

CHINA: Discrimination in Healthcare Settings Against People Living with HIV and Key Populations

Globally, discrimination resulting from stigma has been identified as one of the foremost barriers to scaling up the HIV response. Substantive community involvement is at the center of effective prevention, treatment, and care. Community participation promotes supportive social, political and legal environments and protects the rights of people living with HIV and key populations.

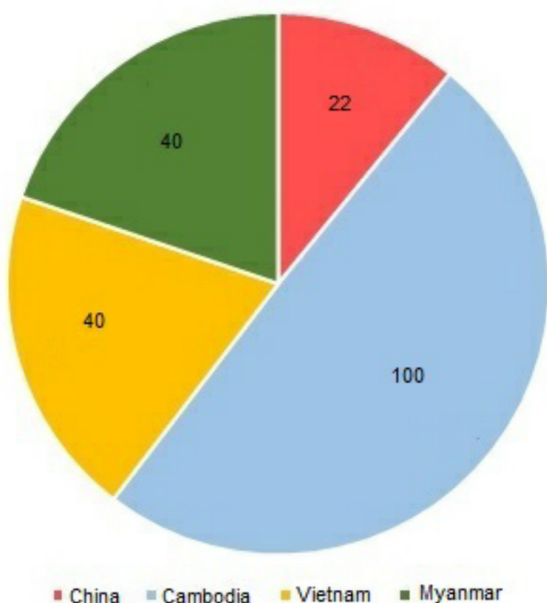
In December 2014, Asia Catalyst commenced the Regional Rights Training Program to increase community based organization's (CBO) knowledge of human rights frameworks and instill skills to conduct human rights documentation and evidence-based advocacy. The program trained CBOs to effectively advocate for non-discriminatory health services for people living with HIV and key populations. Eight CBOs from Cambodia, China, Myanmar and Viet Nam participated in this 18-month program. They identified the most pressing issues for their communities, collected testimonials and developed recommendations identifying potential avenues for advocacy.

The analysis of the findings from all four countries is synthesized in the report First Do No Harm: Discrimination in Healthcare Settings against People Living with HIV in Cambodia, China, Myanmar and Viet Nam, available on the Asia Catalyst website at: <http://asiacatalyst.org/resources/research/>. This brief highlights the findings in China and recommendations to all stakeholders from the CBOs involved - Chengdu Tongle Health Counselling Centre and Consultation Centre for AIDS and Health Services. The CBOs Identified the following issues as the most pressing for their communities:

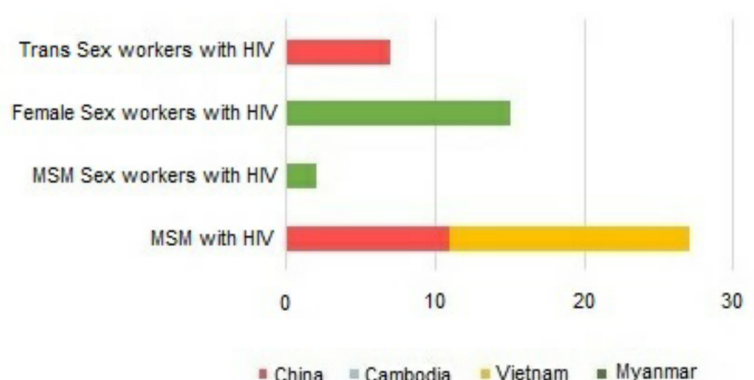
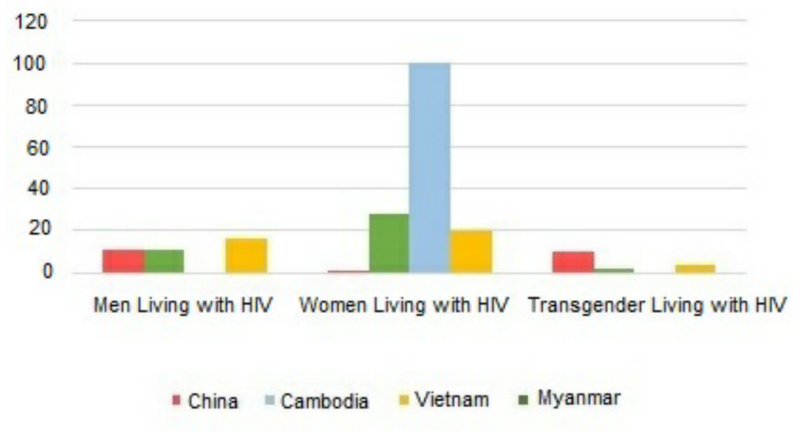
- Discriminatory practices faced by men living with HIV who have sex with men (MSM) as they access general surgeries in Chengdu;
- Discrimination faced by transgender women living with HIV as they access breast augmentation procedures in Shenyang.



Total number of Interviews



Gender breakdown of Interviewees



The CBOs found that:

1. People living with HIV regularly faced denial of services, particularly when they required surgery related services. All of the interviewees, MSM living with HIV and transgender persons living with HIV were unable to access surgery related services. The service providers cited lack of technical capacities or infrastructure as reasons for the denials.

"They told me that some equipment was damaged and they asked me to go to other place for the operation. I think it is just because I was HIV infected."

- Interviewee in Chengdu

2. Service providers changed the treatment from surgery to oral medicine following disclosure of the clients' HIV status although surgery was declared as the best option for treatment. Service providers did not ascertain the physical suitability of their clients before changing the treatment.

"When they knew I have HIV, they changed the treatment from surgery into observance and treatment directly. As professional hospital doctor and hospital, they did not check my medical information. They did not check my CD4 count and make conclusion. It's obviously they are refusing me because I have HIV."

- Interviewee in Chengdu

3. Service providers, including medical doctors, engaged in humiliating treatment of MSM and transgender persons living with HIV.

"But after hearing that I am PLHIV, the doctor put down my medical record and washed his hand right there in front of me. He then forced me to leave his office. After knowing that I am a PLHIV, he acted as if even the seat in his consulting room that I was sitting on will transmit HIV to him"

- Interviewee in Chengdu

4. People living with HIV have fear that they will be diagnosed wrongly if they disclose their HIV positive status. Although many interviewees disclosed their HIV status at the outset, this has discouraged several people living with HIV to readily disclose their HIV status, until they receive diagnosis.

"The reason is simple, I want to get the correct diagnosis about my disease. I want them to tell me the truth."

- Interviewee in Chengdu

5. Some interviewees from marginalized communities such as transgender persons and MSM faced increased stigma and discrimination at healthcare settings because of their gender identity and sexuality.

"I could also feel that they are treating me differently because they know about my sex work."

- Interviewee in Shenyang

The consequences of these abuses include:

- Discrimination in healthcare settings had a direct negative impact on the well-being of people living with HIV who were forced to endure extended period of physical pain as a results of denial of services.
- Discrimination in healthcare settings impacted on the ability of people living with HIV to work with their full potential, negatively affecting their economic status.

"I have many debts to pay. I have to go out to work but I am unable to because of this pain."

- Interviewee in Chengdu

Effective roles of the CBOs in realizing the right to health

- The CBOs' involvement in providing referrals to PLHIV were critical for people living with HIV and key populations in increasing the communities' access to much-needed surgery services.
- CBO involvement in providing counseling services included psychological support, a critical support for people living with HIV.

International Human Rights Frameworks:

International Bill of Human Rights				
UNIVERSAL Declaration of Human Rights (1948)				
International Covenant on Civil and Political Rights (ICCPR 1966)			International Covenant on Economic, Social and Cultural Rights (ICESCR 1966)	
Convention related to status of refugees (1951)	International Convention on Elimination of all forms of discrimination (ICERD) (1965)	Convention on elimination of all forms of discrimination against women (CEDAW) (1979)	Convention against torture and other cruel, inhuman or degrading treatment or Punishment (CAT) (1984)	Convention on the rights of Child (CRC) (1989)

International and Regional Mechanisms on HIV AIDS:

Political Declaration on HIV/AIDS: Intensifying our efforts to eliminate HIV AIDS (Resolutions adopted by the General Assembly in 10 June 2011)

International Guidelines on HIV/AIDS and Human Rights, 2006 Consolidated Version

China National Legal Mechanisms prohibiting Discrimination and laws related to HIV and AIDS

- Regulations on AIDS Prevention and Treatment (2006)
- The Notice on Further Strengthening the HIV Response (2010)
- “Four Free and One Care” policy (2003)
- China’s Action Plan for Reducing and Preventing the Spread of HIV/AIDS for the 12th Five-Year National Plan in 2012.

Recommendations from the CBOs:

To the Government

- Eliminate all existing laws that criminalize key populations such as sex workers and people who use drugs. Prohibit all forms of discrimination towards marginalized communities by developing a legal definition of discrimination that is based on international human rights standards. This should include prohibition of discrimination on the basis of health status, sexual orientation, gender identity and choice of work.
- Monitor effective implementation of Regulations on AIDS Prevention and Treatment to ensure non-discriminatory access to health services for people living with HIV and key populations. Specific penalty clauses should be added in cases of violation of the Regulation. National Health and Family Planning Commission should promote the established complaint mechanisms, ensure they are accessible to all, ensure complaints are investigated and effective remedies provided.
- The Chinese Center for Disease Control and Prevention should continue to promote accurate information on HIV, including prevention and control of HIV, through increasing public awareness activities throughout the country.
- National Health and Family Planning Commission, through relevant departments, should provide regular comprehensive trainings for healthcare providers, as well as, the staff of the Center for Disease Control and Prevention on basic knowledge on HIV, HIV related stigma and discrimination and existing HIV-related laws and regulations in China. This should also include trainings on Principle of Universal Precaution.

- Institutionalize the role of the CBOs in the HIV responses, including in monitoring the implementation of the legal obligations under HIV Regulations. A dual-feedback mechanism should be set up together with CBOs that should include documentation and referral of violation cases to legal aid services.
- Develop policies that are friendly to community-based organizations to register, raise funds and effectively carry out activities to provide services and raise awareness on the right to health for people living with HIV and key populations.

To the Healthcare Administrators and Providers

- Healthcare providers should regularly be trained on basic HIV knowledge and the rights of people living with HIV and key populations. These trainings should include knowledge on non-discrimination, the right to health including sexual and reproductive health, and existing laws on protection of the rights of people living with HIV and key populations.
- Effectively implement the established client feedback mechanism. Conduct thorough investigation on complaints of discrimination and take appropriate actions for effective remedy.
- Invest in and strictly comply with Universal Precautions to reduce the risk of occupational exposure to HIV transmission. Conduct regular training for healthcare workers on principles of Universal Precaution.
- Collaborate with the CBOs in providing services and health-related advices to people living with HIV and key populations.

To the International stakeholders

- Support capacity building of CBOs of people living with HIV and key populations on legal literacy, documentation, and advocacy. Provide financial and technical support for CBOs to conduct systematic documentation of health seeking experiences of people living with HIV and key populations.
- Provide fund to community based organizations to increase the legal literacy of people living with HIV and key populations. Support the CBOs to conduct trainings on HIV related laws to communities and healthcare workers and legal services for people living with HIV and key populations.

To the CBOs

- CBOs and PLHIV self-help groups should continue regular trainings and workshops for people living with HIV and key populations on HIV and AIDS, This should include prevention, care and treatment of HIV and legal literacy, including knowledge on Regulations on AIDS Prevention and Control.
- Strengthen collaboration with legal aid centers with expertise in HIV related law and develop database to offer referrals for community members seeking legal services to combat medical discrimination in healthcare settings. Explore networking and mobilize the participation of lawyers, law students and medical reporters to protect rights of people living with HIV and key populations.
- Continue systematic documentation of health seeking experiences of people living with HIV and key populations, including discrimination they face during the process.
- Link up with network of people living with HIV and key population such as sex workers, people who use drugs, transgender persons and others for a stronger national advocacy to eliminate discrimination at all levels. Build cross-sectoral coalitions with Hepatitis and LGBT communities to address discrimination issues of a wider range.

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