

My body, my right!

The power of women's advocacy in defeating HIV criminalisation in Malawi's HIV Bill

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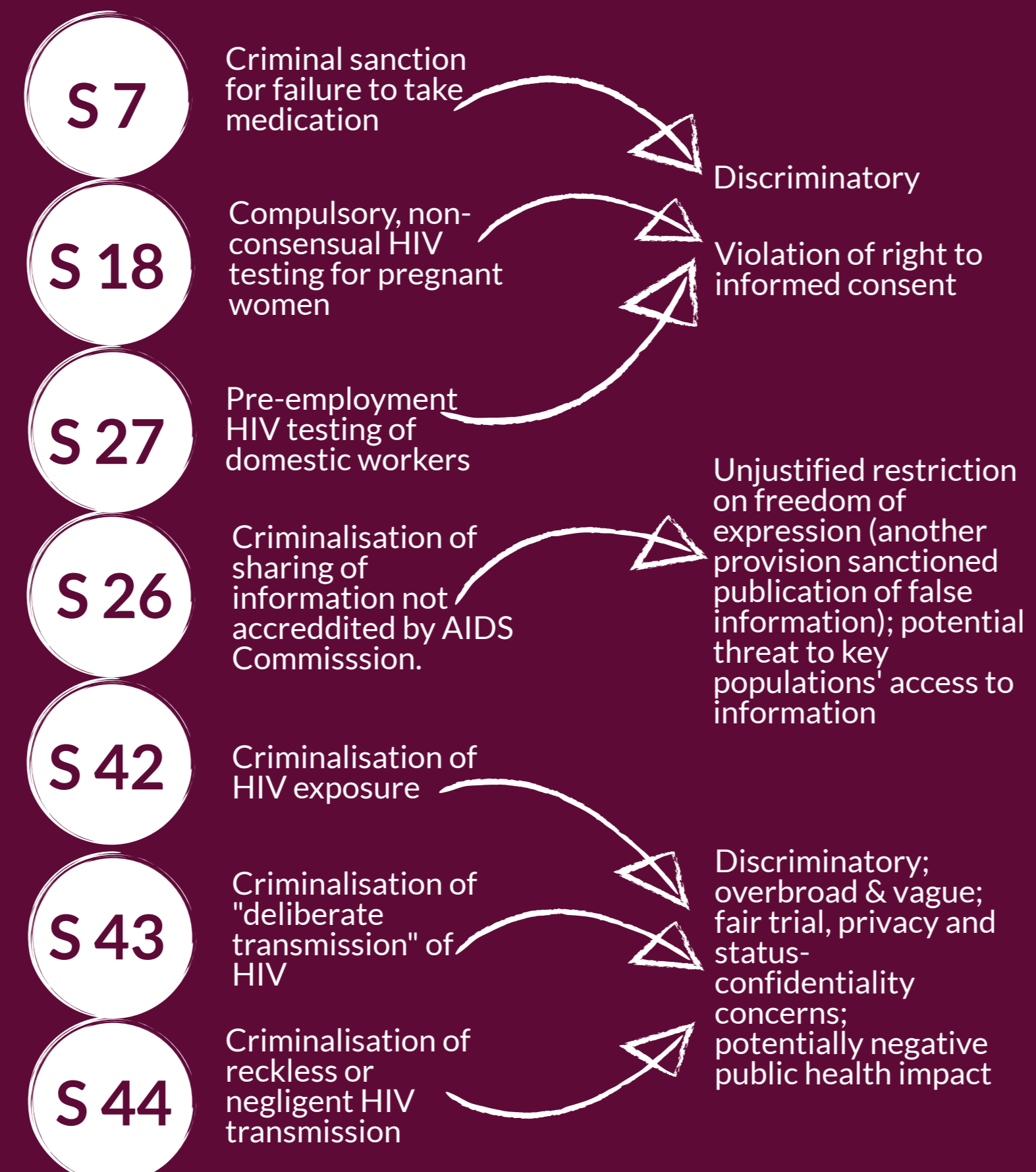
Background

Based on a 2008 Law Commission report, Malawi's HIV (Prevention and Management) Bill was tabled in mid-2017. It combined coercive and punitive approaches on the management of HIV with crucial administrative provisions to institutionalise the National AIDS Commission. This paper describes key interventions by civil society, activists and, prominently, the role of women living with HIV, in ensuring the removal of criminalising and rights-infringing provisions from the law.



Women activists and women living with HIV engaging parliamentarians prior to the vote.

Human rights concerns in 2017 Bill



Description

In 2017 Malawian and regional civil society organisations (CSOs) conducted joint advocacy, raising human rights and public health concerns on coercive and punitive provisions in the draft HIV law. This included preparation of detailed written submissions, consulting key stakeholders, and engaging the press. This joint, cumulative advocacy resulted in Parliament's HIV Committee proposing a range of amendments. Their amendment report addressed most of the concerns raised by CSOs but it recommended to retain section 43, criminalising the "deliberate transmission" of HIV.

In weeks before the Bill went to vote, Malawian women activists, led by women living with HIV, directly engaged Parliamentarians, protested and delivered statements condemning section 43 as a threat to human rights. Legal partners played a supportive role.

On 28 November 2017, Parliament passed the Bill into law, adopting the HIV Committee's amendment report in full and going further to exclude section 43, thus comprehensively rejecting criminalisation of HIV.



Women activists and women living with HIV at Parliament during the debate on the Bill.

2017 Advocacy Timeline

- April**
 - President announces Bill to be tabled.
 - Activists make submissions to Parliament's HIV Committee.
- June**
 - Minister of Health tables Bill in Parliament.
 - Activist groups make submissions to Parliament calling for Bill not to be enacted.
- July**
 - HIV Committee files amendment report endorsing most of activists' concerns but retaining HIV criminalising provision.
 - Parliament closes without vote on Bill.
- October**
 - Civil society partners and activists develop advocacy strategies and engage Press.
 - Civil society and activists convene to coordinate strategies and ensure affected communities' voices are heard.
 - Lawyers and women living with HIV and activists work together to articulate concerns with the Bill's approach to HIV criminalisation.
 - Lawyers and activists run workshops with journalists on the Bill.
- November**
 - Women living with HIV and activists meet with Parliamentarians to defend their concerns.
 - Parliament debates the Bill; women activists protest at Parliament.
 - Members vote to reject all human rights-infringing provisions in line with activists' concerns.

Lessons learned



Women activists and women living with HIV at Parliament during the debate on the Bill.

Manufactured urgency to enact the law, combined with the many years that the Bill had been stalled, left little space for meaningful engagement with affected communities.

Activism by CSOs managed to achieve some momentum in moving Parliament's HIV Committee towards a human rights-based approach but the insistence on criminalising "deliberate transmission" remained.

Adopting the slogan, "My body, my right", women activists, led by women living with HIV, achieved a fundamental shift in the understanding of and attitude towards HIV criminalisation by lawmakers and the executive.

The technical objections and support of lawyers and human rights CSOs were effective in a supporting capacity, legally empowering the affected community with the language to implicate the proposed law in their lived realities.

This grounded the discourse and powerfully challenged the abiding patriarchal and stigmatising underpinnings of the law's purported protections. Ultimately, the ability of "ordinary" women living with HIV to articulate what the law meant in real terms directed Parliament's response.



Activists celebrating outside of Parliament after the vote to enact the Bill in amended form.

Conclusion

The feminisation of HIV criminalisation in Africa demands a response led by women living with HIV. This requires the active engagement, participation, and full legal empowerment of affected communities.