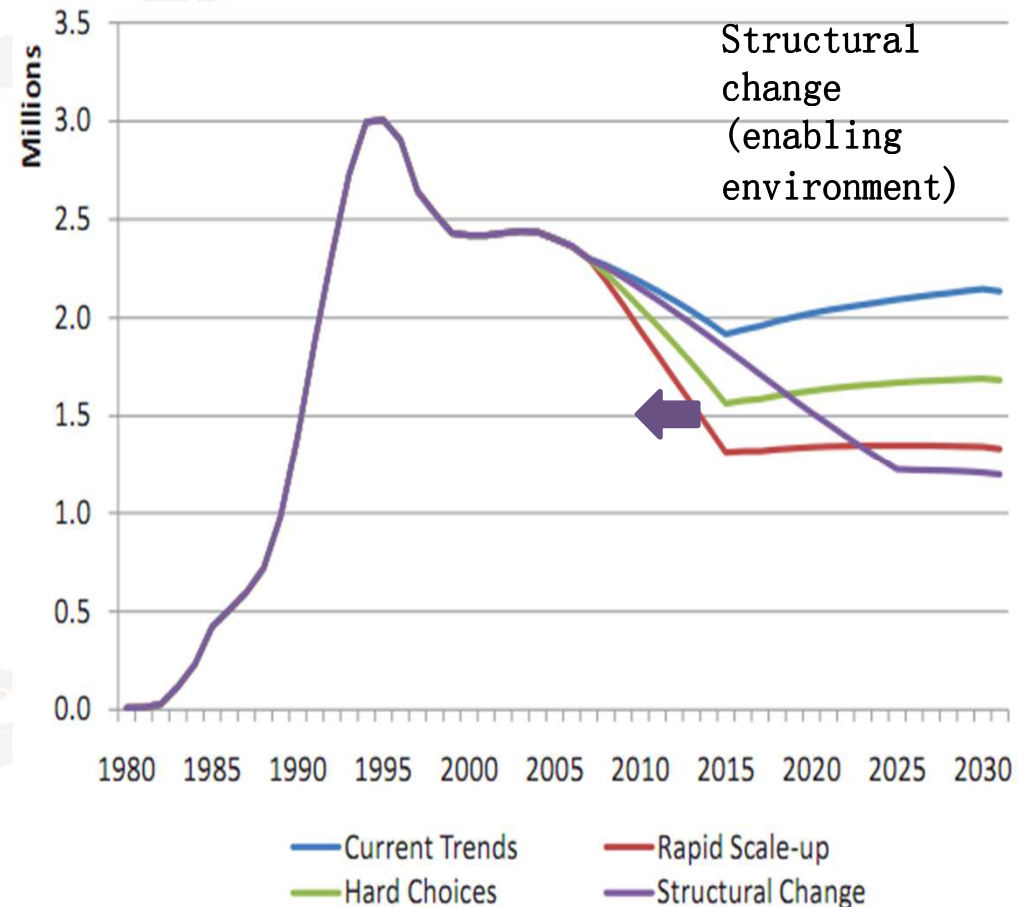
Qianmen Jianguo Hotel, Beijing
11 November, 2013

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Why the law matters

- Science, tools to transform HIV, exist but is not sufficient
- Evidence from the AIDS 2031 report shows that between
 - Hard choices on who to treat
 - Rapid scale up
 - Legal and policy change
- Structural change most effective
- Law and policy change is not a magic bullet in itself, but is most cost effective and underutilized tools
- Structural change (enabling legal environment) also facilitates access to law reform by people most at risk of / vulnerable to HIV

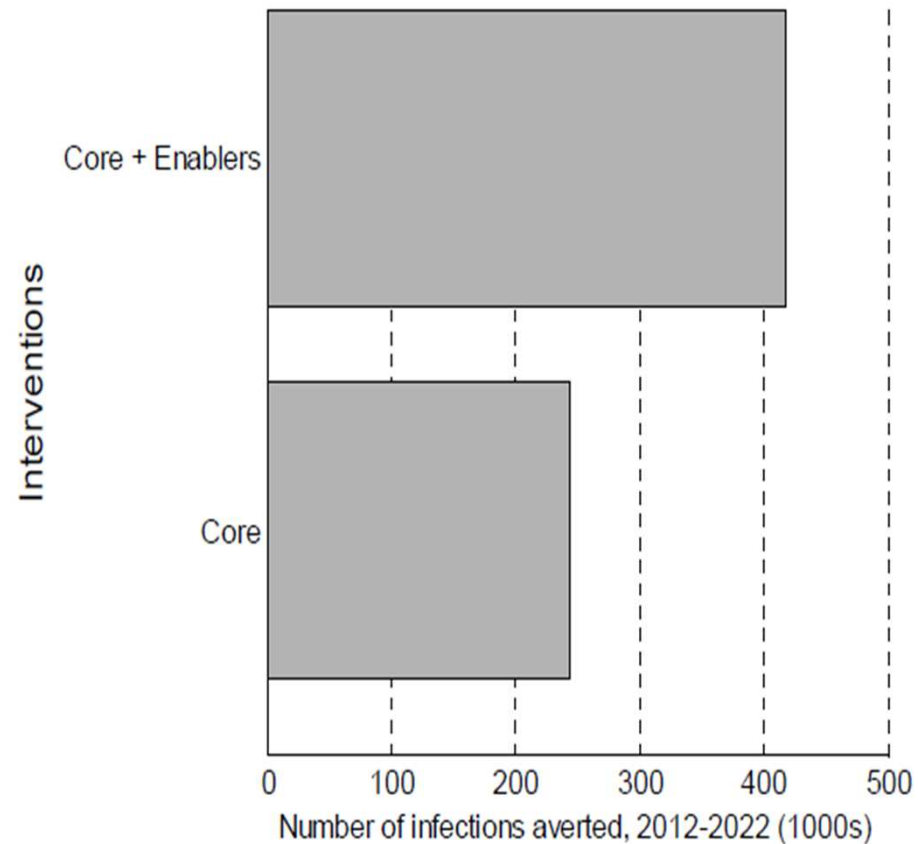


The Opportunity with Critical Enablers



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Critical enablers such as the law can contribute significantly to reducing HIV incidence for a relatively low cost



The Lancet 2011; 377:2031-2041

Global Commission Report – “*Risks, Rights & Health*”



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Key Messages:

1. Epidemic of inappropriate laws is fueling the spread of HIV, resulting in human rights violations and costing lives.
2. Such laws are wasting money & limiting effectiveness and efficiency of HIV and health investments.
3. Good laws and practices that protect human rights and build on public health evidence already exist – they strengthen the global AIDS response, and they must be replicated.

What have we doing with the recommendations of GCHL in Africa?



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- Supporting national legal environment assessments to inform legislative reform in 51 countries
- Supporting Legislative reform – e.g.: laws related to key populations and women + IP & Treatment access
- Supporting National dialogue & action planning on HIV and the Law in 20 countries
- Supporting the conducting of Conducting regional and national sensitization for the judiciary, legislature (parliamentarians) and law enforcement agencies.
- Knowledge/capacity building products – (www.hivlawcommission.org)



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GLOBAL COMMISSION ON HIV and the LAW

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Implementation of the Report

Africa



Judicial officers to apply the law in promoting the realization of zero

GCHL Follow-up in Africa



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National level support:

- Legal Environment Assessment
- National Dialogues on HIV and the Law
- Nationally agreed Action Plans
- Law reform and work to strengthen access to justice and law enforcement.

Regional level support:

- Strengthen capacity of civil society to advocate for evidence informed and human rights-based legal environment and
- Work in partnership with the African Union Commission (AUC) to strengthen the capacity and engagement of Member States and key RECs.

And this links to: →

1. **African Union Roadmap** for Shared Responsibility and Global Solidarity for addressing AIDS, TB and Malaria in Africa (adopted 2012)
2. UNDP Global initiative to follow up GCHL recommendations (2012 ongoing)
3. Results under UNDPs new Strategic Plan (2014-2017)
4. Strategy for regional work on HIV and AIDS, sexual and reproductive health and rights (SRHR) and on the human rights of lesbian, gay, bisexual and transsexual (LGBT) persons in sub-Saharan Africa.
5. African Cities and HIV Initiative for Key Populations
6. African Initiative to strengthen gender and HIV sensitive Environmental Assessment



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How has that helped? Case Study Malawi

- **HIV/AIDS Bill in Malawi 2008 with provisions that were being debated across society, which included compulsory testing of all pregnant women and sex workers, and criminalisation of HIV transmission.**
- **LEA conducted by the Dept. of Nutrition & HIV/AIDS (Office of the President of Malawi) with support from UNDP in 2012 – with increased dissemination of the report, discussions on the provisions, etc.**



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Intermediate results that we are seeing in Malawi

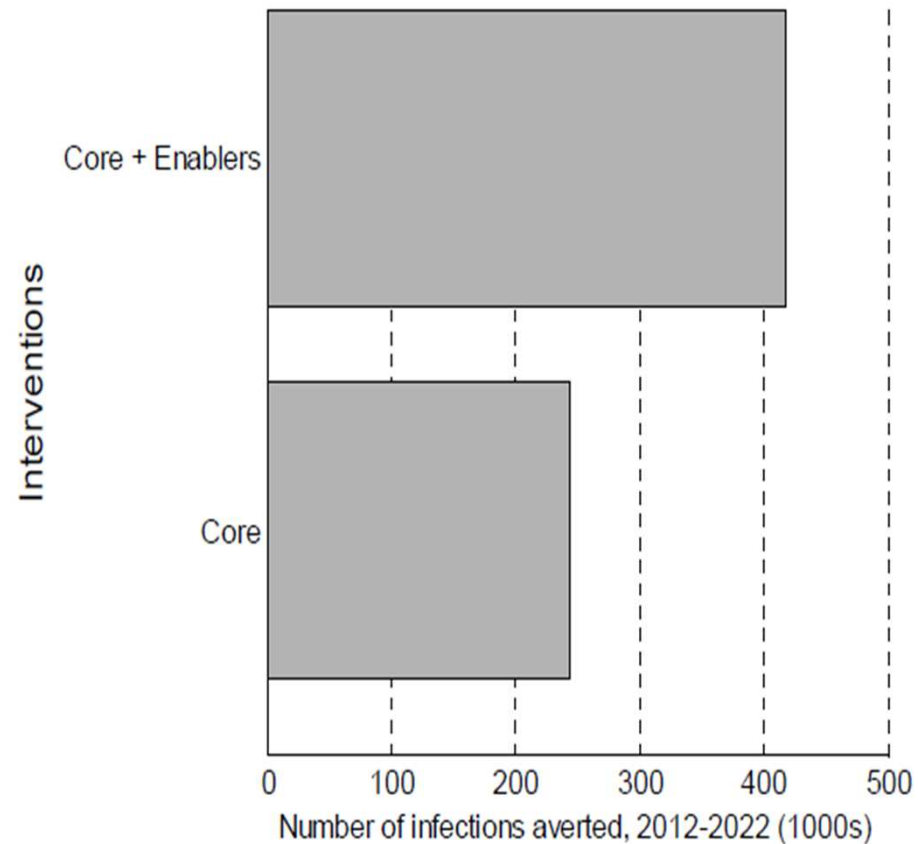
- HIV policy and Strategy revised (explicitly acknowledge the promotion and protection of rights from a public health angle)
- **Moratorium** on arresting MSMs;
- **Statements** from the government supportive of the human rights of MSM, Sex Workers.
- Weekly media report/documentary in the (Nation Newspaper) on minority rights.
- **Dialogue** on child marriage, which is going to be important in the context of the **marriage bill**.
- The Ministry of **Justice revised the 2008 draft HIV prevention and management bill** without contentious provisions validated on 3rd October.
- High Court of Malawi have given a notice to organisations to appear as amici on “sodomy laws” (today), civil society organisations have applied to be amici

The Opportunity with Critical Enablers in Asia



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The Lancet 2011; 377:2031-2041



Chinese context

- *National Administrative Regulations on HIV/AIDS Prevention and Control (2006)* – good but implementation a challenge
- Conflicts between national and provincial regulations
- Discriminatory national practices (i.e. civil service employment examination).
- Overruled by national laws on public security like anti-sex work or drug use and trafficking laws
- High levels of police brutality and violence against FSWs and IDUs in some provinces
- Stigma and discrimination and law enforcement impede key populations from accessing treatment and prevention services.

Review Process and Focus



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- **Joint National Law Review Report with Renmin University**
- **High-level national consultation as part of the next China Red Ribbon Forum**

How does the Chinese legal environment (law, regulations, law enforcement and access to justice) influence:

1. HIV prevention, treatment and care – access and quality
2. Social support for people affected by the epidemic
3. Human rights protection and promotion
4. Efficiencies and effectiveness of HIV investments

Strengthening access to justice and legal empowerment of key populations:



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- Expanding legal-aid services in Yunnan – Daytop legal aid initiative
- Partnership with Yunnan’s Bar Association to train local lawyers and law students on HIV and human rights
- National consultation on legal-aid for PLHV and key populations (November 2013)
- Establishment national network of independent legal-aid service providers
- Law reform and access to justice central in new UNAIDS UBRAF work-plan for 2014-2015 biennium in China

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'HIV and the Law: Risks, Rights & Health'

How evidence and human rights based laws can end an epidemic of bad laws and transform the global AIDS response!

The final report of the Global Commission on HIV and the Law presents a coherent and compelling evidence base on human rights and legal issues relating to HIV

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