



# Addressing the Role of Stigma, Discrimination, and Punitive Laws in Disrupting the HIV Care Continuum

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## **Stigma, discrimination and criminalization hurt people and undermine the HIV response**

- **Punitive approaches long recognized as a problem** – best way to get people to testing and care is by protecting, not punishing (Jonathan Mann; Hon. Michael Kirby)
- **Now have tools to measure stigma and discrimination, illustrate impacts, show who is affected and where** (e.g. in health care settings; PLHIV Stigma Index)
- **Global Commission on HIV and the Law (2012)** – extensive research, submissions, consultation (inclu. 7 regional dialogues), analysis and deliberation over a period of two years to examine links between legal environments and HIV responses.



## Govts have recognized the importance of human rights and enabling social and legal environments

- **2001 *Declaration of Commitment on HIV/AIDS***: Govts commit to protect human rights and end discrimination for PLHIV and vulnerable populations; revise laws that act as obstacles to HIV prevention and treatment
- **2006 *Political Declaration on HIV/AIDS***: Govts commit to promote “a social and legal environment that is supportive of safe and voluntary disclosure of HIV status” (para 25).
- **2011 *Political Declaration on HIV/AIDS***: Govts commit to address laws and policies that “adversely affect the successful, effective and equitable delivery of HIV services...and consider their review” (para 78).



## State of the HIV-related legal environment

- 29% of countries report **no legal protection against HIV-related discrimination**
- 67% report “laws and regulations that present **obstacles for vulnerable sub-populations**”
- High levels of **gender inequality, violence against women and stigma and discrimination**
- 36 have **HIV-related entry, stay and restrictions**
- 61 have **HIV-specific laws criminalizing HIV transmission**
- 76 **criminalize same-sex relations**; 7 include death penalty
- Most countries **criminalize drug possession**; many criminalize aspects of harm reduction
- Most **criminalize some aspect of sex work**

# Welcome (not)

For many of the millions of people living with HIV around the world, travel restrictions are a daily reminder that they do not have freedom of move internationally. In 2011, United Nations Member States agreed to eliminate HIV-related travel restrictions.

## How travel restrictions have changed since 2008



2008



MAY 2015

WELCOME



Countries, territories and areas that have no HIV-specific restriction on entry, stay or residence.

WELCOME (NOT)



59

countries, territories and areas impose some form of restriction on the entry, stay and residence of people living with HIV based on their HIV status.

WELCOME



Countries, territories and areas that have no HIV-specific restriction on entry, stay or residence.

WELCOME (NOT)



36

countries, territories and areas impose some form of restriction on the entry, stay and residence of people living with HIV based on their HIV status.



# Challenging overly-broad criminalization of HIV exposure and transmission

GUIDANCE NOTE | 2013

Ending overly broad criminalization of HIV non-disclosure, exposure and transmission: Critical scientific, medical and legal considerations



 UNAIDS

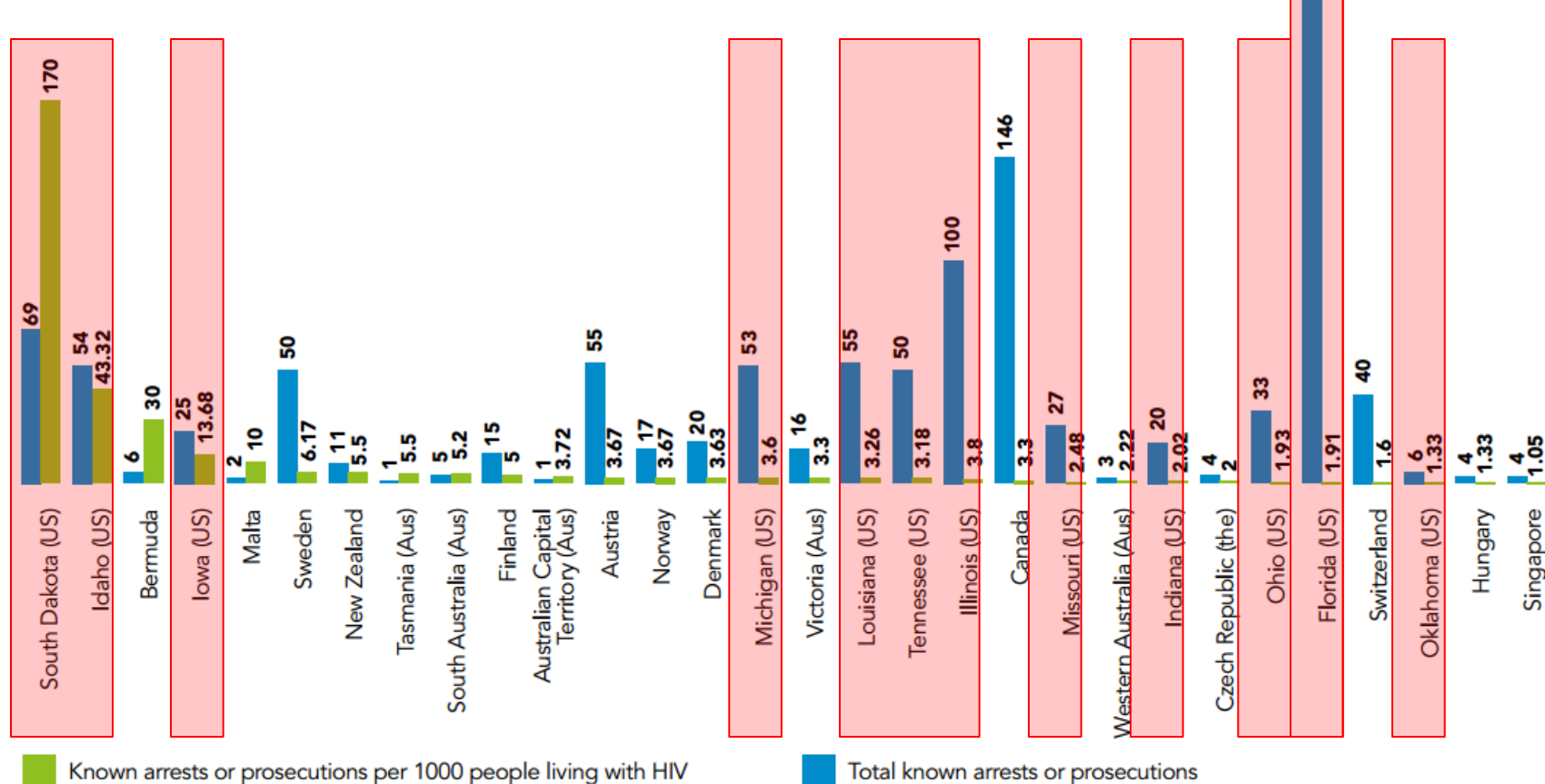
- Vague, disproportionate sentences, not based on science/facts/public health; selective enforcement
- Discourages HIV testing, open dialogue with physicians/counsellors
- 2010-2012: UNAIDS implemented research, evidence building and policy dialogue on issue
- New UNAIDS guidance published in 2013
- Really about appropriate use of criminal law, particularly in context of transmissible disease



## The law has not kept up with scientific and medical developments in the context of HIV

- Effective HIV treatment has significantly reduced AIDS-related deaths and extended the life expectancy of people living with HIV to near-normal lifespans.
- Treatment significantly reduces the risk of HIV transmission from people living with HIV to their sexual partners.
- *Analyses of sentences and penalties for HIV non-disclosure, exposure or transmission in many countries reveal **much higher penalties** than sentences for comparable or more serious offences.*

## Law enforcement hot spots: top 30 jurisdictions (in order of known arrests or prosecutions per 1000 people living with HIV)



Top 30 jurisdictions for HIV criminalization based on known arrests or prosecutions per 1000 people living with HIV and including absolute numbers of known arrests or prosecutions (data are cumulative and correct as of July 2012).

Source: Global Network of People Living with HIV, HIV Justice Network. Advancing HIV justice: A progress report on achievements and challenges in global advocacy against HIV criminalization. Amsterdam / London: Global Network of People Living with HIV / HIV Justice Network; 201.



#ADHERENCE2015



# Change is possible

 **NBC NEWS**

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## Iowa Scraps Harsh HIV Criminalization Law in Historic Vote

BY MIRANDA LEITSINGER

Iowa lawmakers voted early Thursday to repeal one of the nation's toughest laws punishing perceived exposure to HIV and replace it with one that reflects the latest scientific understanding

1 May 2014



# 7 key programmes to improve the legal and social environment in the context of HIV

GUIDANCE NOTE | 2012

KEY PROGRAMMES TO REDUCE STIGMA AND DISCRIMINATION AND INCREASE ACCESS TO JUSTICE IN NATIONAL HIV RESPONSES



1. Programmes to build **legal literacy** (know your rights and laws)
2. Provision of **legal services**
3. Programmes to **reform and monitor laws**
4. Programmes to **reduce HIV-related stigma**
5. Programmes to **train police** on non-discrimination, space for outreach, non-harassment, etc.
6. Programmes to **train health care workers** on non-discrimination, informed consent, confidentiality, duty to treat, infection control
7. Programmes to realize **gender equality and eliminate violence against women**



# Investing in critical enablers: part of effective HIV treatment programming



“Investments in critical enabler programmes (such as integrated treatment and rights literacy programmes, legal services, stigma and discrimination reduction programmes, training for health care workers and law enforcement) can play a role in **overcoming barriers to accessing treatment and other HIV-related services and keeping people connected to care**. As such, these programmes can **contribute to overall cost-effectiveness**, in addition to achieving other important objectives, such as reducing discrimination.”



## How can care providers *fast track* human rights and help end HIV criminalization?

1. Advocate that **criminal law provisions be informed by the best scientific and medical evidence** relating to HIV.
2. **Support advocacy by people living with HIV** to challenge overly broad criminalization.
3. **Sensitize the media and public** for a more accurate representation of HIV that reflects current advances in prevention, treatment, care and support.
4. **Sensitize elected officials** – advocate for expanded HIV services (not punitive laws and law enforcement) as the most effective way to address the HIV epidemic and protect public health.
5. **Engage prosecutorial authorities and the police** – encourage development of guidelines that set clear and narrow circumstances for charges in relation to HIV exposure or transmission.