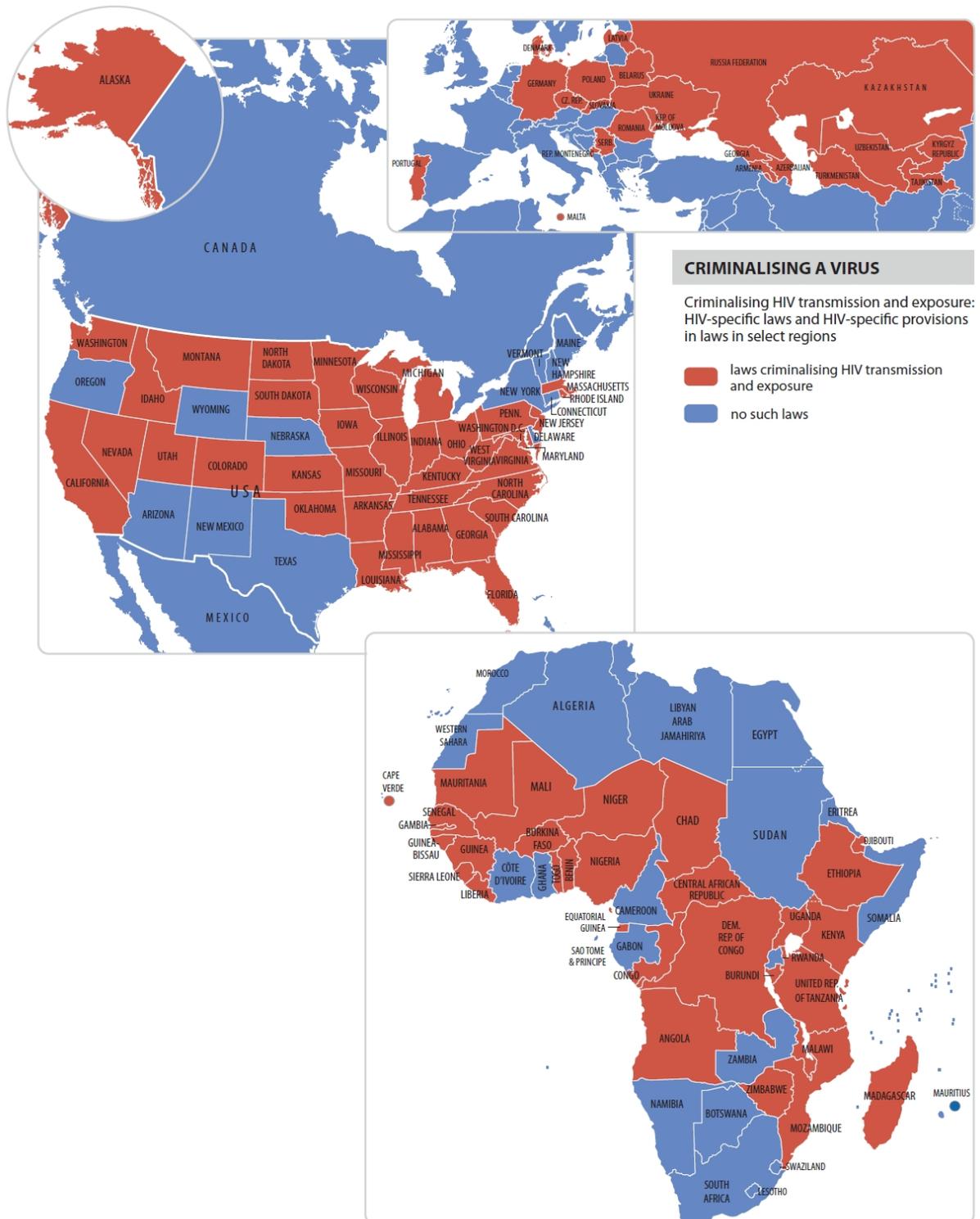


# 08/08/12 - Challenges & Changes to Law: Enabling Legal Environments in the HIV Response



Source: Global Criminalisation Scan, GNP+ Global Network for People Living with HIV, 2012.

*From the Global Commission on HIV and the Law, "Risks, Rights and Health" (note:*

*this infographic does not include criminalization of non-disclosure*). *Click to enlarge*. In another update to events mentioned in the 2011 NGO Report entitled [Voices from the Field: How Laws and Policies Affect HIV Responses](#), we had noted that prosecution for HIV non-disclosure was becoming a significant legal issue:

Canada and the United States are increasingly well-known for implementing criminal law to prosecute HIV non-disclosure, exposure and transmission. Canada had 130 known prosecutions using general assault or sexual assault statutes as of August 2011, according to the Canadian HIV/AIDS Legal Network. According to GNP+ Global Scan, "Canada was the first country to prosecute mother-to-child transmission (in 2005) and the first to try someone for murder as a result of sexual HIV transmission without disclosure (in 2008)." [...] In both the US and in Canada, convicted persons are also often registered as sex offenders for life.

In January, the NGO Delegation's blog posted [an Action Alert](#) in support of a call for the Supreme Court of Canada to determine 'significant risk' "on the basis of the best available scientific evidence, not on assumptions, prejudice or fear". On February 8, 2012, the Supreme Court heard two landmark appeal cases on this important issue. The results of these cases will not be presented until late this year and the Ontario Supreme Court has postponed similar appeals until a decision at the federal level is made.

Lawyers, people living with HIV and service providers dealing with issues around non-disclosure can now turn to a new comprehensive guide ? *HIV Disclosure and the Law: A Resource Kit for Service Providers* ? published by the Canadian HIV/AIDS Legal Network. This kit is intended to provide information and tools to make informed and empowered choices about how to respond to criminalization; while it is specific to the Canadian context, it may be helpful for other activists dealing with criminalization issues around the world.

With regards to the legal challenges in Canada around sex work, our new version of the report offers an update: in March 2012, the provincial Ontario Supreme Court "declared that aspects of the current criminal code that criminalize keeping or transporting a person to a 'bawdy house' and 'living on the avails' of prostitution violate constitutional rights to the right of life, liberty and security of the person. However, the existing ban on soliciting was upheld in the 2012 ruling of the Ontario Supreme Court." For further information, read the Canadian HIV/AIDS Legal Network and HIV & AIDS Clinic of Ontario [press release on the sex work decision](#) and the Open Society Foundations' new report [Ten Reasons to Decriminalize Sex Work](#).

