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Finance for Health: Closing the HIV Funding Gap

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ABSTRACT

A few years ago, the goal to eradicate AIDS by 2030 would have been a feasible one. However, recent trends show that funding for HIV programs has stagnated as a result of flattened donor rates and unpredictable annual health budgets of countries in HIV-prevalent areas. Urgent solutions are needed to address this growing gap in funding which has left some vulnerable populations exposed to increased rates of transmission. This paper suggests that private sector industries operating in HIV-prevalent areas can supplement state funding through innovative finance mechanisms. The use of social impact bonds, equity investments, public-private partnerships, and trust funds have proven to be effective tools to create new pools of long-term, self-sustaining funds. Private sector entities in HIV-prevalent regions not only have the capacity to participate in finance mechanisms, but also the economic incentive of maintaining a healthy workforce. This paper conducts case studies of existing innovative finance mechanisms, evaluating their rate of success in supporting HIV programs, and concludes with a project proposal based in Nigeria, where impact investing can be used to create effective HIV prevention programs.

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Introduction

The days of HIV and AIDS dominating headlines appear to be in the past. Despite HIV and AIDS being anything but eradicated worldwide, the current rates of funding for HIV programs suggest that many states have begun allocating resources to other epidemics or emergencies. States that were at one point essential sources of donor funding for the most hard-hit HIV regions of the world such as Africa have stagnated as funding sources in recent years. Current predictions say that if funding levels continue on this trend, they will be insufficient to eradicate AIDS by 2030. While every state has obligations under its own constitutions and international law mechanisms to combat HIV and AIDS, the reality is that regions that still require external aid are those that lack the financial and institutional capacity to bear the burden of HIV and AIDS on their own. As these states work towards meeting the needs of their citizens in regards to HIV and AIDS in a landscape of dwindling funds, partnerships with the private sector can be an effective option for sourcing new funds to bolster state funding. In fact, private sector industries that operate in HIV-prevalent areas have their own economic incentives to participate to their utmost capacity in HIV programming, since their bottom line is often affected both directly and indirectly by the health of a region and its employees.

One of the options available to both states and private sector industries to create a new source of funds is innovative finance mechanisms. Using finance mechanisms such as social impact bonds, equity investments in socially responsible companies, public-private partnership funds or trust funds are methods of complementing a state's existing funds with a fresh, self-sustaining and long-term pool of resources. Finance mechanisms are not altogether new in HIV programming. In fact, many existing innovative mechanisms have been used to provide HIV treatment and testing, including in regions of Africa. While these finance mechanisms have been successful, they have generally been geared towards treating the disease rather than preventing new infections. This doesn't go quite far enough, since an essential component of eradicating AIDS requires a reduction in the number of new HIV infections. Innovative finance mechanisms can be the tool that curtails infection rates by providing new funds without depleting existing funding sources already dedicated to HIV and AIDS treatment.

HIV is in many ways a region-specific disease; the rates of infection, availability of treatment, risks for transmission, and avoidance of testing are often a result of the unique societal factors of a region. These factors tend to be shared among many states and many populations; however, the specific needs of at-risk-populations vary. As such, this paper will focus on the specific issues at play in HIV-prevalent regions of Africa, reviewing existing innovative finance mechanisms in these regions. The paper will conclude by making recommendations of a project proposal based in Nigeria, where impact investing could be used to address the gender-equality issues that play a role in HIV prevention.

History of HIV and AIDS

In the decades between the origins of HIV in roughly 1920, which is believed to have taken place in the Democratic Republic of Congo, to its epidemic in the 1970s, documented cases of the illness were sporadic. While HIV had likely already spread to North America, South America, Europe, Africa and Australia, the documented history of the epidemic began with the cases of unexplained immune deficiency among gay men in California.[1] The term AIDS was first used to explain the acquired immune deficiency syndrome, and over the course of the 1980s, medical research uncovered the forms of transmission and hoped to develop a vaccine within a few short years. By the end of 1990, it was believed that 8 to 10 million people were living with HIV. As research progressed in the 1990s in the form of HIV tests and antiretroviral (ATR) treatments, the number of new HIV infections continued to climb. The epidemic was the number one cause of death in Africa.[2] In the 2000s, ATR drugs were increasingly available at lower prices, with the introduction of pre-exposure prophylaxis (PrEP) medication to reduce transmission risks. AIDS-related deaths began to decline after their peak in 2005, and many HIV prevention programs were scaled-up in order to slow down the number of new infections.

[1] "History of HIV and AIDS Overview", (January 2017), online: *Avert* <https://www.avert.org/professionals/history-hiv-aids/overview>.
[2] *Ibid*.

In 2016, 36.7 million people were living with HIV globally and 1.8 million people became newly infected.[3] Regions in Africa, however, have suffered greatly from this epidemic. Over half of the world's people living with HIV are in eastern and southern Africa. This region also accounts for almost half of the world's new infections each year.

Due to committed efforts to providing ATR therapy, AIDS-related mortality in eastern and southern Africa has steeply declined. The number of deaths in 2016 were 42 per cent lower than the rates in 2010.[4] Despite this, eastern and southern Africa continues to be the hardest hit region in the world in terms of the HIV epidemic. While some countries have made progress reducing infection rates, this progress has varied greatly in the region. Some countries such as Botswana and Mozambique have had new HIV infection rates decline between 2010 and 2015, while others such as Madagascar have increased by the same amounts.[5]

The remarkable progress in HIV treatment, and subsequent decrease in mortality rate by AIDS, should not be treated as signs of the end of HIV and AIDS. The progress that has been made on addressing this epidemic has been enormous, with efforts by many states and organizations, but it is important to remember that not all regions of the world are seeing declines on new infection rates. Further, the history of HIV and AIDS is marked by human rights issues related to homophobia, ingrained social inequalities such as women's rights, and racism. These societal issues continue to affect factors surrounding HIV and AIDS today, both in terms of a person's likelihood of contracting HIV and likelihood of receiving proper health treatment. Ongoing efforts to combat HIV and AIDS should reflect these inequalities and human rights issues to ensure

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[3] "Fact sheet – Latest statistics on the status of the AIDS epidemic" (December 2017), Joint United Nations Programme on HIV/AIDS, online: <http://www.unaids.org/en/resources/fact-sheet>.

[4] *Ending Aids: Progress Towards the 90-90-90 Targets*, Global Aids Update (Joint United Nations Programme on HIV/AIDS, 2017), online: <http://www.unaids.org/sites/default/files/media_asset/Global_AIDS_update_2017_en.pdf> [accessed 4 December 2017].

[5] *Prevention Gap Report* (Joint United Nations Programme on HIV/AIDS, 2016), online: <http://www.unaids.org/sites/default/files/media_asset/2016-prevention-gap-report_en.pdf> [accessed 4 December 2017].

that the human rights causes of the illness are part of its prevention and solutions.

Current State Funding for HIV

States around the world have been working to eradicate AIDS for decades, and many of them have made significant progress in meeting the needs of their populations. The financing for HIV programs are characterized by a high donor dependency. In many high HIV-prevalence countries, over 80% of the resources for HIV are external, coming in from other countries.[6] Resources for HIV and AIDS treatment have more than doubled between 2006 to 2016, and domestic resources in eastern and southern Africa have reached their highest level to date.[7] The increase in domestic spending in Africa may have grown, but "many countries continue to rely on external funding to a significant degree: among the 15 countries that reported data to UNAIDS in recent years, eight were dependent on donors for more than 80% of their HIV response".[8] Predictions estimate that US$ 26 billion in funding will be required in 2020 to respond to AIDS in low and middle income countries.[9] The needs of these countries are regionally-specific, as some countries have higher domestic investments than others and thus rely less (or more) on external donors. For example, many countries in central and western Africa are donor dependent. While their domestic investments are reaching higher levels every year, they are still only 35% of the total need in that region.[10]

The economies of many African countries are growing rapidly. The African Economic Outlook 2017 shows that prospects are favourable for 2017 and 2018 for the continent.[11] With this growth often comes commensurate increases in health spending, but this is not always the case. For example, in Nigeria and Cameroon, despite a growth in gross domestic product (GDP) between 1995 and 2012, a commensurate increase in health

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[6] *Supra* note 4.
[7] *Ibid*.
[8] *Ibid*.
[9] *Supra* note 3.
[10] *Supra* note 4.
[11] *African Economic Outlook: Executive Summary* (OECD, 2017), online: <http://www.africaneconomicoutlook.org/en/executive_summary2017>.

budget was not reflected.[12] Even in countries where health budgets increase with GDP, domestic HIV spending is only a small fraction of the need (except for in South Africa, which is an exception[13]), and all recent data points to a gap in funding that will continue to increase. In fact, current predictions show that providing life-long HIV medication will put enormous pressure on domestic finances. As more individuals with HIV access ART and other health supports, "domestic obligations for financing HIV will increase" and create long term commitments.[14] This means that while donor funding remains constrained and costs are increasing, creating a need for augmented funding sources.[15] This is worsened by the fact that health budgets for states are frequently volatile, and each annual fluctuation in a health budget leads to fluctuations in HIV financing.[16]

Other reasons for the lagging donor funding include new health priorities, economic downturns, and AIDS "fatigue".[17] Current efforts to address HIV and AIDS are insufficient to manage the disease in low and middle income countries.[18] This comes as no surprise to most of the countries in high HIV prevalence regions. The East African Community and South African Development Community is not only aware of the current status of funding gaps, but has committed to finding ways of bolstering domestic resources, including innovative finance mechanisms.

Some countries, such as South Africa, face slightly different struggles in terms of external funding. South Africa funds 80% of

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[12] David Wilson et al. *Options for Sustainable and Innovative HIV Financing* (The World Bank), online: <http://www.iapac.org/tasp_prep/presentations/TPSlon14_Plenary11_Wilson.pdf>.
[13] "HIV and AIDS in East and Southern Africa Regional Overview", (April 2017), online: *Avert* <https://www.avert.org/professionals/hiv-around-world/sub-saharan-africa/overview#footnote1_drdgg6s>.
[14] Rifat Atun et al. "Innovative Financing for HIV response in sub-Saharan Africa" (2016) 6 Journal of Global Health, online: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4871060/>.
[15] *Ibid.*
[16] *Supra* note 12.
[17] Heidi Larson, Stefano Bertozzi & Peter Piot. "Redesigning the AIDS response for long-term impact", *Bulletin of the World Health Organization* (November 2011), online: <http://www.who.int/bulletin/volumes/89/11/11-087114/en/>.
[18] *Ibid.*

its HIV and AIDS programs domestically, with 20% of funding being external. Therefore, their dependence on external funding is lower than in many other countries. However, South Africa's status as a middle income country is leading to a decrease in external donors and resulting in a "gap between funding requirements and available funding for HIV", and this gap is expected to grow.[19]

Whether a country relies on external funding for the majority or minority of its HIV programming, the effects of stagnating external resources is being felt by all. While traditional financing is an important component of combating HIV and AIDS and it cannot be simply replaced, the reality is that urgent solutions are needed to address the gaps in services being felt by the change in funding. An alternative source of funding outside of this stagnation is needed, not as a replacement of traditional financing, but as a complement.

Corporate Responsibility

Businesses of all sizes can have both positive and negative impacts on society and the environment. Since the Industrial Revolution, there have been many different versions of the now common term *corporate social responsibility* (CSR). Modern CSR activities have their roots in philanthropy, with individuals providing funds to activities deemed to be important to communities. These roots were, in essence, forms of donations. Over the years, however, these philanthropic endeavours evolved, shedding their original philanthropic purposes and gaining an alignment with corporate priorities, including profit-making. Most CSR activities seen today are embedded in corporate policies and achieve mission statements of sustainable profit and creating positive impacts.[20] CSR has evolved to become much more integrated in the business model of a corporation. John Elkington, a noted authority on CSR, developed the term

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[19] "HIV and AIDS in South Africa", (October 2017), online: *Avert* <https://www.avert.org/professionals/hiv-around-world/sub-saharan-africa/south-africa>.

[20] Archie Carroll. "A History of Corporate Social Responsibility: Concepts and Practices" (2008) The Oxford Handbook of Corporate Social Responsibility. pp 19-46, online: <https://www.researchgate.net/publication/282746355_A_History_of_Corporate_Social_Responsibility_Concepts_and_Practices>.

"triple bottom line" (i.e. People, Planet, Profit) to describe the fact that in addition to preparing financial statements (the bottom line), companies should correspondingly prepare statements of the company's impact on society (People) and the environment (Planet)[21]. This kind of thinking encourages a corporation to consider the ways in which it has created a profit or loss in these areas, and whether these profits or losses are reflective of the corporation's overall purpose and image. Leading companies around the world now use this type of integrated business model and triple bottom line thinking. There are many reasons for why these companies engage in CSR practices, but the primary reason is that it's good for business. Many CSR activities are not, in fact, a drain on resources. Done properly, they can return profits like any other venture. Further, engaging in CSR activities helps maintain a positive public image, assist organizations in recruitment and employee engagement, reduce regulatory scrutiny and ultimately ensure companies have the social license to operate in a community. These positive impacts in a community often translate to better returns on a corporation's investment or practices, resulting in a win for the company by ensuring its bottom line, but also by providing often needed boosts to environmental, social and governance issues.

The act of a company profiting from providing a benefit to society is termed: shared value.[22] There are many examples of this in practice. For instance, Unilever conducts community education programs to raise awareness of proper handwashing methods to reduce the rate of transmissible diseases, which has a positive impact in communities as well as sells more soap. This concept of shared value has been enshrined in the United Nation's Sustainable Development Goals (SDG).

United Nations Sustainable Development Goals

There is widespread belief that private companies will be instrumental in the achievement of the SDG. United Nations Secretary-General Ban Ki-moon has said that private sector leaders have a key role to play as governments work to meet the

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[21] Online Extra. "Triple Bottom Line", *The Economist* (November 2009), online: <http://www.economist.com/node/14301663>.

[22] Michael Porter & Mark Kramer. "Creating Shared Value", *Harvard Business Review* (February 2011), online: <https://hbr.org/2011/01/the-big-idea-creating-shared-value>.

SDGs, particularly as governments will rely on the private sector to deliver innovative solutions in working to address many problems facing the world today.[23] This reliance and opportunity for public-private partnership will translate into resources available to build new markets and strengthen existing ones. Many companies have already taken up Ki-moon's call to action by incorporating the SDGs into their business plans with the help of specific guidelines. In terms of direct action, businesses in the pharmaceutical, technology and food sector have already begun investing in achieving Goal 3 of the SDGs, which is to promote well-being and healthy living.[24] Even more relevant is target 3.3 of the SDGs, which is to end AIDS by 2030. Companies such as Chevron, Levi Strauss & Co., ExxonMobil, and Merck have been investing in programs to combat and prevent HIV and AIDS around the world in direct relation to this target.[25]

Responsible Investing

Responsible investing is a type of investment strategy that combines investors' financial objectives with their concerns about social, environmental and corporate governance (ESG) issues. There are a number of interchangeable terms used to describe this type of investing, including socially responsible investing (SRI), sustainable investing, mission-based investing and ethical investing. Responsible investing can be used in a variety of different types of traditional investment classes which include stocks and bonds. This type of investing has gained popularity in recent years, driven by a range of factors including the growth of responsible investment pension funds and widespread adoption from investment institutions.[26] Changes in demographics have also played a large part in the growth of responsible investing.

[23] "UN Forum Highlights Fundamental Role of Private Sector in Advancing New Global Goals", *United Nations Sustainable Development Blog* (September 2015), online: <http://www.un.org/sustainabledevelopment/blog/2015/09/un-forum-highlights-fundamental-role-of-private-sector-in-advancing-new-global-goals/>.

[24] *Goal 3: Ensure Healthy Lives* (United States Council for International Business: Business for 2030), online: <http://www.businessfor2030.org/goal-3-ensure-healthy-lives>.

[25] *Ibid*.

[26] *Canadian RI Assets Surpass $1.5 Trillion: Canadian RI Trends Report* (Responsible Investment Association, 2014), online: <https://www.riacanada.ca/trendsreport/>.

Research by Morgan Stanley has found that 86% of millennials are interested in sustainable investing and prioritize social impacts when considering their own financial portfolio.[27]

Historically, responsible investing was primarily concerned with avoiding investments in businesses thought to be unethical such as alcohol, tobacco, gambling, pornography and weapons sectors.[28] Today, there is a range of different responsible investment strategies, including purchasing shares (equity) in companies with best-in-class ESG performance on human rights issues (also known as ESG screening), restricting investment choices to companies that that work in certain sectors of the economy such as renewable energy or healthy foods (also known as thematic investing), and investing in organizations or projects that focus on creating positive social or environmental impact alongside financial returns (impact investing).[29]

Impacting Investing

One of the newer categories of responsible investment in impact investment. The most widely used definition comes from a 2010 report by J.P. Morgan, the Global Impact Investing Network and the Rockefeller Foundation, which states that impacting investing relates to "investments intended to create positive impact beyond financial returns."[30] While impact investing remains one of the smaller categories of responsible investing in terms of its popularity among investors, its frequency of use and quantity of investments continues to grow rapidly year by year.[31]

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[27] *Sustainable Signals: New Data from the Individual Investor* (Morgan Stanley Institute for Sustainable Investing, 2017), online: <https://www.morganstanley.com/pub/content/dam/msdotcom/ideas/sustainable-signals/pdf/Sustainable_Signals_Whitepaper.pdf>.
[28] Nick O'Donohoe, Christina Leijonhufvud & Yasemin Saltuk. *Impact Investments: An emerging asset class* (J.P. Morgan Global Research, 2010), online: <https://assets.rockefellerfoundation.org/app/uploads/20101129131310/Impact-Investments-An-Emerging-Asset-Class.pdf>.
[29] *Supra* note 26.
[30] *Supra* note 28.
[31] *Impact Investment is Growing Rapidly in Canada: New Study* (Responsible Investment Association, 2016), online: <https://www.riacanada.ca/impact-trends/>.

A number traditional financial organizations are involved in the impact investment marketplace including pension funds and banks, but impact investing also draws high net-worth individuals such as Bill Gates through the Bill and Melinda Gates Foundation as well as philanthropic and charitable foundations such as the Montreal-based McConnell Foundation. Impact investments were created from the understanding that government resources and not-for-profit organizations have limited wealth to dedicate to some of the world's greatest social and environmental challenges. Rather than stand by idly while important issues scramble for limited resources, the capital markets can provide much needed funding in ways that create positive impacts while making reasonable returns on investment.

Impact investments tend to focus on improving the lives of vulnerable individuals by either providing improved or expanded access to basic services (healthcare, education, energy) or through improving the production of certain goods and services that benefit society (for e.g. funding agricultural projects that improve crop yields, resulting in increased income for farmers while preventing deforestation).

As described above, traditional investment classes such as stocks and bonds are used in impact investing. When the two are combined, they are referred to as Social Impact Bonds (SIBs). SIBs are a recent creation that specifically respond to impact investment needs of financial players looking to use traditional classes in responsible ways. A SIB is also known as a pay-for-success model, which links financial returns to achieving specific metrics of social performance.[32] One of the first SIBs was created by the UK-based *Social Finance* and focused on preventing prisoner recidivism.[33] The pay-for-success model has now been adopted for many other applications including health programs.

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[32] Mildred Warner. "Private finance for public goods: social impact bonds" (2013) 16:4 Journal of Economic Policy Reform, online: <http://www.tandfonline.com/doi/abs/10.1080/17487870.2013.835727>.

[33] Alan Travis. "Will social impact bonds solve society's most intractable problems?", *The Guardian* (October 2010), online: <https://www.theguardian.com/society/2010/oct/06/social-impact-bonds-intractable-societal-problems>.

Impacting Investing and HIV/AIDS

A corporation's engagement in CSR work is quite often expected when the company is operating in a region with environmental, governance or social concerns. This is because not only does a for-profit corporation have the capacity to provide resources for such issues, but as a profiting entity with employees affected by the particular issue, they have a corporate operating responsibility to provide resources. Conversely, by failing to provide resources that address particular issues in the region of operation, the company will often face a loss in profits directly related to the social impacts of the problem. HIV can affect "the size, growth rate, age and skills composition of working populations and the productivity of companies in the most affected regions and sectors".[34] Many of these costs are indirect, including lost productivity, low morale, absenteeism, high turnover rates, and tragically the "loss of workers and their families who die from AIDS".[35]

Anglo American, one of South Africa's largest private sector employers, at one point experienced the severe economic effects of the toll HIV and AIDS was taking on the health of its employees. By providing a free anti-retroviral program to employees paired with stigma-free HIV testing, Anglo American became aware of what is termed 'health economics'.[36] A principle of health economics is that every dollar spent creates a return on investment, meaning that HIV and AIDS treatment and reductions are not simply philanthropic endeavours. In some regions, it is estimated that every dollar spent on HIV programs creates an $8 return.[37] The toll employee health can take on a corporation's bottom line when operating in a zone with an epidemic can be a turning point where a corporation can achieve stability through prioritizing the health and wellness of its staff.

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[34] AIDS Accountability International & Rosencrantz & Co. *Responding to HIV and AIDS: Good practices for investors and businesses* (CDC, 2011).
[35] *Ibid.*
[36] Brian Brink & Jan Pienaar. "Business and HIV/AIDS: the case of Anglo American" (2007) 21 International AIDS Society Journal, online: <http://journals.lww.com/aidsonline/Abstract/2007/06003/Business_and_HIV_AIDS__the_case_of_Anglo_American.11.aspx>.
[37] *Supra* note 4.

Impact investing is well-suited to meeting societal needs and also simultaneously providing an innovative solution to the slowing of funds for HIV and AIDS-related health programs. Innovative financing is a way of obtaining resources outside of traditional donor assistance that can be self-replenishing (because it in turn makes money) and therefore has long-term sustainability. It is worth repeating that alternative forms of financing, such as innovative financing, would not be meant to displace traditional financing or a state's responsibility for health budgets proportionate to their population's needs. Instead, innovative financing can be a form of long-term sustainability through their self-replenishing nature.[38]

Current Innovative Finance Mechanisms and The Prevention Gap

Innovative finance mechanisms geared to HIV and AIDS health programs in African countries already exist and have proven successful. For example, three effective financial mechanism projects include a Zimbabwe AIDS trust fund and two debt conversion instruments in Botswana and Côte d'Ivoire. These mechanisms have generated US $52.7 million, $20 million, and $27 million respectively going towards HIV and AIDS programs. Other pilot programs using innovative finance mechanisms have included "taxes on imports, tobacco, transport, hotels and tourism and levies on telephone calls" to raise funds."[39]

While finance mechanisms for HIV and AIDS support have begun to crop up in African countries, most areas of relief focus on treatment of individuals living with HIV, such as providing support, health care and antiretroviral medications. While treating the individual with HIV is essential and should not be detracted from, there may be a gap in funding where there are not enough strategies for preventing the transmission of HIV for key populations that remain at higher risk levels. Actually stopping the spread of new infections is of paramount importance in eradicating AIDS.

The rate of new HIV infections has globally declined since 2010 by 11%.[40] The downward trend is present in southern and

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[38] *Supra* note 12.
[39] *Supra* note 5.
[40] *Supra* note 3.

eastern Africa as well, where "new HIV infections have declined by a third in just six years".[41] However, "gains can be easily reversed," particularly as AIDS resources have stagnated and globally we are not on track to meet projected investments required for treating HIV and limiting new infections for 2020.[42] Further, gains are only regional. For example, in western and central Africa, the rate of new infections has declined only slightly between 2010 and 2016. In some countries, such as Congo, Ghana and Liberia, new infections have increased by over 15% between 2010 and 2016. These numbers demonstrate that we should be careful when drawing inferences from the global trend of a decrease in new contractions of HIV. The global trend is not reflective of the ongoing crisis that some regions are experiencing, and the ever-urgent need they face to curb the rate of transmissions for vulnerable populations.

The balance between prevention and treatment should not be an either/or discussion. Treating individuals living with HIV or AIDS should not come at the cost of funding programs that prevent new transmissions, and vice versa. This is why innovative finance mechanisms are an opportunity. Rather than rededicating funds from the existing pool of domestic dollars or international donors, which is already stagnating and unlikely to meet future needs, finance mechanisms are a method of generating new dollars from an entirely separate sphere that would not detract from, reduce, or redirect existing funds. It would not force competition between treatment versus prevention. Instead, finance mechanisms generate new funds that could be available for dedicating efforts on prevention measures without taking focus or resources away from the importance of treatment. By tapping into new markets and new ways of generating income for HIV health programs, new funds would be generated rather than re-allocating the existing pool of funds which has been shown to be stagnating and slowing to a degree that will not meet forecasted needs for HIV treatment.

Prevention: Tailoring Regional Finance Mechanisms

Prevention measures that are proven to work across the globe include: properly used contraception, needle-syringe and

[41] *Supra* note 4.
[42] *Ibid.*

opioid substitution programs (for drug users), preventative medication (PreP), and immediate ARV once a person is diagnosed (to prevent further transmission).[43] Scientific breakthroughs have demonstrated that HIV treatment in the form of ARV can act as effective transmission prevention, which is why so many HIV health programs prioritize facilitating access to ARV medication as soon as possible for newly diagnosed individuals.[44]

While these prevention measures are effective, they still require tailoring to the specific key populations in need. There is no "one size fits all" approach to HIV and AIDS.[45] Solutions must be region-specific, not just because each region is best equipped to meet the needs of their own population, but also because different regions across the world have different key populations at risk for HIV transmission, as a result of different societal influences or disparities. Most new transmissions, on a global average, take place in key populations that include females, sex workers, men who have sex with men, and people who inject drugs, and in geographic areas that are at elevated risk.

Distinct groups vulnerable to HIV infection are region-specific. It should be noted that when discussing specific African regions and the key populations at risk, men who have sex with men and intravenous drug users are among the most vulnerable and are far from sufficiently recognized in African countries.[46] In an attempt to provide workable solutions for key populations to benefit from finance mechanisms geared to prevention, this paper aims to maintain a focus on the gender inequalities of African regions that contribute to young women and girls being at high risk of contracting. This is not intended to be misinterpreted as highlighting the need of women and girls above those of other vulnerable groups such as men who have sex with men, sex workers, or people who inject drugs. In many African countries, there are more women living with HIV than men due to "patterns of gender inequality, which make women more vulnerable to

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[43] *Supra* note 17.
[44] Cohen, Myron S et al. "Prevention of HIV-1 Infection with Early Antiretroviral Therapy" (2011) 365:6 New England Journal of Medicine 493, online: <http://www.nejm.org/doi/full/10.1056/NEJMoa1105243#citedby>.
[45] *Supra* note 17.
[46] *Supra* note 19.

infection."[47] While the number of AIDS-related deaths has significantly dropped over time in eastern and southern Africa, AIDS-related illnesses are still a leading cause of death in the region for women and girls between 15-24 years of age.[48]

Therefore, it's not surprising that the majority of people living with HIV in eastern and southern Africa are women and girls.[49] In South Africa, women aged 15-24 are four times more likely to contract HIV than men of the same age range.[50] There are many reasons for the disproportionate rate of HIV in areas of Africa among women compared to men. One reason is inter-generational relationships where young women date older men and may be unable to safely or confidently negotiate condom use and safe sex. Gender-based violence has also been suggested as a leading cause of this disparity between genders. When a young woman experiences intimate partner violence her chance of contracting HIV is 50% higher. Further, women do not experience the same levels of access to education, employment and healthcare as their male counterparts in these regions. All of these factors converge to create particular HIV risks, particularly in how women are equipped and supported to negotiate safe sex.[51]

Given that "sub-Saharan Africa has the highest prevalence of HIV infection among young women,"[52] gender issues form a large part of the lens through which prevention measures should be recognized. Gender-focused prevention measures would include the "supply and quality of proven HIV prevention interventions such as condoms, male circumcision, couple counselling and testing, provision of antiretroviral therapy and prevention of mother-to-child transmission."[53] Even bolder prevention efforts include actually changing societal norms on gender issues, such as addressing sexual violence, age disparity in sexual relations, and multiple partnerships without adequate contraception. [54]

[47] *Supra* note 34.
[48] *Supra* note 4.
[49] *Supra* note 3.
[50] *Supra* note 19.
[51] *Supra* note 19.
[52] *Supra* note 17.
[53] *Ibid*
[54] *Ibid*

When looking at the rates of new infections in Africa specifically, it is clear that continuing approaches to addressing HIV in Africa require approaches that include prevention measures. Some of the prevention methods tailored specifically to African countries are those that prioritize vulnerable girls and young women through education, awareness, safe sex, getting tested, and other community-driven methods.

In Nairobi, young people account for half of the new HIV infections each year. In response to this data, Nairobi HIV programs have increased youth-friendly services geared to HIV interventions in schools and providing young women and girls with skills training and economic programs to reduce their risk of contraction. As self-testing programs are becoming increasingly popular in Africa, Nairobi has been providing this service to young people through private sector programs.[55]

Not all prevention methods work, which is why programs need to be flexible and adaptive. In South Africa, a wide expansion of its condom program did not prove effective in the long-term, as condom usage has fallen in recent years from 85% of males between 15-24 using condoms in 2008 to 68% in 2012. A decrease was also noted in the same time period for men between 25-49.[56] Similarly, what was once a widespread HIV and AIDS Life Skills Education Programme implemented in 160% of schools in 2013 dropped to just 20% of schools one year later due to school resistance on teaching the subject and low rates of teacher training.[57] While South Africa has addressed many of its HIV and AIDS-related issues in impressive ways – such as negotiating the price of ARVs for the country – "the government needs to explore other [funding] strategies in order to sustain and expand on its progress".[58]

To make matters even more complex, some prevention measures work, but only when combined with a "package of services – including behavioural, biomedical and structural components – tailored to priority population groups within their

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[55] *Supra* note 4.
[56] *Supra* note 19.
[57] *Ibid*.
[58] *Ibid*.

specific local contexts".[59] This means combining access to condoms as well as sex education and other services without barriers such as cost or parental consent. Key pillars of the combination method of prevention usually include "sexual education, economic empowerment and access to sexual and reproductive health services for young women and adolescent girls". [60] The ingredients that make up a prevention package of services will also be region-dependent. For example, education outcomes are generally poorer in western and central Africa that eastern and southern Africa. Therefore, inserting sexual education programs into school settings would be less effective in western and central Africa where 18.8 million children are not actually in school, and just over half of young women aged 15-24 are not literate. Therefore, a prevention package in this region would need to be tailored to address the gaps in services that are particular to the area. According to UNAIDS, that means increasing youth-friendly HIV prevention services that recognize the high rate of population growth that puts a burden on health services for that age range. Private sector involvement can heighten HIV prevention efforts to work towards eradicating the disease, namely by broadening their CSR-scope beyond policies that assist employees living with HIV but to community programs targeting girls and young women specifically.

Targeted Approach for Prevention: Case Studies

A number of innovative finance mechanisms have already been mentioned that have been used for HIV or AIDS programs. The following case study applies financing tools to prevention measures, outlining a development impact bond plan that was presented in Swaziland that seeks to provide ATR treatment as a form of prevention, providing a prevention package that also included community mobilization and home testing programs. This case study demonstrates the real-world application of finance mechanisms as a pool of funds that can be used innovatively to continue to meet pressing needs in key regions.

The people of Swaziland have suffered immensely from the HIV prevalence in their country, with 26% of the population between 15-49 HIV-positive, and 41% of pregnant women HIV-

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[59] *Supra* note 5.
[60] *Ibid*.

positive.[61] While HIV programs in Swaziland have achieved impressive scales of treatment for infected individuals, "estimates show that the number of new infections per year is still too high to turn around the epidemic without a new and significant intervention".[62] Through efforts to address this reality, the Government of Swaziland has partnered with other organizations to strengthen HIV responses, including research on a potential impact bond in that would raise funds to supplement government resources to reduce new infections through Treatment as Prevention (TasP).

TasP has potential to reduce the number of new infections, but requires $10 million for a three-year implementation in pilot communities. If the three-year pilot proves successful, a scale-up of the TasP program across Swaziland would of course require an additional investment. The specific elements that a TasP program would provide: earlier interventions including "community mobilization efforts, home-based testing programs,"[63] and following up with individuals who don't return for treatment, all in the aim of early treatment of HIV before an individual might transmit the disease to a partner. Investors in such a project would receive a share of the value of outcomes based on TasP reducing the rate of transmission. The reduced economic burdens of the virus on a population can be quantifiable savings, directly attributed to an individual receiving ART earlier through a TasP program. These financial savings would result from things like fewer burdens on hospital system, reduced HIV-related mortality and morbidity, reduced medical costs, a healthier workforce, etc.

Project Proposal

The following section provides a concrete project proposal that utilizes a finance mechanism to deliver preventive HIV programming specific to women and girls in Nigeria.

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[61] *Investing in Social Outcomes: Development Impact Bonds*, The Report of the Development Impact Bond Working Group (Center for Global Development & Social Finance, 2013), online: <https://www.cgdev.org/sites/default/files/investing-in-social-outcomes-development-impact-bonds.pdf>.

[62] *Ibid*.

[63] *Supra* note 61.

Tackling the disproportionate rate of HIV that women and girls face in HIV-prevalent regions means focusing on gender inequalities. Therefore, the following proposal pitches an impact investment project that uses innovative finance mechanisms to source funds for HIV prevention efforts that aim to tackle societal norms on gender issues. The project borrows elements of 'All In', a partnership program between UNAIDS and UNICEF, where gender-focused HIV prevention programs include keeping girls in school, sex education, elimination of gender-based violence and economic empowerment.[64] 'All In' also encourages adolescents to participate in decision-making processes, familiarize themselves with policies and laws that affect them, and create youth-led movements.

Region for Project Proposal

Much of this paper has looked at the role gender inequality plays in some African countries' HIV rates. Nigeria is a candidate for a country that could benefit from an innovative funding proposal to create resources for the women and girls that are vulnerable to HIV. Having been hit hard by the HIV epidemic, the HIV prevalence amongst women aged 15-24 in Nigeria is "almost twice as high as it was for their male counterparts".[65] Further, many Nigerians are unaware of their HIV status due to a low number of HIV testing and counselling sites in the country.

Organizations Involved

Like the case study for the Swaziland development impact bond, an ideal pilot project would involve corporations working with an innovative finance mechanism, the local government which has expertise and data on its people as well as health services already running, and organizations already involved in the HIV/AIDS sphere of work. It's important not to reinvent the wheel in regions that already have well-functioning programs that simply require access to reliable funds. That being said, it's also essential that organizations beyond the state government be

[64] *Supra* note 19.
[65] "Young Nigerians with a passion for HIV prevention", (February 2016), online: UNAIDS <http://www.unaids.org/en/resources/presscentre/featurestories/2016/february/20160209_nigerians>.

involved to protect against corruption or mismanagement and ensure funds are used in the most effective way possible.

Innovative Finance Mechanism

A law in Mauritius requires registered companies to contribute 2% of their profit to health goals. This is, in essence, a corporate social responsibility tax. The government dictates the amount of the tax and where it shall be spent. Somewhat similarly, Indonesia requires businesses to implement and fund CSR programs, either internally or externally. In Zimbabwe, a levy tax funds the National AIDS council and reduces external reliance on donors. Between 2000 and 2006, this levy tax generated $2.6 billion.[66]

In the same vein as Mauritius, Indonesia and Zimbabwe, a project proposal in Nigeria could establish an innovative finance scheme whereby a law is passed that requires businesses that meet a reasonably high profit threshold to contribute 2% of their profit to an investment fund that is dedicated to HIV prevention programs. To ease private sector concerns regarding lost profit, companies affected by the law may opt to divert up to 50% of this investment (i.e. 1% of the profit) into the company's internal HIV or AIDS programming, should they have any. If they do not choose to do so, or if they do not have any internal HIV programming, the full 2% will be transferred into the investment fund.

While the government of Nigeria would mandate the investment fund and ensure its implementation from the private sector, the fund would be managed by an independent third party made up of representatives from existing HIV organizations, not-for-profits, women's organizations, the education sector, private sector representatives, etc. These representatives would make up a steering committee for Nigeria's sustainable HIV financing. It's important that a steering committee contain voices from all parties affected, but particularly the voices of women and girls in Nigeria who can speak to the programming that is needed in their communities.

[66] *Supra* note 12.

Prevention Tools

Innovative finance mechanisms can be utilized to make use of the pillars of prevention methods for adolescent girls and young women in high risk areas through sex education, economic opportunities and increased access to health services. Some of the tools that a Nigerian investment fund could use are modelled after UNAIDS' suggestions on how to close the gap in numbers on new HIV infections. These include: increasing girls' access to education, ending intimate partner violence, and reduce stigma, discrimination and marginalization. One of the most important areas that touches on all of these issues is comprehensive knowledge. Knowledge does not have to come from an education setting, however. Since 2011, a pilot project in Botswana, Lesotho, Malawi, Namibia, Swaziland, Zambia and Zimbabwe has created links between reproductive health and HIV services. Health facilities in the project provided integrated sexual health services with HIV services, which created an uptake in both types of services by facilitating access.[67]

One of the main prevention issues in Nigeria is a lack of access to HIV testing to inform people of their status before they transmit to others. In a similar vein to the sexual health services mentioned above, funds generated in Nigeria could create self-testing tools in communities accompanied by on-the-spot counselling and sexual health educators with an emphasis on the needs of women and girls. This could take shape as a travelling sexual health facility sponsored by the private sector, overseen by a steering committee, and run by health professionals. These professionals would provide condoms, couples counselling, testing, and information on accessing ATR therapy and prevention of mother-to-child transmission. The health professionals should be geared to women and girls' needs as well as be youth-friendly to encourage testing and education regarding contraction.

Caveats and Lessons from Existing Projects

As with any project that affects the lives of vulnerable populations, there are risks, perspectives, and lessons learned from elsewhere to help inform the basis of an innovative finance

[67] *Supra* note 5.

mechanism tool in how to operate such a project without further negatively impacting the population at hand.

Engaging Communities & Stakeholders

Any HIV-related program must be informed by the needs and voices of the lived realities of people living with HIV or AIDS. Effective programs are those that are community-driven in some way, whether there was consultation that took place, community members on a planning committee, or community oversight. This kind of ground work can be useful for both creating new programs as well as in planning how to scale-up existing programs to be expanded.[68] While innovative finance mechanisms can be seen as new pools of funds put towards 'new' projects focused on prevention, they should not be reinventing programs that already successfully provide services. People living with HIV or AIDS should be the primary stakeholder and source of information and guidance on such a project. Their input is invaluable, as is their oversight and evaluation of a program's success. Many successful prevention programs already exist and should not be re-invented. Engaging with stakeholder communities will help match the innovative investment tool with the prevention program that works for the community in question.

Recognizing the Human Rights Challenges in HIV Issues

HIV and AIDS are unmistakably human rights issues. Starting from the reasons that lead to a person's likelihood of contraction, which includes gender inequalities, power dynamics in sexual relationships, intimate partner violence, and more. All of these factors can become more or less present depending on a person's gender, sexuality, race, level of education, housing security, and mental wellness. For individuals living with HIV, the human rights issues they live with include their ability to access treatment, facing stigma, discrimination, and violence, and the unequal application of criminal laws.

While finding innovative sources of funding to address HIV and AIDS is exciting and can be a game-changer in providing services more widely, it's important that the focal point of HIV and AIDS issues remain on the human rights-related issues that

[68] *Supra* note 5.

individuals face, that either leads to them contracting or burdens them if they are HIV-positive. If a pool of funds for HIV programs were sustainable and self-generating, it could have significant impacts on program reach. But the issues of HIV and AIDS are not just about program reach, they are about so much more – such as the human rights issues that have been listed above. Any kind of programming that results from an innovative finance mechanism shouldn't be created in a corporate vacuum without input and oversight from other players. In fact, there could be serious risks if these finance tools were used by corporate players who do not have the expertise that other existing bodies do, such as states dealing with the epidemic or organizations such as UNAIDS. They could end up providing services that either are not helpful because they do not address root issues such as access to treatment or gender inequality, or services that could, in the end, be harmful, if they somehow created additional stigma in the way the services are provided.

Finance mechanisms can change the landscape of how services are scaled-up and broadened, but they should not create their own landscape. They should work within the frameworks that are already there. While corporations may have the tools to provide resources, they are experts in another business and not experts in health care or HIV. They can provide resources, not dictate how resources are used.

Risks related to involving the private sector

The first risk is that the private sector may resist what they interpret to be a philanthropic tax on businesses, and critics may assert that any mandatory schemes reduce economic competitiveness. The second risk is that if an innovative finance scheme involving the private sector is proposed on the basis of health economics (namely that corporations will see returns on investment or higher profits), this may be a negative way to motivate companies to engage in a larger role on HIV and AIDS. Improving the quality of life and health of people should not be a money-making scheme based on health economics. If it is, it could have unforeseen consequences on how decisions are made based on money rather than people.

Another risk related to the private sector is the creation of a savior-victim complex. If employees are entirely dependent on their corporation's programs in order to manage their HIV and it could be revoked at any time, this would result in a dangerous power dynamic between the employee and the company. Employees, or any people, should not be the victims looking to the savior that is a corporation that can either make or break their health and the health of their families. A potential solution to this dynamic would be to ensure an innovative finance mechanism is part of a partnership with the state where the state holds ultimate control and regulation over the program, and it is the state which in essence provides the program. This could be further addressed by engaging with communities, as mentioned above, by having community oversight in the form of a steering committee.

Lastly, there is a risk that heavy corporate involvement and reliance could undermine local capacity if the community is only a recipient of the program rather than a key player. This is the case with many current HIV programs in Africa that are run through "intermediaries from high-income countries".[69] Again, the potential solution here is to ensure community oversight and input in ways that actually strengthen local capacity.

The Role of the State

As has already been mentioned, finance mechanisms should not be intended to replace the existing obligations that states have in addressing the health needs of their people. In fact, the states will continue to have a role to play even in the finance mechanisms at play with the private sector, as the private sector does not have the capacity, nor the mandate, to make decisions based on the wellbeing of a population. Public regulation is needed in this capacity. Depending on the finance mechanism used, there are roles for the state to engage in, such as developing strong regulatory frameworks, legislation regarding the finance mechanism to be used, and implementing robust accountability mechanisms to ensure the affected populations that are already marginalized are not taken advantage of as a result of corporations seeking to profit.

Conclusion

While many states have moved on to allocating resources to other epidemics or emergencies, HIV is anything but

[69] *Supra* note 17.

eradicated. The most dangerous thing that can be done in regards to HIV is to assume the epidemic is on its way out. The private sector can make significant impact in the ongoing work to eradicate AIDS. As profiting entities in regions with HIV-prevalence, the private sector not only has the capacity to participate in HIV work, but also the incentive of health economics and impacts to their own bottom line if they allow funding levels to continue to stagnate. Innovative finance mechanisms have proven to be effective means of creating new pools of long-term funds to supplement the flattened external donor rates and uncertainty of annual health budgets within countries in HIV-prevalent areas. However, most innovative financing mechanisms to date focus on health attainment: obtaining anti-retroviral medications, other forms of healthcare and support for HIV-positive individuals. The strong potential of innovative finance mechanisms, as demonstrated by existing tools being used, can be seriously looked at to bolster HIV prevention efforts specifically. Girls and young women must be at the forefront of the HIV response if the southern and eastern regions of Africa are to aim to end AIDS by 2030, and HIV prevention-specific programs can work to meet the needs of these women and provide them with the programs necessary to reduce their risk of contraction. Instead of floundering with low funding rates while the rest of the world moves their resources to other urgent causes, finance sector tools might be the answer. Private sector involvement can heighten HIV prevention efforts to work towards eradicating the disease, namely by broadening their CSR-scope beyond policies that assist employees living with HIV but to community programs targeting girls and young women specifically. Prevention programs are difficult to perfect, but with the right organizations involved including states, not-for-profits, women's groups, and private sector, programs can be created with long-term, sustainable, and reliable funds from innovative finance mechanisms.

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