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**Assessment of the  
HIV Legal Environment:  
Yunnan, China  
October 13–30, 2008**

This publication was produced for review by the United States Agency for International Development. It was prepared by RTI International.

# USAID | Health Policy Initiative

## **Assessment of the HIV Legal Environment: Yunnan, China October 13–30, 2008**

Contract No: GPO-I-00-05-00035-00

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## **Acknowledgments**

This report has been prepared by Mr. David Patterson (independent consultant) and Mr. Jia Ping (independent consultant) with technical inputs from Mr. Hu Bin (Health Policy Initiative/Greater Mekong Region–China). Thanks to USAID for funding the investigation, and thanks to those individuals and organizations listed in the Appendix for their contribution.

## Table of Contents

Acronyms and Abbreviations .....	i
Introduction.....	1
Findings and Observations.....	1
Overview of the Most Important HIV-Related Laws and Regulations That Apply in Yunnan.....	4
National Level.....	5
Public health.....	5
Treatment .....	8
Sex Work .....	8
Drug Use .....	9
MSM and “Hooliganism” .....	10
Discrimination.....	10
Yunnan Provincial Level .....	10
Appendix 1: People Contacted throughout the Review .....	A-1

## Acronyms and Abbreviations

ADR	Alternative Dispute Resolution
AIDS	acquired immune deficiency syndrome
AQSIQ	Administration of Quality Supervision, Inspection, and Quarantine
APCASO	Asia and Pacific Council of AIDS Services Organizations
ARV	antiretroviral
CDC	Yunnan Center for Disease Control
GMR-C	Greater Mekong Region and China
HBV	hepatitis B
HIV	human immunodeficiency virus
HPI	Health Policy Initiative
IDLO	International Development Law Organization
IDU	injecting drug user
MMT	methadone maintenance therapy
MOE	Ministry of Education
MOFCOM	Ministry of Commerce
MOH	Ministry of Health
MSM	men who have sex with men
NPC	National People's Congress
NSP	needle syringe program
PLHIV	people/person living with HIV
PPCC	National Population Planning and Control Committee
PSB	Public Security Bureau
SCAWCO	State Council AIDS Working Committee Office
STD	sexually transmitted diseases
SW	sex worker
USAID	U.S. Agency for International Development

## Introduction

Health Policy Initiative/Greater Mekong Region and China (HPI/GMR-C) has worked in Yunnan since February 2008 to strengthen the policy response to HIV and AIDS. Provincial partners include the Yunnan Provincial AIDS Bureau and the Yunnan Center for Disease Control (CDC). In 2009–2010, HPI/GMR-C will broaden its work to strengthen the legal environment in Yunnan. In October 2008, two legal consultants (Mr. David Patterson of Canada and Mr. Jia Ping of Beijing, China) visited Yunnan and collected information from key stakeholders to make recommendations for HIV law programming over the next two years. The first part of this report provides the findings from the mission. The second part provides an overview of the laws and regulations relating to HIV and AIDS in Yunnan.

Thanks are due to the people who were interviewed for providing their time and insights to the researchers. However, the information and views expressed in this report are the responsibility of the researchers and do not necessarily reflect the views of HPI/GMR-C or of any of the persons interviewed.

## Findings and Observations

- A) The HIV-related policy and legal framework in China and particularly in Yunnan has evolved in recent years to be more consistent with international law and best practice. However the implementation of this framework, particularly to prohibit discrimination against people living with HIV (PLHIV), remains challenging at both the central and provincial levels.

Key reforms at the central level, such as the 2006 *State Council Regulations on AIDS Prevention and Control* and the 2007 *Narcotics Control Act*, reflect international best practice in many aspects. Similarly, the 2006 *Yunnan Provincial AIDS Control and Prevention Regulations* also reflect international best practice in some areas, such as the prohibition of discrimination against PLHIV.

However, discrimination against PLHIV still persists in many aspects of daily life. Reasons include ignorance of the law, lack of understanding of HIV epidemiology (i.e., unreasonable fears of HIV infection), moral judgments about commercial sex and drug use, and so-called customer preference arguments by employers. (“Customer preference” is sometimes given as a reason for discrimination by employers in the service sector [e.g., restaurants] who fear that they will lose business if they employ PLHIV.)

It appears that the law has done little to reduce HIV-related discrimination in Yunnan. There have been no court decisions on HIV discrimination, possibly because PLHIV are unwilling to disclose their identity through court action.

To protect the identity of vulnerable clients, lawyers can request the court to allow a pseudonym to be used. Lawyers can also request a court order to prohibit disclosure of the names of HIV-positive litigants by the media. These techniques have been used in other countries and could be used in Yunnan.

B) Conflicts still exist between

- (i) Laws, policies, and practices intended to reduce the spread of HIV infection and other health and social harms associated with HIV infection and AIDS, and
- (ii) Laws, policies, and practices intended to eliminate drug use and sex work, and maintain public order (sometimes used against men who have sex with men [MSM]).

Informants working with injecting drug users (IDUs) noted that Public Security Bureau (PSB) practices sometimes undermine public health interventions such as methadone maintenance therapy (MMT) and needle and syringe programs (NSP). It was reported that PSB officers sometimes require random urine samples to detect illegal drug use from persons attending MMT clinics or NSP outreach services. If a positive result is found, the person may be immediately detained in a compulsory detoxification center (where MMT is not available.) This can deter clients from attending MMT and NSP services and increases the likelihood that they will revert to heroin use and share injection equipment.

Representatives of groups working with MSM noted that clients have complained of police harassment in public places and discrimination at work if their sexuality is disclosed. Although the informants did not identify the direct link between increased self-esteem and safer sexual practices, this link has been made in other countries. Improved self-esteem is an important component of behavior change in this group. The law has a limited but important role to play in addressing harassment and discrimination.

Persons working in the legal system need information about the public health approach to HIV infection in Yunnan. Joint protocols can be developed on how the PSB and the Public Health Bureau (PHB) will cooperate regarding MMT and NSP sites, condom outreach services, and other interventions.

C) Court action can also be useful in establishing precedents and clarifying the law.

There are relevant legal precedents in at least two areas. In 2003, a university graduate named Zhang Xianzhu challenged hepatitis B (HBV) discrimination in employment in Wuhu, Anhui Province, and won a partial victory against the local government's personnel bureau. This case is relevant to HIV because the transmission methods are the same—that is, neither infection can be transmitted through casual contact.

In 2006, the court in Heilongjiang Province granted compensation to persons who contracted HIV through hospital negligence. However, one informant noted that some courts have since refused to accept such cases.

Useful precedents should be documented and disseminated. Judges and other court officials should be offered training on HIV and HBV. Alternative Dispute Resolution (ADR) (*tiao jie*; “reconciliation”) should also be explored. If the provincial legal system is unresponsive, this should be documented and referred to the periodic review mechanisms for the relevant legislation (e.g., the State Council Regulations on AIDS Prevention and Control).

D) Some government officials outside the health sector felt they lacked information about HIV, however, they express a strong interest in improving the legal environment.

In meetings with a wide range of government representatives, there was consistent interest in improving the legal environment for the provincial response to HIV and AIDS. Informants included representatives of Yunnan Police Academy, Yunnan Provincial Supreme Court, Wuhua District Court, Kunming Court, Yunnan Prison Administration, Yunnan Bureau of Labour Education Camps, Yunnan Provincial Justice Bureau, Kunming PSB, and Panlong District PSB, among others. Many informants expressed an interest in learning more about the legal framework and the role of the law, as well as about international approaches that have demonstrated success.

- E) Regulations that prohibit discrimination are expressed in broad terms and need clarification. Procedural mechanisms should also be established.

Both central government and Yunnan provincial government regulations prohibit discrimination against PLHIV in general terms. The term “discrimination” is not defined in the regulations, and legal concepts such as “bona fide occupational qualification” and “reasonable accommodation” are not addressed in the regulations.

As effective HIV treatment becomes more widely available, HIV infection may become a chronic illness for many people. Employers will be expected to retain HIV-positive employees who can continue to work, even if they require minor adjustments to their workplace, schedule, or duties. All large employers should be familiar with the *Code of Practice on HIV/AIDS and the World of Work*.<sup>1</sup>

- F) HIV legal services are needed, yet there are still only a few lawyers in Yunnan who have had training on HIV and related legal issues.

In areas with a larger population and / or a higher HIV prevalence, specific HIV legal centers may be considered. This will allow legal service providers to develop an expertise in this field, and will also make referral easier when such centers are easily identified. There are several potential sources of legal assistance:

- Government legal centers serve clients on low incomes.
- University student legal clinics can provide limited “low threshold” legal advice.
- The private sector, either free or for a fee (paid by the government or the client).

Most likely, a model that provides referral to several different sources of assistance, depending upon the client’s needs, will be most effective. Private sector lawyers providing free services can be compensated in other ways, including through opportunities to participate in training workshops, social rewards (prizes and other forms of social recognition), and the opportunity to present their HIV work at national, regional, and international meetings.

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<sup>1</sup> *Code of Practice on HIV/AIDS and the World of Work* (International Labour Organization, 2001). Available at [www.ilo.org/global/Themes/HIVAIDS/lang--en/index.htm](http://www.ilo.org/global/Themes/HIVAIDS/lang--en/index.htm) (also available in Chinese).

## Overview of the Most Important HIV-Related Laws and Regulations That Apply in Yunnan

### *Sources*

Much of the material in this section is drawn from research by John Balzano and Jia Ping.<sup>2</sup> It has been expanded and updated to October 2008 by Jia Ping.

The May 2005 report by Liu Min for the POLICY Project titled “A Policy Environment Scan: National HIV/AIDS Related Policies and Laws in China” gives a good overview of central government policies and laws. This material has not been repeated here.

Another useful source is a 2007 report commissioned by Yunnan Daytop Drug Abuse and Rehabilitation Center and Asia and Pacific Council of AIDS Services Organizations (APCASO) titled “Report on the Policy and Legal Environment and Legal Needs for HIV/AIDS Prevention and Control.” It is available from Daytop and the International Development Law Organization (IDLO, [www.idlo.int](http://www.idlo.int)) in both English and Chinese.

### *Note on Hierarchy of Law in China*

If there is an apparent conflict between two legal instruments, the higher level instrument will override the lower level one. The hierarchy is established as follows:

1. National Constitution
2. Laws of the National People’s Congress (meeting annually) and of the National People’s Congress (NPC) Standing Committee (in the interim)
3. Regulations of the State Council AIDS Working Committee Office
4. Regulations of the Provincial People’s Congress
5. Regulations of Provincial Government and designated “large cities”

The applicable law in any situation is therefore a combination of both central government laws and regulations and any provincial or city regulations that might also apply. Balzano and Jia reported over 130 regulations, central and local, that mention AIDS by name. There are many more laws and regulations that are relevant but do not specifically mention HIV or AIDS. While some of this legislation is quite progressive, there has been a failure to plan to adequately implement these laws and regulations.

At the central government level, policy documents such as *hongtou wenjian* (“red-headed documents”) provide a clear direction for subsequent central laws, regulations, rules, and local regulations. The most recent and significant is the Action Plan for Reducing and Preventing the Spread of HIV/AIDS (2006–2010), issued by the State Council. The Plan includes in its working principles “action according to law.” There is also a commitment to enforcing the law on blood donation, a commitment to criminal prosecution in the case of negligence in the carrying out of duties (including the “four frees and one care policy”), and the enforcement of HIV prevention and treatment “in accordance with the law and policy.” The Plan also mentions “striking drug crimes and illegal behavior of commercial sex.”

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<sup>2</sup> John Balzano and Jia Ping, “Coming out of Denial: Analysis of AIDS Law and Policy in China (1987–2007),” in *Loyola University Chicago International Law Review* 3, no. 2 (2006): 187–212.

It is beyond the scope of this report to address the 2006–2010 Plan and other policies in depth, but it should be remembered that the law is only one means through which governments can implement policies. Other means include funding allocations (authorized by law) and otherwise influencing donors, nongovernmental organizations, and the private sector.

## ***National Level***

### **Public health**

#### *Marriage Law* (amended 2001)

Issued: October 9, 1980

Amendment effective: April 18, 2001

Level of Effect: National-level law by NPC

#### *Marriage Registration Regulations*

Issued: July 30, 2003

Effective: October 1, 2003

Level of Effect: State council regulation

- Marriage registration agencies will not register the marriage if the medical authorities believe that one of the parties has a disease not suitable for marriage.
- The Ministry of Health (MOH) has issued an “Opinion on the Regulation of Persons with HIV and AIDS” (1999), stating that those who have progressed to AIDS should delay their marriages. The 2006 Regulations on AIDS Prevention and Control appear to override this Opinion.
- The Opinion states that people with HIV should seek medical counseling before marrying.

#### *Law on Prevention and Treatment of Infectious Diseases*

Issued: August 28, 2004

Effective: December 1, 2004

Level of Effect: Law approved by NPC standing committee

- The law provides three categories of diseases: A, B, and C. AIDS [this is the term in Chinese, not HIV] is a category B disease, not requiring isolation (quarantine) for treatment. The law also protects the patients by prohibiting discrimination (Article 16) and the release of private information (Article 12). The law also provides penalties for failure to report an outbreak of a scheduled infectious disease.

#### *State Council Regulations on AIDS Prevention and Treatment*

Issued: January 18, 2006

Effective: March 3, 2006

- The Regulations require many different institutions at the national and provincial levels to respond to HIV/AIDS.
- The Regulations prohibit discrimination against PLHIV and their families in marriage, employment, treatment, and other areas. However, they do not grant a civil right of action, nor do they impose administrative punishments for violations.
- The Regulations also require HIV education, the distribution of condoms, and the screening of blood in medical institutions. Penalties include the loss of license.
- Medical institutions and local authorities must protect the confidentiality of PLHIV. PLHIV must disclose their status to sexual partners and to medical personnel when seeking treatment.

- Intentional transmission of HIV can result in civil, administrative, and criminal penalties.
- The Regulations allow civil compensation for persons who contract HIV through blood transfusions.

Questions and Answers on PLHIV Working in the Food Industry

Issued by MOH: February 27, 2006

Effective: February 27, 2007

Level of effect: Ministry-level regulation

- PLHIV should not be banned from working in the food industry.

Notice on Strengthening HIV/AIDS Prevention

Issued by the Administrative Office of the National Population Planning and Control Committee (PPCC): April 20, 2006

Effective: April 20, 2006

Level of effect: Ministry-level regulation

- Promotion of education, condom use, and HIV prevention through PPCC channels.

Notice on Printing and Dissemination of National HIV Testing Management Regulations

Issued by MOH: June 12, 2006

Effective: June 12, 2006

Level of effect: Ministry-level regulation

- Regulates nationwide HIV testing. Regulates the set-up, inspection, and quality control of HIV testing laboratories.

Guidance on Strengthening Prevention of Mother-Child Transmission

Issued by MOH: June 16, 2006

Effective: June 16, 2006

Level of effect: Ministry-level regulation

- Guidance on how to set up coordination mechanism to mother-to-child transmission of HIV. Also addresses issues of funding, education, and monitoring and evaluation.

Notice on Taxation Policy Regarding Donations for HIV/AIDS by Taxpayers

Issued by Ministry of Finance and State Administration of Taxation: June 27, 2006

Effective: January 1, 2007

Level of effect: Ministry-level regulation

- Policy on HIV/AIDS-related donation tax waiver: personal tax—no more than 30% deduction of total amount of tax should be paid; enterprise—no more than 3% deduction of total amount of tax should be paid.

HIV/AIDS Prevention and Management in Port Areas, Order No. 96

Issued by Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) of the People's Republic of China: June 28, 2007

Effective: December 1, 2007

Level of Effect: Ministry-level regulation

- Port Quarantine: AQSIQ in charge of inspection and management of human organs, biological products, blood, etc.
- PLHIV should report their status to AQSIQ or its branches when they enter or leave China.

- Citizens who live more than one year in foreign countries should report to AQSIQ branches or related hospitals above the county level to get an HIV test.
- Physical check-up, including HIV test, is needed when citizens go abroad and stay more than one year.
- AQSIQ should set up an HIV/AIDS surveillance site network around port areas.
- Information about epidemic situations should be reported to the health quarantine information system within six hours.

*Official Paper on the 2006 Plan to Strengthen Anti-drug and HIV/AIDS Prevention and Treatment in Yunnan*

Issued by Administrative Office of the Ministry of Commerce (MOFCOM): August 2, 2006

Effective: August 2, 2006

Level of effect: Ministry-level regulation

- Discusses drug prevention strategy, especially some key policies related to drug plantations in Burma.

*Notice on the Printing and Dissemination of HIV/AIDS Testing Management Measures*

Issued by: AQSIQ: October 18, 2006

Effective: October 18, 2006

Level of effect: Ministry-level regulation

- Describes the AQSIQ procedure for HIV/AIDS testing and surveillance in port areas, especially the procedure for setting up HIV testing laboratories and their functioning.

*Notice on Printing and Dissemination of Plans for the Prevention and Treatment of HIV/AIDS (2006–2010)*

- Issued by the State Council. Promotes dissemination and study of the Action Plan for Reducing and Preventing the Spread of HIV/AIDS (2006–2010).

*Notice on Printing and Dissemination of the Plan for HIV/AIDS Prevention and Management in Port Areas (2006–2010)*

Issued by AQSIQ: November 2, 2006

Effective: November 2, 2006

Level of effect: Ministry-level regulation

- Announces the dissemination of the Plan. The goal is to promote HIV/AIDS education, port area site surveillance, voluntary counseling and testing, and other prevention activities.

*Notice on the Promotion of the Prevention of HIV/AIDS among Youth and Children*

Issued by State Council AIDS Working Committee Office (SCAWCO), MOH, and the Ministry of Education (MOE): November 17, 2006

Effective: November 17, 2006

Level of effect: Ministry-level regulation

- Aims to protect children's rights, to promote HIV/AIDS education and care, and to promote anti-discrimination through SCACWO, MOH, and MOE and their branches.

## Treatment

### Notice on the Waiver of Value-added Tax for ARVs Made in China

Issued by Ministry of Finance and State Administration of Taxation: April 17, 2007

Effective: January 1, 2007

Level of effect: Ministry-level regulation

- Value-added tax waiver for some AIDS drugs, together with the list of domestic pharmaceutical companies and the names of the antiretroviral drugs (ARVs).

### Notice on Printing and Dissemination of HIV/AIDS Prevention and Chinese Traditional Medicine Workplan (2006–2010)

Issued by State Administration of Traditional Chinese Medicine: October 18, 2006

Effective: October 18, 2006

Level of effect: Ministry-level regulation

- Promotes Chinese medicine research and international collaboration on HIV/AIDS. Also promotes joint treatment of Chinese-Western medical care for AIDS, especially for opportunistic infections.

### Notice on the Promotion of Pediatric ARV Treatment

Issued by Administrative office of MOH: November 20, 2006

Effective: November 20, 2006

Level of effect: Ministry-level regulation

- Initiates the nationwide pediatric ARV program, after success of pilot projects in six provinces (including Henan and Yunnan).

### Question and Answer on Taxation on Imported ARVs

Issued by Administrative office of MOFCOM: November 27, 2006

Effective: November 27, 2006

Level of effect: Ministry-level regulation

- Waiver of tariffs and value-added tax on imported AIDS drugs.

## Sex Work

### Criminal Law

Issued: March 14, 1997

Effective: October 1, 1997

Level of Effect: National level law by NPC

- “Organizing, forcing, inducing, housing or introducing” sex workers (SWs) is punishable by up to 10 years’ imprisonment (and more than 10 years under some circumstances) together with fine or confiscation of proceeds.

### Public Order Law

Issued: August 28, 2005

Effective: March 1, 2006

Level of Effect: National law by NPC standing committee

- Sex work (prostitution) is punishable in various forms and under various laws. The Public Order Law provides a fine of up to 5,000 yuan and 10 days’ imprisonment for prostitution itself.

## Drug Use

### Public Order Law (above)

- The Law penalizes intravenous drug users with detention of up to 10 days and a fine of up to 2,000 yuan. Smuggling, trafficking, and manufacturing drugs are punishable under the Criminal Law.

### Narcotics Control Law

Issued by NPC Standing Committee: December 29, 2007

Effective: June 1, 2008

Level of Effect: National-level law

*Note: this information is based on an unofficial English translation of the Narcotics Control Law.*

- The Law was enacted with a view to “preventing and punishing drug-related illegal or criminal acts, protecting the citizens’ physical and mental health and maintaining public order.” The Law defines narcotic drugs as opium, heroin, methyl benzedrine, morphine, marijuana, cocaine, and other narcotics and psychotropic substances that are liable to make people addicted to their use and are controlled by the relevant regulations of the State.
- The Law establishes the Narcotics Control Commission and provides that “local people’s governments at and above the county level may, in light of the necessity for narcotics control, establish narcotics control committees.”
- The Law requires the State and people’s governments at all levels to undertake education about narcotics control.
- The Law provides for testing of people suspected of ingesting or injecting narcotic drugs. Persons who are found to have done so will be registered.
- Drug “addicts” may be ordered by the public security organs to community drug rehabilitation (“addiction quitting in communities”) for up to three years (Article 33). (Note: the law distinguishes “addicts” and “users” and notes users may become addicts). Notice of their place of residence shall be provided to local governments where they reside. Employment skills training shall be provided. Drug testing during the period can be required by the public security organs.
- Voluntary treatment in medical institutions is also possible.
- No one may be treated for addiction for the purpose of making a profit. Fees are set by the State.
- A person who refuses community drug rehabilitation or continues to take drugs may be placed in “compulsory isolation” (detention). This is not applicable to women who are pregnant or breast-feeding or minors under 16 years of age.
- Compulsory detention centers may require detainees to work, for which they shall be paid.
- Detainees shall be segregated according to sex, age, and “disease.” Medical treatment shall be provided.
- Detainees shall not be subjected to corporal punishment, maltreatment, or insult.
- The time limit for detention in compulsory detention is two years, with a possible one year extension. Early release is possible after one year.
- After release, community rehabilitation may be ordered for not more than three years.
- Drug users detained, arrested, or sent to prison shall also be provided with drug rehabilitation.

- Discrimination is not permitted against former addicts in areas such as admission to schools, employment, and social security. Compensation for damages can be ordered.
- Narcotic drug users are subject to administrative penalties. Those who voluntarily register with the public security organs for treatment shall not be penalized.

## **MSM and “Hooliganism”**

Before 1997, hooliganism was a crime under the Criminal Law. However the definition was vague and could be used against people who engaged in anal sex activities, group sex, and so on, especially when the authorities thought these activities violated “public order.”

Hooliganism was removed from the 1997 revision of the Criminal Law. Today, consensual sex between men is not a crime in mainland China.

## **Discrimination**

Balzano and Jia note that anti-discrimination law is still in the early stages of development in China. While, as noted above, there are some provisions prohibiting discrimination on the grounds of former drug addiction or HIV-positive status, there are no details for the enforcement of these provisions.

## **Yunnan Provincial Level**

Notice on Yunnan HIV/AIDS Prevention and Treatment Mid-long Term Plan (2002–2010)

Issued by Yunnan Provincial Government: March 27, 2002

Effective: March 27, 2002

Level of effect: Local government legal/policy ordinance

- Provincial level plan for HIV/AIDS control in Yunnan. Goals are to establish multisectoral collaboration and an HIV/AIDS control system; disseminate HIV/AIDS prevention knowledge; stop all HIV through blood transfusions by 2004; maintain the annual increase of sexually transmitted diseases (STDs) below 15 percent; and maintain the number of PLHIV below 200,000 until 2010.
- Objectives are to improve leadership; disseminate HIV/AIDS prevention knowledge, especially related to drug use and sex; establish and improve STD/AIDS surveillance systems; conduct AIDS drug research; and develop HIV/AIDS related legal mechanisms at the local level.

Yunnan Provincial Regulation on HIV/AIDS Prevention and Treatment

Issued: January 20, 2004

Effective: March 1, 2004

Level of effect: Local government legal/policy ordinance

- Regulates the management structure of HIV/AIDS prevention and treatment in the government sector. Includes coordination and describes different functions of provincial/county-level government sectors such as science, health, and food and drug administration, as well as the functions of public security, hospital, quarantine, and hotel.

Notice on Implementation of Six Projects on HIV/AIDS Prevention and Treatment

Issued by Administrative Office of Yunnan Provincial Government: February 20, 2004

Effective: February 20, 2004

Level of effect: Local government legal/policy ordinance

- Promotes the purity of the social environment and HIV/AIDS prevention in Yunnan, including “stern strike” at prostitution and drug use; promotes condom use in entertainment areas; and promotes management and coordination mechanisms for the “six projects.”

*Notice on Printing and Dissemination of Implementation Opinion on HIV/AIDS Prevention and Treatment*

Issued by Administrative Office of Kunming Local Government: July 16, 2004

Effective: July 16, 2004

Level of effect: Local government ordinance

- Promotes HIV/AIDS control in Kunming city. Includes “stern strike” at prostitution and or drug use; promotes condom use; promotes methadone substitution and needle exchange; provides treatment, care, and support for people affected by HIV/AIDS; and aims to lower the HIV and AIDS prevalence in Kunming.

*Notice on Printing and Dissemination of the Action Plan of Prevention and Treatment of HIV/AIDS in Yunnan (2006–2010)*

Issued by Administrative Office of Yunnan Provincial Government: August 15, 2006

Effective: August 15, 2006

Level of effect: Local government ordinance

- Includes a commitment to a “complete policy and legal framework and to improve relevant regulations and guidelines” (section 4) but contains no indicators to measure implementation.

*Yunnan Provincial HIV/AIDS Prevention and Treatment Regulations*

Issued: November 30, 2006

Effective: January 1, 2007

Level of effect: Provincial-level regulation. Key provisions include:

- Requires public security organs to “strike against prostitution and the . . . use of drugs” (Article 15).
- Requires lodging and entertainment venues to promote and sell condoms (Paragraph 18).
- Mandatory reporting of names and addresses of PLHIV, including at entry/exit points (Paragraph 17).
- Mandatory spousal notification (Paragraph 20).
- Mandatory HIV testing before marriage for citizens in designated high HIV prevalence regions (Paragraph 23).
- “Departments of health, public security, judicial administration, family planning, and research agencies” will take preventative measures with any worker who has or may have been exposed to HIV (Paragraph 28) (implies HIV testing to identify such workers).
- Staff of lodging and entertainment venues who have direct contact with customers will have HIV screening every six months (Paragraph 30) (seems overbroad; implies acceptance of sex work).
- Provincial health departments can organize HIV testing among high-risk groups in HIV high-prevalence areas (Paragraph 34).
- Medical organizations are not allowed to refute treatment to HIV-positive persons and AIDS patients (Paragraph 41).
- Penalties for noncompliance are provided in Section 7.

- Definitions section includes methadone maintenance.

*Guideline on Promoting the Development and Management of Community (Local) Organizations*

Issued by Yunnan Provincial Civil Affairs Bureau: July 11, 2008

Effective: September 28, 2008

Level of effect: Local government ordinance

- Defines “community organization” as an organization set up by community residents or enterprises that works for the public interest and not for profit. (Note: here “community” refers to local residents and not to marginalized groups). Preconditions and procedures for registration: name of the organization; area of activities; full-time or part-time staff; initial capital fund of at least 1,000 yuan for registration; independent capacity of the organization for civil liability; and professional license, if required by operational supervision unit.
- Materials needed for registration: bank deposit, documents, application form, charter, etc.

## Appendix 1: People Contacted throughout the Review

Name	Title/Organization
Virginia Bourassa	USAID
Thomas Cai	Director, AIDS Care China
Wang Chengguang	Director, Health Law Center, Tsinghua University
Li Dan	Director, China Orchid AIDS Project/Korekata Law Center
Zhou Dayong	Chinese People's Political Consultative Conference, Yunnan, All China Lawyers Association, Young Lawyers Committee; Yunnan Bar Association Standing Committee, Shangyi Law Firm, Righteous Law Firm, Home AIDS
Lv Fang	Director, Division of Policy Research and Information, China CDC
Cheng Feng	Country Director, Family Health International
Shao Feng	Director, Yunnan University Student Legal Aid Station
High-Level Roundtable	Justice Edwin Cameron, MOH, CDC, nongovernmental organizations
Zhou Hongmei	Yunnan Centers for Disease Control
Joan Hu	Intellectual Property lawyer, Natural Resource Defense Council
IDUs	Green Garden (IDUs), Jinghudong NSP
Wu Jiang	Director, Anti-drug and HIV Center, Yunnan University
Ma Bin Jun	ILO mining sector project, Bitter grass
Wang Kaijing	Ge Jiu AIDS Office and CDC
Li Man	Bitter Grass (SWs/PLHIVs), ILO mining sector project
Nithya Mani	USAID
Yang Maobin	Daytop
Meeting	USAID cooperating agencies: PSI, Alliance
Meeting	Red Plateau (legal support)
MMT clinic	
NGOs	Daytop, Yunnan AIDS and STD Association, APCASO
Giovanni Nicotera	United Nations Office on Drugs and Crime
Chen Ningshan	Division Chief, Division of Policy Research, Department of Health Policy and Legislation, MOH
Connie Osborne	World Health Organization
David Patterson	Assessment Team
Jia Ping	Assessment Team
Chen Qinfeng	Director, Policy and Coordination Division, SCAWCO
Tang Rong	Righteous Law Firm, Home AIDS
Roundtable	PSB/Courts/Justice/Jail
Roundtable	KM AIDS Office and CDC
Roundtable	Legal Aid Centers
Wang Ruotao	Former Director, Division of Policy Research and Information, National Center for HIV/STD Control and Prevention, China CDC
Bernhard Schwartlander	Country Coordinator, UNAIDS
Seminar on HIV and Law	Peking University Research Center for Human Rights
Edmund Settle	United Nations Development Programme
SW/IDU/MSM/PLHIVs	Note: The team met with community representatives
SWs	Women's Wellness Center (SWs)
SWs	ILO mining sector project, Bitter grass

Name	Title/Organization
Team Briefing	HPI/GMR-C
Liu Wei	Lawyer, Aizhixing Institute
Jenny Xia	APCASO
Ms. Pu Yi	Ge Jiu AIDS Office and CDC
Ye Yingyi	Professor, Peking University Law School
Xie Yu	Yunnan Provincial AIDS Bureau