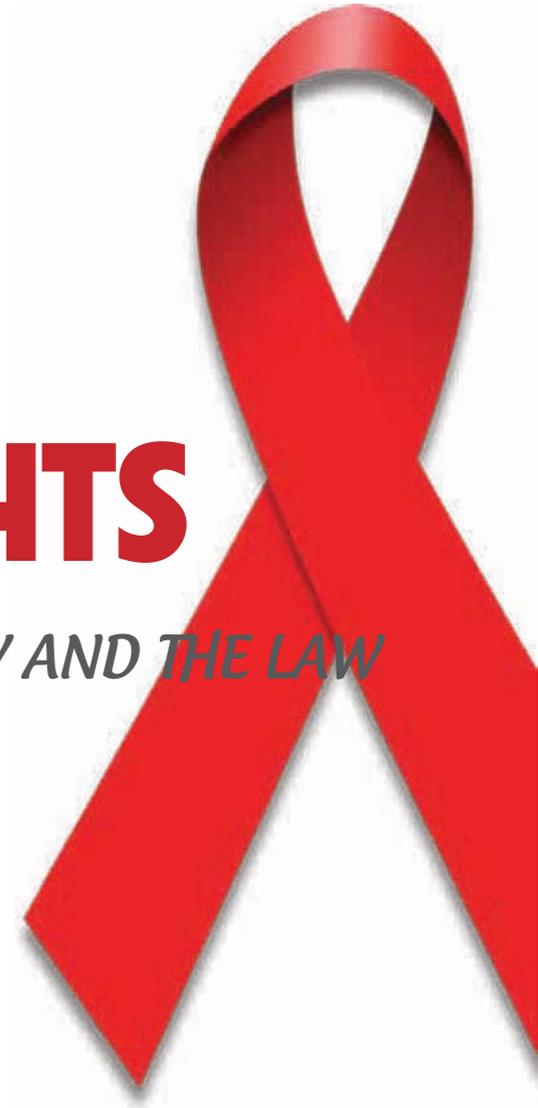




LEARN ABOUT YOUR RIGHTS
TRAINING MANUAL ON HIV AND THE LAW

Learn about **YOUR RIGHTS**

TRAINING MANUAL ON HIV AND THE LAW



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INTRODUCTION

In recent years the Vietnamese State has focused on diffusing awareness of and educating citizens on the Law on HIV/AIDS Prevention and Control in order to ensure the law is being respected and is being correctly and fairly implemented. This focus has gradually increased awareness and helped the State to regulate behavior according to the rule of law.

In order to satisfy the needs of People living with HIV (PLHIV) and enable the law to be used as a tool for protecting rights and benefits of PLHIV, the Institute on Policy, Law and Development (PLD Viet Nam), a member of VUSTA, with support from the experts and volunteers from BABSEA CLE, has written and published the manual "Learn about your rights. Training manual on HIV and the Law." This manual is based on the content of the Law on HIV/AIDS Prevention and Control, and associated legal documents guiding the implementation of that Law.

This manual consists of 12 chapters relating to the rights of PLHIV under Vietnamese law. It includes basic information about HIV and AIDS; the rights and obligations of PLHIV; the rights of woman and children living with HIV; the right of PLHIV to be educated, work, receive health care, HIV counselling and testing and the right to privacy; on the prohibition of stigma and discrimination relating to HIV and AIDS; and the mechanisms available to address rights violations of PLHIV. This manual is written carefully and is easy to use through the inclusion of real cases and interactive teaching methods, such as role-plays, presentations and mock interviews which are designed to impart the specific information contained in each topic.

I would like to introduce this manual to all readers, especially to PLHIV.

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It would not have been possible without the long hours and hard work of the consortium's training materials development team, especially Project Coordinators Bui Thu Hien, Tran Le Trang, Nguyen Thuy Duong and Lawyer Nadia K.Morales. The team's authors, legal experts, law graduates, students, staff and volunteers all played a vital role every step along the way, from embracing an idea and developing a project, to writing, testing and producing this manual. All the names of the people and organizations who were instrumental in the successful development of this manual are included in appendix 6.

Everyone who worked on this manual would also like to thank the many people at VNP plus who gave so generously of their time and energy to help organize the testing of this material.

A special thank you goes to all the artists who provided the illustrations for this manual: Tek Tevinn, Phal Povrisith, Sin Yang Pirom, Chan Ny, Moeu Diyadaravuth, Srey Rartanak, with help from Sim Sisavuthara, Try Samphos, Sao Channa and John Weeks, Nguyen Tri Hieu.

The training materials development team owes a debt of gratitude to Carmen Gonzalez, UNAIDS Programme Officer, for her tireless support, encouragement and guidance.

Finally, we would also like to thank Mr. Nguyen Huy Quang, deputy Director of Health legislation of the Ministry of Health for his valuable inputs and support.

PREFACE

Who is this manual for?

This manual is intended to be used primarily to train about the rights of people living with HIV (PLHIV), people affected by HIV and key affected populations as well as about the remedies available to protect those rights in Viet Nam.

- ▶ If you are involved or planning to be involved in delivering legal services for PLHIV, this manual will help you understand and teach the rights of PLHIV in Viet Nam and what to do when those rights are infringed upon.
- ▶ If you are working with PLHIV, this manual will help you understand how Vietnamese and international law affects PLHIV and what resources and remedies are available.
- ▶ And most importantly, if you are living with HIV and your rights have been infringed upon, or you are a member of a self-help group discussing problems, prejudices and possible legal action, this manual is meant for you.

We believe all these groups will find that this manual is a reliable resource and that it will become a trusted tool for accessing and protecting the legal rights of PLHIV in Viet Nam.

Purpose and content

The purpose of the training manual on HIV and the Law is to provide guidance on how to raise awareness of the rights of PLHIV, people affected by HIV and key affected populations, and how to share information with the legal and PLHIV communities about how to seek justice when those rights are violated.

The material in this manual covers not only the Law on HIV, but other pieces of legislation that are critical for the protection of the rights of PLHIV, such as the Constitution of the Socialist Republic of Viet Nam and the Law on Child Protection, Care and Education.

The word “facilitator” is used throughout this manual to refer to the person who is teaching using this manual. That person is generally someone with legal expertise regarding HIV issues, but not necessarily a lawyer. The word “participant” is often used to refer to the community members learning the information in this manual. Remember that facilitators are also participants, as they learn from the communities they teach to. And participants are also teachers - as they provide information, personal experiences and knowledge to those leading the lessons. We call this shared learning.

How was the manual developed?

The development of this manual began with a community legal education (CLE) workshop on the law relating to HIV, attended by representatives from Law Universities, legal experts, Bridges Across Borders Southeast Asia Clinical Legal Education (BABSEA CLE) and the Institute on Policy, Law and Development Viet Nam (PLD Viet Nam) in May 2010. All participants were selected based on their experience and commitment to implement legal awareness activities and/or legal aid for PLHIV and on their interest to participate in the development of this manual. During the workshop, participants agreed on the contents and structure of the manual and responsibilities were assigned. Afterwards, participants spent four months researching and writing the chapters which were subsequently reviewed by experts. This was followed by two testing sessions with the Viet Nam Network of People Living with HIV (VNP+), who provided comments and suggestions on the lessons plans. Additionally, BABSEA CLE and PLD Viet Nam organized several training workshops with representatives from Law Universities, PLHIV self-help groups, legal aid centers and health centers, where different parts of the manual were taught. Those workshops included a discussion session with participants about improvements to the content of the trainings. Many comments by the workshops participants were taken into account during the review of the manual. Finally, the manual has been reviewed by an expert from the legal department at the Ministry of Health, ensuring that all information provided is relevant and correct.

Structure and content of the manual and chapters

The manual has 12 chapters:

- ▶ Chapter 1 includes basic information about HIV and AIDS.
- ▶ Chapter 2 summarizes the rights of people living with HIV under the international and national legal framework.

- ▶ Chapters 3-10 cover the rights of PLHIV. Each chapter provides a brief summary of the current situation in Viet Nam, includes the current existing domestic laws as well as references to some areas of international law (where applicable). Finally, each chapter includes a section on the remedies and steps PLHIV can take if their rights are violated.
- ▶ Chapter 11 describes the obligations that PLHIV have according to the Law.
- ▶ Chapter 12 contains comprehensive information on what to do if PLHIV’s rights are violated. It should be consulted and used with each of the other chapters when discussing remedies.

Each chapter starts with the outcomes that the facilitator should achieve by teaching the chapter. These might include greater awareness and knowledge, improved skills and a better understanding of personal and societal values pertaining to the topic. The outcomes are followed by the main relevant legal information. After that, a lesson plan that draws on the information and uses interactive teaching methods to help the facilitator make sure that the participants understand the information found in the lesson is included.

Each lesson plan has sub-topics, which include a) content: the substantive information that the facilitator is trying to teach through the lesson plan (knowledge, skills, and values; b) methods: a list of the different interactive teaching methods used in the lesson plan; c) activity instructions: specific interactive teaching activities that will be used to teach the lesson; d) material: this is a list of what materials (resources) are needed by the facilitator to teach the exercise. The facilitator should make sure that he/she has all of the items listed before starting the exercise; e) time: this sets out the specific amount of time needed for each activity session. It also includes facilitator tips/suggested answers: these are helpful tips for the facilitator on how to better teach or train in using the lesson plan; and handouts (if any) that the facilitator may give out to the participants during the teaching of the lesson plan.

At the end of the manual, a glossary includes a list of all the difficult terms in the manual.

Tips for facilitators

Know the material and have everything prepared in advance

Thorough knowledge of the material will make sure that each participant receives a quality lesson. Although each chapter can be used separately, it is highly recommended that the facilitator is familiar with chapters 1, 2 and 12 before teaching any chapter in order to have knowledge on the routes of HIV transmission and the

legal framework of the rights of PLHIV. These concepts are very important and relevant to every chapter.

- ▶ The facilitator should make sure that any visual aids or handout materials are organized for distribution. Rehearse the use of visual aids and any technical equipment needed. If the facilitator is unfamiliar with how to use the equipment they should ask for instructions.
- ▶ The facilitator should also take enough time to become comfortable in the room and with the participants before beginning the training.

Be aware of your attitudes and language when talking about HIV and working with PLHIV

This manual is being used to train legal personnel who are not used to working with PLHIV, it is important that facilitator be aware of and review his/her own attitudes towards PLHIV before he/she in turn train PLHIV with respect to their legal rights. The facilitator needs to be sure he/she do not bring unconscious negative attitudes or fear with him/her into the community or into the lessons. The facilitator should think about and review his/her own attitudes about PLHIV. We strongly recommend that any questions about PLHIV and their lives should be directed to self-help groups or other groups with extensive experience working with PLHIV.

It is important when teaching that the facilitator uses, and encourages participants to use, appropriate language that is non-discriminatory. The facilitator should use the same language that is contained in the manual. For example the term 'living with HIV' is used instead of 'infected with HIV' or 'AIDS victim'. For other examples of language that should and should not be used please refer to the UNAIDS Terminology Guidelines (January 2011). What a facilitator says and how has a powerful capacity to model appropriate community attitudes and behavior.

The facilitator can use the following self-review to assess their own attitudes and ability to impart accurate and non-discriminatory information to participants:

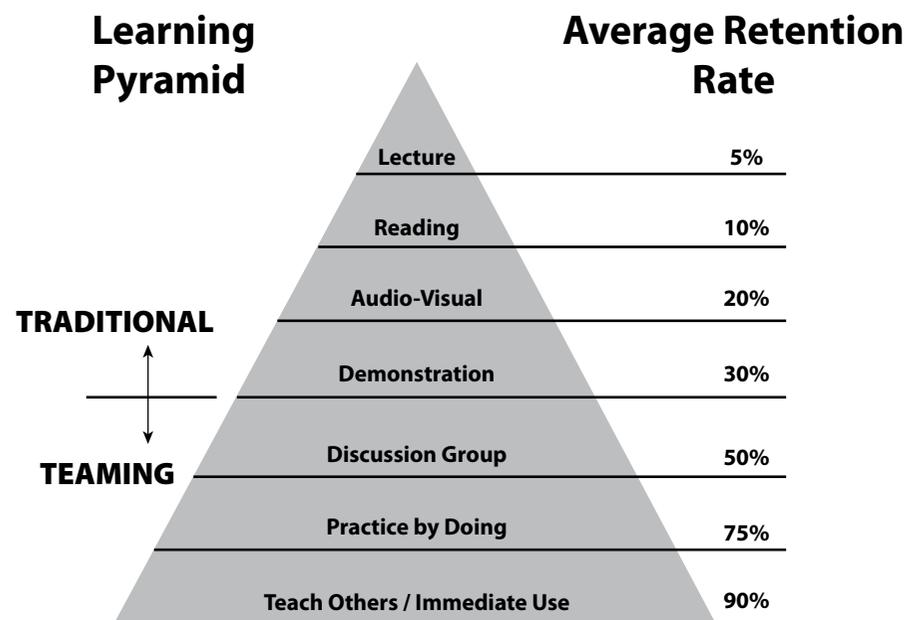
- ▶ All knowledge of HIV must be based on facts as set-out in the manual.
- ▶ While working with PLHIV, there is no risk of the facilitator or other participants contracting HIV.
- ▶ Think about and review your own attitudes towards PLHIV. If you have any questions about PLHIV and their lives, we strongly recommend talking with PLHIV themselves, self-help groups or other groups with extensive experience working with PLHIV.
- ▶ Be prepared to openly discuss HIV and related topics that may be sensitive with participants.
- ▶ Encourage participants to tell their own stories and be prepared to listen, ask questions and learn from them.
- ▶ Avoid preconceptions about how HIV was transmitted to the PLHIV, about how they feel about living with HIV and how they conduct their lives.
- ▶ Avoid judgments about the appropriateness or morality of high risk behaviours.
- ▶ Remind yourself that everyone has the same rights and everyone has the need to be treated with respect and care.

Use interactive teaching methods

One of the best ways to understand the law and how to use it is to teach it to others. In order to teach to others, trainers must understand the law, know how to explain the law using simple language and be able to show how the law is used.

There are many methods that can be effectively used when teaching untrained people about the law. The type of teaching used in this manual is called interactive teaching, which utilizes interactive and participant-centered teaching methods. These methods help people to learn faster, better, and to remember more than when they are taught using the traditional lecture method. It is important to teach the lessons in a way that makes sure that the participants learn as much as they can and remember as much as they can. This means that the person using this manual may have to teach in a way he/she has never taught before, using teaching methods he/she may never have seen before.

The following diagram demonstrates learning retention rates using different teaching methodology:



Use the lesson plans efficiently

The manual includes specific teaching plans that the facilitator can use to teach the information contained in each chapter. In order to use it efficiently, the facilitators should:

- ▶ Review the substantive information in each lesson to make sure they have a full understanding of the issue they are teaching.
- ▶ Depending on time available, the needs and number of participants, the lesson plans will have to be adapted by the facilitator. However, no matter how the lesson plan is changed or adapted, the facilitator should continue to use interactive, community-centered teaching methods. It should be noted that each chapter is designed to stand alone: you can teach them independently of one another.
- ▶ It is recommended that the following elements should be included in each lesson:
 - The substance of the actual topic. For example: law, human rights, legal ethics, procedure or practice.
 - The policy considerations affecting the topic. For example: why the law was introduced, how it works in practice etc.

- Conflicting values - a lesson will be more lively and motivating if participants are exposed to different competing values. For example: the need for the police to combat crime weighed against the right of accused persons to a fair trial.
- Practical advice - participants need to know what can be done to apply what they have learned about the law to real life situations.

- ▶ Remain aware of the sensitive nature of the material being discussed; he/she must be prepared for discriminatory attitudes and strive to promote an atmosphere of safety so that participants can express their feelings and discuss topics openly with others.

5. Points to note when facilitating

- ▶ Monitor effectively: The facilitator must remain engaged in the lesson. While participants are involved in the activity, the facilitator should be checking to see that participants are: carrying out their instructions for the activity, have understood the activity and that all participants are doing the activity. The facilitator does this by monitoring - visiting each group and listening in, commenting only when necessary to correct instructions or clarify contents. The facilitator should remember to give participants time limits to activities to keep the lesson moving.
- ▶ Use body language: Body language - messages communicated by body movements - can be used to make lectures better and more interesting. If done correctly, the use of body language can assist learning. Experienced facilitators frequently nod their heads to encourage participation, use their hands to emphasize important points, and show interest and involvement by directly facing individual participants when speaking.
- ▶ Maintain eye contact: The facilitator should try to look at the participants and into their eyes as much as possible. Participants will likely find the facilitator more believable if he/she does this. The facilitator should make sure that the participants he/she maintain eye contact with are located in different areas of the training room and are selected randomly. He/she should not look at the same participants again and again.
- ▶ Check participants for understanding: During the lesson the facilitator should check that the participants understand the materials being taught in the lesson. A good way to do this is by asking questions. The facilitator should give enough time for participants to consider the question and volunteer an answer. The facilitator should always try to wait for them to answer the question instead of giving the answer. By listening to the answers, the facilitator knows if the participants have understood the information. How a facilitator responds to a

participant's answers is important. The facilitator should allow the participant to complete their answer and listen to the answer carefully. If the answer is correct, the facilitator should say so in an encouraging way. If the answer is incorrect or incomplete, it is important for the facilitator to respond in a positive way so that the participant does not become discouraged or feel scared or shy to answer again. For example, if the answer is not completely correct, the facilitator should repeat the part of the answer that was correct and ask other participants if they have anything to add. If the answer is incorrect, the facilitator can at least thank the participant for volunteering to answer. It is important for the facilitator to remain positive while checking that the participants understand the information being taught.

Planning a Workshop

For a workshop to be successful, it has to be planned properly. A facilitator should not start planning a workshop the day or even the week before it begins. This will not give the facilitator enough time to prepare.

- ▶ The first step to planning a workshop is to assess and understand what the community or group wants and needs to know so that the lessons are relevant to and useful for the participants.
- ▶ The second step is to create a planning folder. The facilitator should keep all information that is important for the workshop in the planning folder. The first thing that should go in the planning folder is the basic information about the workshop. For instance: the places where the workshop could take place, supplies that will be needed, people and organizations who could help run the workshop and topics that will be discussed.
- ▶ The third step is to have a planning meeting with any organizations or people listed in the planning folder who will help the facilitator to run the workshop. Before this meeting, the facilitator should prepare a workshop structure, including: the names of people who are in charge of the workshop, the tasks the people in charge have, workshop schedule (include times, speakers, and topics), location of the workshop (address and directions), general topic of the workshop, specific topics of discussion for the workshop and how much time will be given for each topic, language to be used during the workshop, whether translators will be needed for the workshop, the number of people needed for the workshop, a plan to get people to come to the workshop, a plan to get people to help with the workshop and supplies and equipment needed to run the workshop.
- ▶ After the planning meeting, it is important for the facilitator in charge of the workshop to talk about what needs to be done to get ready for the workshop.

- ▶ Each person involved in organizing the workshop should have a list of jobs to do to help prepare for the workshop. Examples of jobs that need to be done to organize a workshop include: reserve the location of the workshop for the planned date and time to make sure it is available, gather the supplies needed for the workshop, print out any handouts that will be given to the participants and collect the names and phone numbers of people who have offered to help with the workshop.
- ▶ After the teaching is completed, the facilitator should make sure the participants gained the information that they came to the workshop to learn. An easy way to do this is to ask questions about what was discussed in the workshop. The facilitator can ask everyone to say one good thing about the workshop, one bad thing about the workshop, and one way that the workshop could have been better. By asking these kinds of questions, the facilitator can find out whether or not the workshop was successful. It is also a good way to find out what activities the participants liked the most and what activities helped the participants understand the topic the best. This will provide the facilitator with good feedback for upcoming workshops.
- ▶ The facilitator should also use the evaluation forms which allow people to give written comments about their opinions of the workshop to describe how they felt about it, why they felt the way they did and what they learned from the lesson. This feedback is valuable for the facilitator to continue to improve their lessons. Evaluation forms are especially useful for difficult issues because the people filling them out do not have to put their names on the evaluation forms. This will make some people more willing to honestly comment on the workshop. Please see the example workshop evaluation form in the Appendix.

CHAPTER 1

Basic information about HIV and AIDS

OUTCOMES

After this lesson, participants will be able to:



- Knowledge**
- (1) Correctly identify and discuss myths about HIV
 - (2) Discuss the current situation of the HIV epidemic in Viet Nam
 - (3) Correctly identify ways that HIV can be transmitted and correctly reject ways that HIV cannot be transmitted
 - (4) Discuss ways to reduce the risk of exposure to HIV
 - (5) Discuss how HIV transmission can be prevented
 - (6) Correctly answer questions about symptoms of HIV and the benefits of ART



- Skill**
- (1) Use the information received to protect themselves and others from HIV



- Values**
- (1) Appreciate the importance of increasing awareness about HIV in the community
 - (2) Appreciate the importance of the prevention of HIV in the community
 - (3) Appreciate how a better understanding of HIV transmission can reduce stigma and discrimination in the community

1. Basic information about HIV and AIDS - What is HIV? What is AIDS?

1.1 HIV (Human Immunodeficiency Virus)

HIV is a virus that weakens cells of the human immune system. It damages the immune system of the body and makes the body unable to fight infections and diseases¹. People living with HIV are more susceptible to a wide range of infections, most of which are rare among people without immune deficiency.

HIV is infectious, which means it can be transmitted from one person to another. PLHIV are able to live long and healthy lives if they take care of themselves and receive the right medical treatment (such as antiretroviral therapy)

For more information about HIV treatment, please refer to Chapter 10 - Right to Health Care.

1.2. AIDS (Acquired Immune Deficiency Syndrome)

The term AIDS applies to the most advanced stage of HIV, defined by the occurrence of any of more than 20 opportunistic infections or HIV-related cancers².

Although antiretroviral therapy is effective in slowing down the progression of HIV disease and can prolong a person's life, it is not a cure. A person's disease may progress to advanced HIV infection, or AIDS. This is why antiretroviral therapy should not be disrupted; it needs to be taken regularly for life.

If not treated, the majority of PLHIV develop signs of HIV-related illness within 5-10 years, but the time between getting HIV infection and being diagnosed with advanced HIV infection can be 10 to 15 years, sometimes longer.

1 Article 1 of the Law on HIV/AIDS Prevention and Control (No. 64/2006/QH11) defines HIV as: "the abbreviation of the English phrase Human Immunodeficiency Virus, which is the virus that causes the acquired immune deficiency syndrome in human, causing the body to lose the ability to fight disease-causing agents."

2 Article 1 of the Law on HIV/AIDS Prevention and Control (No. 64/2006/QH11) defines AIDS as "the abbreviation of the English phrase Acquired Immune Deficiency Syndrome, which is caused by HIV, normally manifested by opportunistic infections and cancers, and may lead to death".

2. HIV epidemic in Viet Nam

The latest data shows that there are 185,623 PLHIV in Viet Nam (as of 31 March, 2011)³. According to the available data, the majority of PLHIV are under age 40. People aged 20 to 39 account for more than 80% of all reported cases. Men accounted for 69% of all reported cases by the first quarter, 2011. HIV cases have been reported nationwide in all 63 provinces/cities, 97.9% of districts and 75.2% of wards/communes.

In Viet Nam, men who have sex with men (MSM)⁴, injecting drug users (IDUs) and sex workers are key populations at higher risk of HIV infection. All of them are often discriminated against or face stigma because of society's attitudes towards them.

This stigma and discrimination can result in their being reluctant to access available services. Furthermore, drug use and sex work are currently subject to administrative detention in Viet Nam. This means that many sex workers and drug users are afraid to access health care and medical information, because they are afraid they will be arrested or sent to an administrative detention centre.

HIV treatment, care and support needs in Viet Nam are rapidly increasing. According to the report of the Ministry of Health, by the end of March, 2011, there were 49,412 people (eligible adult and children) receiving ART⁵.

3. Myths about HIV

Below are common myths about HIV that must be clearly understood to be false in order to effectively prevent HIV infections and dispel HIV-related stigma and discrimination:

- ▶ Having a shower after sex will prevent HIV
- ▶ Having sex with a virgin after having sex with someone else will stop someone from getting HIV
- ▶ It is possible to get HIV from the toilet
- ▶ HIV and AIDS are the same
- ▶ HIV can be transmitted through a handshake
- ▶ HIV can be transmitted by sharing drinking utensils

3 The report of HIV current issue (No. 3070 /BYT-AIDS), the quarter 1, 2011

4 The term 'men who have sex with men' is used as a behavioural term to refer to biological males who have sex with other biological males, regardless of sexual orientation, gender and sexual identity. Biological males include people who are heterosexual, homosexual and bisexual. Biological males also include transgender people who consider themselves as women

5 Vietnam Health Sector Response to HIV (2011)

- ▶ Women with HIV or AIDS cannot have children
- ▶ You can tell by looking at a person whether or not he or she has HIV
- ▶ HIV can be transmitted by mosquitoes
- ▶ The HIV test is not reliable



4. How is HIV transmitted?

While HIV can be found in many different body fluids of a person with HIV, only some body fluids contain a sufficient quantity of the virus to enable HIV infection to occur. These body fluids are:

- ▶ Blood
- ▶ Semen
- ▶ Vaginal fluids
- ▶ Breast milk

To get HIV one of these body fluids containing HIV needs to enter the body of a person who does not have HIV. Even if this happens, there is only a chance that transmission occurs - it is never 100% certain that someone will get HIV if they are exposed to body fluids containing HIV.

HIV can be transmitted from person to person in the following ways:

- ▶ Using contaminated syringes, needles or other sharp instruments.
- ▶ Unprotected penetrative (vaginal or anal) sex with a person who has HIV.
- ▶ Unprotected oral sex with a person who has HIV.
- ▶ From a mother living with HIV to her child during pregnancy, childbirth or breastfeeding.
- ▶ Blood or blood product transfusion with blood containing HIV.

5. Pregnancy, childbirth and HIV

HIV can be transmitted from a mother with HIV to her child:

- ▶ During pregnancy when HIV in the mother's blood goes from the mother to the foetus via the placenta.
- ▶ During birth, the child may get HIV from the mother's vaginal fluids and/or blood.
- ▶ After birth, HIV may be transmitted to the child through breastfeeding.

Not all the babies born from HIV-positive mothers get HIV. Without treatment, around 15-30% of babies born from HIV positive women will become infected with HIV during pregnancy and delivery. A further 5-20% will become infected through breastfeeding. Due to HIV medication and modern medical procedures such as caesarean births, many women living with HIV are able to have children born without HIV.

Therefore, before deciding to become a mother, women living with HIV must carefully consider both their personal health and the health of the child and should talk to their doctor to obtain the latest information and to get advice and counselling in order to make healthy decisions.

6. How can people reduce the risk of HIV transmission?

The risk of HIV transmission can be reduced as follows:

- ▶ Avoid sharing needles and syringes. Use a new sterile needle and syringe each time. This is very important when injecting medication or recreational drugs. If you want to reuse needles and syringes, they should be washed in bleach for at least thirty (30) minutes.

- ▶ Use male or female condoms correctly. Condoms that are out of date, poorly manufactured or inappropriately stored at high temperatures are especially susceptible to breakage. Oil-based products (such as hand lotion or petroleum jelly) will damage latex condoms. So use only water-based lubricants with a latex condom.
- ▶ Abstain from sex. This can mean delaying sexual initiation or, once sexually active, refraining from having penetrative sex.
- ▶ Be faithful. If both partners do not have HIV, and remain faithful to each other, they will not get HIV through sexual transmission.
- ▶ Ensure that any blood or blood products that you might need are tested for HIV and that blood safety standards are implemented.
- ▶ Get regular HIV tests. Having an HIV test periodically will allow you to know your HIV status. Having an HIV test will not prevent HIV. However, if you know your HIV status you can know how to protect yourself and your partner. It is important to know and discuss your sexual history and sexual health status with your partner. This will ensure the health of both parties.
- ▶ PLHIV should take their ARV medicines regularly to reduce their viral load, which in turn reduces the chance of HIV transmission.



7. What are the signs and symptoms of HIV?

After HIV gets into a person's body, he or she may have no symptoms and look well and feel healthy like any other person. HIV-positive people can lead a normal life without knowing that they have HIV. That is how someone can, without knowing it, transmit HIV to others.

Alternatively, some people experience initial symptoms such as a serious flu. As a person's immune system starts to decline, signs and symptoms that a person is living with HIV may include⁶:

- ▶ More than 10% reduction in body weight
- ▶ Fever for more than a month
- ▶ Lymphatic diseases. The lymphatic system consists of lymph nodes (lymph glands) and lymphatics (small vessels that link the lymph nodes). This system normally helps your blood system fight infection.
- ▶ Diarrhoea lasting more than a month
- ▶ Skin abrasions
- ▶ Being tired for a long time
- ▶ Night sweats
- ▶ Lasting dry cough

Whether or not getting HIV causes symptoms, PLHIV are highly infectious during the first few weeks after infection. They have a high amount of the virus in their body, which makes it more likely they can transmit the virus to another person during this time.

In the later stages of the disease, people who have advanced HIV infection may develop tuberculosis, pneumonia, or chronic infection. These are often called "opportunistic infections," because they use the opportunity of the person's weakened immune system to make the person ill. These opportunistic infections can make someone with advanced HIV very sick and even kill them.

8. What are ARV medicines?

ARV stands for antiretroviral medicine and ART refers to antiretroviral therapy - the latter term includes the provision of antiretroviral medicines and professional medical care and refers to medications for the treatment of retrovirus infection, primarily HIV. Although ARVs do not cure HIV, they are currently one of the best measures to

⁶ For more information refer to Ministry of Health "Guidelines for HIV/AIDS Diagnosis and Treatment", published with Decision No. 3003/Qd-BYT dated 19/8/2009.

prolong life and improve the health of PLHIV. This is because the drugs are the most effective in reducing long-term complications and preventing the multiplication of the HIV virus. They also restore immune function and reduce the number of people dying from advanced HIV infection by reducing illness related to advanced stages of the disease. However, ARVs are only effective when patients take their medications regularly

☞ For general information on availability of anti-retroviral therapy in Viet Nam, see Appendix No.2.

Antiretroviral therapy for HIV does not prevent PLHIV from passing on the virus to others. It can keep the amount of the HIV virus in a their body down to very low levels and thus can greatly reduce the possibility of the person transmitting HIV to others, but HIV is still present in the body and it is still possible to transmit it to others through sexual contact, by sharing injecting equipment or from mothers to their infants during pregnancy, childbirth and breastfeeding.

LESSON PLAN



Content	Methods	Activity instruction	Materials	Time
Ideas about HIV	Playing card game	<ol style="list-style-type: none"> 1. Facilitator divides participants into 3 groups and gives each group a number of cards (Handout 1) (2') 2. Ask participants to arrange their cards in order to have a correct statement about HIV and stick the card on the wall. (5') 3. Facilitator corrects and then asks 3 participants to read out the statements. (3') 4. Facilitator gives more details about each statement. (5') <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ Facilitator could explain the routes of transmission of HIV. Then ask the participants to discuss the statement further with this knowledge. For instance, if the statement is that 'only homosexuals, sex workers and drug addicts get HIV', the facilitator could explain that HIV is transmitted through behaviour and not because of occupation or sexual orientation or belonging to any particular group. ☛ The facilitator should emphasize that PLHIV can live happy lives. PLHIV should not be treated differently because they are HIV positive ☛ The facilitator should make sure it is emphasized that people do not get HIV because they are bad. Getting HIV is not limited to a particular group of people. Anyone can get HIV if they participate in behavior that puts them at risk. 	Handout 1	15'
What is HIV and what is the situation in Viet Nam?	Interactive game/puzzle/discussion	<ol style="list-style-type: none"> 1. Facilitator asks 2 participant volunteers to write the following categories next to one another on the board: Number of PLHIV in Viet Nam, Age of PLHIV, PLHIV and Gender, Location of PLHIV in Viet Nam, Reported Cases/Deaths of PLHIV in Viet Nam, High risk groups of PLHIV in Viet Nam, Stigma against PLHIV, Treatment and support for PLHIV in Viet Nam (5') 2. While 2 participants are writing the above categories on the board the facilitator divides the other participants into 8 groups and hands out one slip of paper with one statement from Handout 1. (2') 3. Facilitator asks each group to decide under which category the slip of paper should be placed and has them stick the slips on the whiteboard. (3') 4. Facilitator and participants all read the slips of paper and discuss if they are in the correct categories and move them if they are not. (5') 	Handout 2, White-board marker, Tape/blu-tack®	15'

Myths about HIV	Interactive game, Lecture	<p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ Facilitator should cut up the slips prior to the lesson and make sure they are large enough for participants to read from the board. ☛ Facilitator should make sure all participants in the group are discussing where to place the slips of paper. ☛ For questions about this information, the answers are contained in Part 1 and Part 2 of the chapter. ☛ Facilitator answers any questions the participants may have about HIV or the statistics about HIV in Viet Nam. ☛ As an alternative to this activity the facilitator may try to find a part of a movie, like the YouTube clip of 'Philadelphia', http://www.youtube.com/watch?v=d4B9AU4SP4, (this is not in Vietnamese so translation would be necessary) and ask the participants what issues arise in the clips/photos the participants saw. The facilitator would then present a short lecture based on information from Part 1 and Part 2 of the chapter. Facilitator may use PowerPoint or other audiovisual aides to assist. 	Handout 3	25'
		<p>1. Facilitator passes out 14 slips of paper that contain either a myth or fact about how HIV is transmitted. If there are less than 14 participants, the remaining slips of paper could be discussed as a group. If there are more than 14 participants, then one slip of paper could be given to 2-3 participants to work in small groups. (2-3')</p> <p>Handout 2: Statements on HIV transmission - (answers in brackets)</p> <ol style="list-style-type: none"> a. Sharing bathroom - (cannot transmit HIV: normal activity/contact does not transmit HIV) b. Kissing - (cannot transmit HIV except in extremely rare cases of persons having oral problems that cause open lesions and bleeding during the kiss) c. Sharing needles and/or syringes - (can transmit HIV: medical instruments must be sterilized before reuse). d. Sex with condoms - (cannot transmit HIV if used properly and with only water-based lubricants) e. Sex without condoms - (can transmit HIV - unprotected sex is the primary means of transmission for HIV) f. Unprotected anal sex - (can transmit HIV - unprotected sex is the primary means of transmission for HIV) g. Being friends with someone who has HIV - (cannot transmit HIV unless you have unprotected sex with them) h. Mosquitoes - (cannot transmit HIV: the amount of blood in a mosquito bite is too small to transmit the virus, the mosquito is taking your blood out, not putting blood in, plus the virus can only live in humans, not insects) i. Blood transfusion (can transmit HIV if blood is not properly screened - this means blood taken from people with HIV may be in the "window period" so blood and blood products must be stored for three months and undergo very careful testing; medical facilities are responsible for testing blood before making a transfusion) j. Talking to someone with HIV (cannot transmit HIV because HIV cannot spread through normal contact) 		

		<p>k. Using the same eating utensils as someone who has HIV (cannot transmit HIV because HIV is carried only in blood, body fluids, and breast milk. Saliva is a body fluid but it would take a very large amount of saliva to transmit HIV, just as it would take a fairly large amount of blood. Outside the body, HIV is weak and the virus dies quickly; it cannot "infect" utensils, dishes, water glasses, etc.)</p> <ol style="list-style-type: none"> 1. A mother with HIV breastfeeding her child (can transmit HIV: when the mother has HIV, the HIV in breast milk may be transmitted to her baby, especially if the baby has any mouth sores. Appropriate medical care can prevent this. m. Working with someone who has HIV (cannot transmit HIV because HIV cannot spread through normal contact) n. Going to school with someone who has HIV (cannot transmit HIV because HIV cannot spread through normal contact) o. Sharing toothbrushes/razors (can transmit HIV only if the person who has HIV has just used it and has left large amounts of saliva or blood on them. Normal personal hygiene means not sharing toothbrushes or razors or other personal hygiene products) <p>2. The facilitator draws 2 columns on the board (or writes headings on flipchart). One column will say "Can transmit HIV" and the other will say "Cannot transmit HIV:" (2-3')</p> <p>3. Facilitator asks the participants to tack their statement under the appropriate column. Alternatively, the participants could hand write their answer under the appropriate column. (5')</p> <p>4. Correct answers for this activity are in brackets above. For incorrect answers, the facilitator should clarify with the participants about why they think HIV can or cannot be spread in this way and reinforce the correct answers. (5-10')</p> <p>5. Facilitator presents a short lecture on HIV transmission and prevention using the content in Part 5, Part 6 and Part 7 of this chapter. (5-10')</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ After each participant writes their statement on the whiteboard/flipchart, there should be class discussion of each situation. Emphasis should be placed on ending myths about HIV/AIDS ☛ Facilitator should emphasize that the correct answers are not his/her personal opinion but the result of extensive research by scientists around the world. ☛ Facilitator should listen respectfully to all participants and explain that he/she understands their personal opinions but he/she must then repeat and insist on the correct answer and its factual scientific basis. ☛ Facilitator can repeat as often as necessary that the transmission of HIV is through direct and immediate contact with blood, body fluids like semen and breastmilk. 		25'
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HIV transmission	"Fluid exchange" game	<p>1. Facilitator will bring plastic cups (or test tubes), water and dry Sodium Hydroxide (NaOH) to the classroom, in order to make a solution that will represent body fluids. But do NOT mix the water and NaOH before you go to class as the container gets very hot!</p> <p>2. Mix three (3) plastic cups of NaOH solution. Test the solution to be sure it is strong enough to withstand being diluted during the activity.</p> <p>3. Fill enough additional plastic cups to equal the total number of participants with plain water.</p> <p>4. Have participants sit in a circle. Warn them NOT to drink the liquid you are about to give them or put the straws (or syringes) in their mouths.</p> <p>5. Provide each participant with a plastic cup and a straw. The participants will not know what the liquid is. Facilitator only tells participants that the liquid represents their body fluids.</p> <p>6. Facilitator shows participants how to use a straw. The straw is placed in the fluid. Then the participant's finger is placed on the top of the straw. The straw is moved over the other person's cup. The finger is removed so the fluid will be released.</p> <p>7. To simulate transmission occurring, the participant will give fluid by placing their straw into their cup (or test tube) and then give fluid to a person of their choice in the group. If they are to receive fluid, then another person will give them fluid from their cup. They may give, receive or exchange fluid with one or more people. Facilitator explains that they may refuse to receive fluid and they may also choose NOT to exchange fluids with anyone else.</p> <p>8. After the exchange of fluids has occurred, place a drop of Phenyl Red reactant or phthalein in each cup (or give each participant a Phlitmus paper strip to test the liquid in their cup). The fluid (or litmus paper) will change colour for those who have received the "transmitted" NaOH representing HIV.</p> <p>9. Debrief this activity using the following questions:</p> <ul style="list-style-type: none"> ▶ Were you surprised about the colour changes? ▶ How does this activity relate to HIV prevention? <p>Sample answers would include that if we have unprotected sex then HIV can be transmitted easily. Having unprotected sex with many people increases the risk of HIV being transmitted. Limiting the number of sexual partners you have can reduce the transmission of HIV. Also using condoms and water based lubricant can prevent HIV.</p> <ul style="list-style-type: none"> ▶ What can we do to reduce our risk of exposure to HIV? <ul style="list-style-type: none"> ◆ Use condoms and water-based lubricant each and every time we have sex. ◆ Remain abstinent ◆ Get tested for HIV with our partner and if both HIV negative remain faithful in a committed monogamous relationship ◆ Limit the number of sexual partners we have or the kinds of sexual acts we do (for instance less penetrative sex) 	25'	One large container of water, One small container of sodium hydroxide (NaOH), Phenyl Red Indicator solution or phenolphthalein reactant or litmus strips, Small plastic cups or test tubes - one for each participant
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		<p>10. Facilitator should discuss with the participants any information that was not covered in the group discussion at step 7 using information from Part 6 of this chapter about HIV prevention.</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ Please note that this activity requires some preparation. It may be excluded if facilitator feels that the participants have a sufficient pre-existing understanding of the transmission of HIV (especially through sexual contact). Instead, a lecture, with brainstorming, group discussion and people giving their personal experiences, using the content from Part 6 of this chapter should be used. ☛ It is very important to warn participants that in the process of exchanging and blending their "body fluids" that the cup they are holding may get warm (the chemical reaction produces some heat) and they should be careful to put it down if gets too hot. ☛ The facilitator must test the solution before starting the activity - it must be strong enough to produce a reaction after being diluted with water. ☛ We use "Phenyl Red", because it makes it easy to identify the chemical reaction - the water in the cup turns pink. ☛ After the experiment, point out that those who did not exchange water but did talk with other participants had "safe sex." Remind participants the water represented their "body fluids", so any exchange should have permission and participants should have been responsible in both giving and asking for permission. ☛ Participants may be very embarrassed by being identified as "having" HIV (NaOH). It is important to remind participants that this is a game and reinforce the need for them to be sensitive to one another's feelings. Also, be sure to have them wash their hands thoroughly after the experiment to remove any chemical. <p>If the facilitator is not able to prepare the activity above, or chooses not to do it, he/she can use the following activity as an alternative.</p> <p>1. Facilitator gives each participant a sheet of paper and a pen - the pens are all different colors (black, blue, green, red) but only one person has a red pen (in a large group give two people red pens).</p> <p>2. Facilitator asks participants to "mingle" - to meet and greet one another. They must shake hands and ask the other person their age and job and then ask for their signature. They will not have time to meet everyone so they should choose who to meet. (Facilitator allows 2-3 minutes depending on number of participants - the idea is that participants have only 2 or 3 signatures when the time is up.)</p> <p>3. When the facilitator stops the mingle, participants hold out their papers to show him/her. Facilitator quickly checks who has a red signature on their paper and changes their pens for red pens immediately (2').</p> <p>4. Facilitator asks participants to use the other side of their paper and repeat the meet and greet activity (shake hands, ask the other person's age and job and then ask for their signature) so they can meet people they did not meet the first time (2').</p>		
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Available social services	Handout	<p>5. Facilitator stops the game and asks participants to look at their paper and hold up their hand if they have collected a red signature. Facilitator explains that red indicated HIV-positive but the people who transmitted the HIV did not know they were HIV-positive. Facilitator explains the route of transmission and points out that between the first and second times the group did the "meet and greet", he/she gave red pens to certain people. All participants could have asked themselves why that was. If they understood that it meant HIV-positive, they could have interrupted the route of transmission and controlled the "spread of HIV" in the group.</p> <p>6. Facilitators debrief with some questions: What does this activity show about HIV transmission? It demonstrates how important testing is. It shows that it's possible for people to transmit HIV without knowing it, and it shows that you cannot tell who has HIV and who does not, and that age and job title do not make a difference, so you must take care in relationships to protect yourself. (10')</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> Facilitators should emphasize that participants do "meet and greet" slowly and choose carefully - the facilitator can decide whether or not to warn participants that there is some hidden danger that no one will know about until the end, so they will not feel tricked. After the activity, the facilitator must emphasize that this is a game and that the people with the red pens did not know they were the hidden danger. Facilitator makes the point again about how important testing is. <p>Points that should be clear from the activity include:</p> <ul style="list-style-type: none"> ▲ HIV transmission does not depend on who you are, or how old you are or what job you do ▲ You cannot know who has HIV just by looking at them ▲ Everyone has a responsibility to be tested for HIV and to take precautions to protect themselves from HIV <p>Facilitator refers to Appendix No.2 of this manual for possible handouts for participants.</p>	5'	5 - 10'
Evaluation of lesson	Completion of form	Facilitator should give each of the participants a feedback form for this lesson. See evaluation form in Appendix No.5.	Evaluation form	
Total Time		120'		



Handout 1

Group 1						
HIV	is a virus	which damages	the immune system	of the body and makes the body	unable to fight	infections and diseases.
Group 2						
Antiretroviral therapy	is effective in slowing	the progression of	HIV	and can prolong a person's life.	It needs	to be taken.
Group 3						
AIDS	is the most	advanced	stage of HIV	defined by	the occurrence	of opportunistic infections



Handout 2

There are 185,623 PLHIV in Viet Nam (as of 31 March, 2011)
The majority of PLHIV are under age 40.
People aged 20-39 years account for more than 80% of all reported cases.
Men accounted for 69% of all reported cases in 2011.
HIV cases have been reported nationwide in all 63 provinces/cities, 97.9% of districts and 75.2% of wards/communes.
Men who have sex with men (MSM), injecting drug users (IDUs) and sex workers are key populations at higher risk of HIV infection. All of them are often discriminated against because of society's attitudes towards them.
Stigmatization and discrimination against PLHIV can mean that they are often reluctant to access available services.
Because sex work and drug use are not legal in Viet Nam, many sex workers and drug users are afraid to access health care and medical information, because they are afraid they will be arrested or sent to an administrative detention center.
HIV treatment, care and support needs in Viet Nam are rapidly increasing. According to the report of the Ministry of Health, by the end of March, 2011, there were 49,412 people (eligible adult and children) receiving ART.



Handout 3: List of statements about HIV transmission

1.	Sharing bathrooms
2.	Kissing
3.	Sharing needles and/or syringes
4.	Sex with condoms
5.	Sex without condoms
6.	Being friends with someone who has HIV
7.	Mosquitoes
8.	Blood transfusions
9.	Talking to someone with HIV
10.	Using the same eating utensils as someone who has HIV
11.	A mother with HIV breastfeeding a child
12.	Working with someone who has HIV
13.	Going to school with someone who has HIV
14.	Having unprotected anal sex
15.	Sharing toothbrush/ razors

CHAPTER 2

Rights of people living with HIV under Vietnamese and international laws

OUTCOMES

After this lesson, participants will be able to:



Knowledge

(1) Know and understand the rights of PLHIV under Vietnamese and International law



Skills

(1) List and explain clearly rights related to HIV
(2) Identify when the rights of PLHIV may have been violated



Value

(1) Appreciate the importance of protecting the rights of PLHIV

1. Introduction

People living with HIV (PLHIV) have the same rights as everyone else in Viet Nam. Protecting human rights is critical to safeguard human dignity and to prevent the spread of HIV. Human rights provide PLHIV with a supportive environment that protects them from discrimination and links them to care, treatment and support. Part of this protection involves learning how to avoid transmission, and how to encourage, support and practice safe behaviours.

In order to claim your rights, it is vital to know what rights are recognized and protected in Viet Nam.



Note: This chapter can be used on its own; it serves as an introduction to and summarizes basic key Vietnamese and international laws that apply to PLHIV. Later chapters give detailed explanations of each of PLHIV's rights.

2. Basic rights of PLHIV under Vietnamese law

The rights of PLHIV are protected under Vietnamese law through several Vietnamese legal documents. Through these laws, PLHIV may assert their rights as full members of society, with equal access to health care, education, work, and privacy rights.

The main legal documents that protect PLHIV under Vietnamese law are:

- ✂ **1992 Constitution of the Socialist Republic of Viet Nam (amended 25 December 2001)**
- ✂ **Law on HIV & AIDS Prevention and Control (No. 64/2006/QH11)**

In addition, other laws such as Law on Child Protection, Care and Education (No. 25/2004/QH11), the Law on Gender Equality (No. 73/2006/QH11) and Law on Domestic Violence Prevention and Control (No. 02/2007/QH12), are key documents for the protection of PLHIV rights.

PLHIV have the same rights as any citizen under other Vietnamese laws. The rights guaranteed under Vietnamese law include:

- ♥ The right to live as an integrated member of the community
- ♥ The right to enjoy medical treatment and health care
- ♥ The right to be educated and to work
- ♥ The right to privacy and confidentiality
- ♥ The right to refuse medical examination and treatment

3. Basic rights of PLHIV under international law

Viet Nam is a member of the United Nations and has ratified key international instruments recognizing human rights. When enacting and implementing domestic legislations, governments must take into consideration their obligations under international law to respect, protect and fulfil the human rights obligations that are set out in the ratified international human rights treaties and other relevant instruments.

The key international instruments relevant for the protection of human rights of PLHIV in Viet Nam are:

- ✂ **Universal Declaration of Human Rights (UDHR)¹**
- ✂ **Convention on the Rights of the Child (CRC)²**
- ✂ **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)³**
- ✂ **International Covenant on Economic, Social, and Cultural Rights (ICESCR)⁴**
- ✂ **International Covenant on Civil and Political Rights (ICCPR)⁵**
- ✂ **International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)⁶**
- ✂ **World Health Organization International Health Regulations (2005)⁷**

In these international documents, basic rights include:

- ♥ The right to non-discrimination, equal protection and equality before the law;
- ♥ The right to life;
- ♥ The right to the highest attainable standard of physical and mental health;
- ♥ The right to liberty and security of person;
- ♥ The right to freedom of movement;
- ♥ The right to seek and enjoy asylum;
- ♥ The right to privacy;
- ♥ The right to freedom of opinion and expression and the right to freely receive and impart information;
- ♥ The right to freedom of association;
- ♥ The right to work;
- ♥ The right to marry and have a family;

1 <http://www.ohchr.org/EN/UDHR/Pages/Language.aspx?LangID=vie> - Vietnamese and <http://www.un.org/en/documents/udhr/index.shtml> - English.

2 <http://www2.ohchr.org/english/law/crc.htm>, Viet Nam ratified on 28 Feb 1990.

3 <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>, Viet Nam ratified on 17 Feb 1982.

4 <http://www2.ohchr.org/english/law/cescr.htm>, Viet Nam signed on 24 Sep 1982.

5 <http://www2.ohchr.org/english/law/ccpr.htm>, Viet Nam signed on 24 Sep 1982.

6 <http://www2.ohchr.org/english/law/cerd.htm>, Viet Nam signed on 9 Jun 1982.

7 <http://www.who.int/ihr/9789241596664/en/index.html>



4. Basic rights under the law on HIV & AIDS Prevention and Control and meaning of those rights

In 2006, Viet Nam passed the Law on HIV & AIDS Prevention and Control (No.64/2006/QH11) which protects the rights of PLHIV by stating the rights and responsibilities of the government and society. The following table summarizes those rights and what those rights mean for PLHIV:

RIGHTS	SOURCE OF RIGHTS	WHAT THIS MEANS FOR PLHIV
Right to non-discrimination and freedom from stigma	<p>Article 4 (1)(a): PLHIV have the right to live an "integrated life within the community and society".</p> <p>Article 8 (3): "Stigmatizing and/or discriminating against" PLHIV is strictly prohibited.</p>	<ul style="list-style-type: none"> PLHIV and people affected by HIV have the same fundamental rights as others. PLHIV and people affected by HIV have the same rights as others to access benefits and services in your community, including livelihood resources such as land and other benefits available under poverty eradication programs. PLHIV and people affected by HIV have the right to be free from HIV-related discrimination. Your community has an obligation to fight discrimination by dispelling myths about HIV.
Right to medical treatment and health care	<p>Article 4 (1)(b): PLHIV have the right to "treatment and health care".</p> <p>Article 8 (9): "Refusing to provide examination or treatment to a person on the grounds that this person" may be HIV positive is strictly prohibited.</p> <p>Article 38: Medical facilities and health care providers are "responsible for examining and treating" PLHIV.</p> <p>Article 39 (1): PLHIV "shall be supported by the State to obtain access to HIV & AIDS medicines..."</p>	<ul style="list-style-type: none"> PLHIV and people affected by HIV have the same right to equal treatment in health care facilities as other patients, and you cannot be turned away because of HIV status. PLHIV and people affected by HIV have the right to access care, support and treatment for HIV and any other health issues. The government is responsible for providing HIV medicine
Right to education and work Note: There are limited exceptions to the right to not be forced to submit to a HIV test. For more information about occupational testing please see Chapter 8	<p>Article 4 (1)(c): PLHIV have the right to "education, vocational training, and employment".</p> <p>Article 14: HIV & AIDS prevention and control in the workplace.</p> <p>Article 15: HIV & AIDS prevention and control in educational facilities.</p>	<ul style="list-style-type: none"> PLHIV and people affected by HIV have a right to earn a living through employment and not be discriminated against or prevented from working because of their HIV status. Employers are responsible for providing their employees with proper education and communication on HIV prevention and control measures. Employers must arrange for suitable work for PLHIV. Employers may not fire or otherwise discriminate against an employee based on HIV status, including wages, promotions, work hours, etc. Employers may not force or ask an employee to take an HIV test, or request HIV test results. Educational facilities may not consider HIV status when deciding to admit or expel a student. Educational facilities may not prevent a person from educational activities based on HIV status. Educational facilities may not separate out a person based on HIV status. Education facilities may not force or ask a person to take an HIV test or request HIV test results.

<p>Right to privacy and medical confidentiality</p>	<p>Article 4 (1)(d): PLHIV have the right to “protection of privacy and confidentiality with respect to HIV & AIDS”.</p>	<ul style="list-style-type: none"> PLHIV are not required to disclose their HIV status to anyone except their spouse or fiancé/e or their parents or guardians if they are under 16. If they are asked to disclose their status, they have the right to refuse. Additionally, people who are assigned to directly provide treatment and care for PLHIV are entitled to be notified if PLHIV agree to an HIV test and if they are tested positive. They are responsible for keeping PLHIV status confidential. Disclosing or making public the name, address or image of a PLHIV without the person's consent is prohibited, except in very limited circumstances.
<p>Right to refuse medical treatment</p>	<p>Article 4 (1)(e): PLHIV have the right to refuse “examination or treatment in the last phase of the disease”.</p>	<ul style="list-style-type: none"> At the final stage of AIDS, PLHIV have the right to stop further treatment or testing.

5. Basic rights under international treaties and the meaning of those rights

Viet Nam is party to many international human rights treaties and other international instruments. Within these documents are many rights relating to people living with HIV.

RIGHTS	SOURCE OF RIGHTS	WHAT THIS MEANS FOR PLHIV
<p>Right to medical treatment and health care</p>	<p>ICESCR Article 12 (1): The “right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” CEDAW Article 14 (2)(b): States Parties shall ensure women in rural areas the right “to have access to adequate health care facilities, including information, counselling and services in family planning”. CRC Article 24 (1): States Parties recognize “the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health.” ICERD Article 5 (e)(iv): States Parties undertake to prohibit and eliminate racial discrimination and to guarantee the right of everyone including the “right to public health, medical care, social security and social services...”</p>	<ul style="list-style-type: none"> These rights mean that States are to make sure adequate health care is accessible to those in need, which includes HIV & AIDS treatment and prevention. These rights also mean that PLHIV shall not be given inferior treatment or medicine if better options are readily available. Women and children have some special rights, for example, pregnant women have the right to access the information on prevention mother to child transmission.
<p>Right to health education</p>	<p>CEDAW Article 10 (h): Ensure women equal access to “specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.” CRC Article 24 (2): Ensure parents and children “...basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents; (f) to develop preventive health care, guidance for parents and family planning education and services.”</p>	<ul style="list-style-type: none"> These rights obligate States to provide access to health education. This would include information on HIV prevention and control.

Right to marry	ICCPR Article 23 (2): "The right of men and women of marriageable age to marry and to found a family shall be recognized."	☛ This provides that PLHIV have a right to enter into marriage with a consenting adult.
Right to equality	ICCPR Article 26: "All person are equal before the law and are entitled without any discrimination to the equal protection of the law... the law shall prohibit any discrimination... and provide effective protection against discrimination on any ground such as race, colour, sex,... or status." ICESCR Article 2.2: State Parties to undertake guarantee that the Rights of this Covenant to be "exercised without discrimination of any kind as to race, colour, sex,... or status."	☛ This right guarantees all people to be treated equally regardless of their status, including the status of being PLHIV.
Right to work and vocational Training	ICESCR Article 6: State Parties recognize the "right of everyone to the opportunity to gain his living by work which he freely chooses or accepts. . . this right shall include technical and vocational guidance and training." ICESCR Article 7 (a)(i): States Parties recognize the "right of everyone to the enjoyment of just and favourable conditions of work... fair wages... equal pay for equal work..."	☛ This right to work and to be trained for meaningful work applies to everyone, with no exception for PLHIV. ☛ It guarantees not only work, but equal treatment in pay and advancement opportunities.
Right to privacy	ICCPR Article 17: "No one shall be subjected to arbitrary or unlawful interference with his privacy..."	☛ This right gives protection to everyone from unlawful intrusions to personal information, including personal medical information.
Right to life	ICCPR Article 6 (1): "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." CRC Article 6 (1): "... every child has the inherent right to life."	☛ This right includes PLHIV and applies to adults and children. PLHIV are to be given full opportunity to live out their natural lives.
Right to liberty and security of person	ICCPR Article 9 (1): "Everyone has the right to liberty and security of person."	☛ This protects PLHIV from arbitrary arrest or detention, including arrest or detention for no reason other than their HIV status.
Right to freedom of movement	ICCPR Article 12 (1): "Everyone lawfully within the territory... have the right to liberty of movement and freedom to choose his residence."	☛ PLHIV may not be forced to stay or live anywhere against their will because of their HIV status.

6. Current issues relating to the rights of PLHIV⁸

Factual Situation 1: Right to education

Hoa is a 9-year-old girl who lost both her parents to AIDS. She is HIV positive and depends on her grandfather for care. Despite the fact that Hoa has a clear legal right to access education without discrimination, the local school board relented to pressure from other students' parents and refused to admit her as a student.

Factual Situation 2: Right to health care without discrimination

"I have a dental problem and I go to this clinic, and I go there, two maybe three times. And eventually I told them about my condition. They explained that I would have to be the last appointment of the day. I had been to that room, and sat on that chair, and the same doctor examined me as before, but after I told them I was HIV positive, I had to take the last appointment of the day, and they covered the chair, the light, the doctors were wearing three pairs of gloves..."

Factual Situation 3: Right to education

Quynh is a young woman living with HIV in Viet Nam. Minh, her young son, is also HIV positive. When Minh was five years old, Quynh attempted to enrol him in nursery school but was refused. The headmaster of the local nursery school explained that Minh could not be admitted because the CHAPTER of Nursery Schools stipulates that children with infectious diseases are not permitted to attend nursery school.

Factual Situation 4: Right to employment and freedom from discrimination in employment

Anh was a nursery school teacher in the same school for ten years. She had an excellent record and good relationships with her students. Nevertheless, when the school board learned that she was living with HIV, Anh was removed from her teaching position and assigned to be an 'assistant to the headmaster' - a job in name only.

8

Center for consulting on legal and policy on health and HIV/AIDS. (2010) *Legal Aid: Happiness for People Living with HIV* & Nolen S. (2006) *28 stories of AIDS in Africa*.



LESSON PLAN

Content	Methods	Activities Instruction	Material	Time
Basic rights of PLHIV	Ice-breaker	<p>1. Facilitator gives each participant a piece of paper and asks them to write down words relating to one important right of PLHIV. Facilitator instructs participants not to let others know what they have written (2).</p> <p>2. Facilitator asks all participants to stand up and make a circle. Facilitator then asks one participant to act out (without speaking) for 30 seconds what they have written on their paper. Other participants will guess what the right is. The participant who guesses correctly will be given a small gift like a candy. Then they choose the next participant to act out what is on their paper. Continue until every participant has had a turn. (2)</p> <p>4. The Facilitator then instructs the participants to form a group with other participants who acted out the same right they did. If some participants don't have a group, the facilitator puts them together in one or more groups. (2)</p> <p>5. The facilitator asks the participants in each group to tell the group why they chose their right, reminding them to keep their presentation of their opinion short and to respect other's opinions when they present their choice (5).</p> <p>6. The facilitator asks each group whether they know which laws these rights come from and if possible to state the relevant Vietnamese or international law (2).</p> <p>Facilitator tips/suggested answers</p> <ul style="list-style-type: none"> ☛ If the participants are from a non-legal background, step 6 could be excluded Step 6 could be simplified to whether the participants know whether the right is from an international law or Vietnamese law. (Facilitators must be certain ahead of time that they know the answers themselves.) The correct answer in most cases will be both international and Vietnamese law. 	Paper, Pens, Candies	20'
Rights of PLHIV under international law	Game Summary	<p>Facilitator presents a short lecture about International laws that are relevant to PLHIV using the information from Part 3 & 5 of the lesson and Handout 1, 2. Use slides or A0 papers. (10')</p> <ul style="list-style-type: none"> ☛ The purpose of this part is helping participants to know that the International law also establishes the rights of PLHIV as equal to those of every other citizen as human rights. ☛ The Facilitator should use the Question and Answer method of lecture in order to make Participants feel they are part of the lecture and to build on what they already know/think. ☛ An audiovisual presentation using PowerPoint or visual aids could be used to present the information and engage Participants more deeply. ☛ Facilitator should ask the Participants if there are any rights they are unsure about. ☛ Facilitator should give a simple explanation of "conventions" (maybe call them "agreements among countries"). 	Handout 1, Handout 2	10'

Basic rights of PLHIV under Law on HIV/AIDS Prevention and Control 2006	Group discussion, Question and Answer	<p>1. Facilitator displays the first 2 columns of the table in part 4 of this lesson (Column 1 Legal Right and Column 2 Article Number). Facilitator explains that this is from 2006 Law on HIV & AIDS Prevention and Control and contains many rights for PLHIV. Use Handout 3 or slides. (5')</p> <p>2. Facilitator divides the participants into 2 groups (different from 'Chilli' and 'Pepper' groups of previous activity).</p> <p>3. Facilitator makes 5 columns on the board with key words for each of 5 Basic rights from Table 4 (see above). Facilitator then gives a set of cards with text about the meaning of the articles of the articles to each group. (They will be the 'red' and 'yellow' groups or whatever colours you have used to copy the cards.)</p> <p>4. Groups have 3 minutes to read and discuss which card's describe the meaning of which rights. The groups then stick the cards in the suitable column on the board.</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ Answers for this exercise are in the third column of the Table in Part 4 of this lesson. <p>For incorrect answers on the board, the Facilitator should ask questions to the participants, such as "Do you think that the law means this? Which is the most appropriate article for this meaning?" to clarify the meaning of the law. Keywords from the law and matching "meaning" card should be underlined to emphasize/reinforce meaning. The winner is the group with the most correct answers. If both groups have the same answers, the winner is the group that finished first. (20')</p> <ul style="list-style-type: none"> ☛ Facilitator should explain that some rights can have many "definition cards", but some definitions can belong to only one right. A right can be understood in many ways depending on the case being studied. But some statements only describe the meaning of one right. For instance, "The government is responsible for providing HIV medicine." This statement only belongs to the Right to medical treatment and health care. ☛ In this activity, each statement will clearly belong to just one column - except for one: "Educational facilities may not force or ask a person to take an HIV test or request their HIV-test results." This statement can be understood in 3 ways: related to the right to education, the right to work or the right to privacy. 	Handout 3, Handout 4, (2 sets of cards in 2 different colours) Board marker, Material to stick papers to board	
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Factual situations of PLHIV in Viet Nam	Case studies, Group discussion, Brainstorm.	1. Facilitator divides participants into 4 groups. Facilitator explains that the groups are going to discuss real-life examples (in which the names have been changed) of PLHIV and the problems they face. Some of these case studies come from a Legal Clinic in Hanoi. 2. Each group is given one of the factual situations from the book 'Legal Aid: Happiness and People Living with HIV' (Handout 5). 3. Each group discusses the situation and identifies what right(s) has been violated. 4. Each group must present then their situation to the other groups; discuss the right(s) that has been violated and how the person can protect/enforce these right(s). The other groups may ask questions or provide further ideas about how the person can assert their rights. (5')	Handout 5	30'
Social services	Handout	Facilitation tips/suggested answers: <ul style="list-style-type: none"> ☛ Facilitator could write correct responses on the board to validate the answers. ☛ Facilitator explains how the case examples were resolved by referring to 'Legal Aid: Happiness for People Living with HIV'. ☛ Incorrect responses should be further clarified with questioning. Facilitator should refer to the appendix No.4 of this manual for possible handouts for participants.		5'
Mechanisms to protect rights		For lessons on mechanisms to protect rights, please refer to chapter 12 of this manual.		15'
Evaluation of lesson	Completion of form	Facilitator should give each of the participants a feedback form about this lesson. See evaluation form in appendix.		5-10'
Total Time				120'



Handout 1

- ♥ The right to non-discrimination, equal protection and equality before the law;
- ♥ The right to life;
- ♥ The right to the highest attainable standard of physical and mental health;
- ♥ The right to liberty and security of person;
- ♥ The right to freedom of movement from place to place;
- ♥ The right to seek and enjoy asylum;
- ♥ The right to privacy;
- ♥ The right to freedom of opinion and expression and the right to freely receive and impart information;
- ♥ The right to freedom of association;
- ♥ The right to work;
- ♥ The right to marry and have a family;
- ♥ The right to equal access to education;
- ♥ The right to an adequate standard of living;
- ♥ The right to social security, assistance and welfare;
- ♥ The right to share in scientific advancement and its benefits;
- ♥ The right to participate in public and cultural life;
- ♥ The right to be free from torture and cruel, inhuman or degrading treatment or punishment.



Handout 2

The key international instruments relevant to the protection of human rights of PLHIV in Viet Nam

- ✂ **Universal Declaration of Human Rights (UDHR)**
- ✂ **Convention on the Rights of the Child (CRC)**
- ✂ **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**
- ✂ **International Covenant on Economics, Social, and Cultural Rights (ICESCR)**
- ✂ **International Covenant on Civil and Political Rights (ICCPR)**
- ✂ **International Convention on the Elimination of all forms of racial discrimination (ICERD)**
- ✂ **World Health Organization International Health Regulations (2005)**

Handout 5: Factual situations of PLHIV

Factual Situation 1 Hoa is a 9-year old girl who lost both her parents to AIDS. She is HIV positive and depends on her grandfather for care. Despite having a clear legal right to access education without discrimination, Hoa has local school board submitted to pressure from students' parents and refused to admit her as a student.

Factual Situation 2 Mr B says: "I have a dental problem and I go to this clinic, and I had gone there maybe three times already. So eventually I told them about my condition. They explained that I would have to be the last appointment of the day. I had been to that room, and sat on that chair, and the same doctor examined me as before, but after I told them I was HIV positive, I had to be the last appointment of the day. Last week, they covered the chair, the light, the doctors were wearing three pairs of gloves..."

Factual Situation 3 "Anh was a nursery school teacher in the same school for ten years. She had an excellent record and good relationships with her students. Nevertheless, when the school board learned that she was living with HIV, Anh was removed from her teaching position and assigned to be an 'assistant to the headmaster' – a job in name only."

CHAPTER 3

Stigma and discrimination relating to HIV

OUTCOMES

After this lesson, participants will be able to:



- Knowledge**
- (1) Understand the meaning of the terms stigma and discrimination
 - (2) Understand ways to overcome stigma and discrimination



- Skills**
- (1) Define the concepts of stigma and discrimination and discuss how they affect attitudes towards PLHIV
 - (2) Discuss the negative consequences of stigma and discrimination

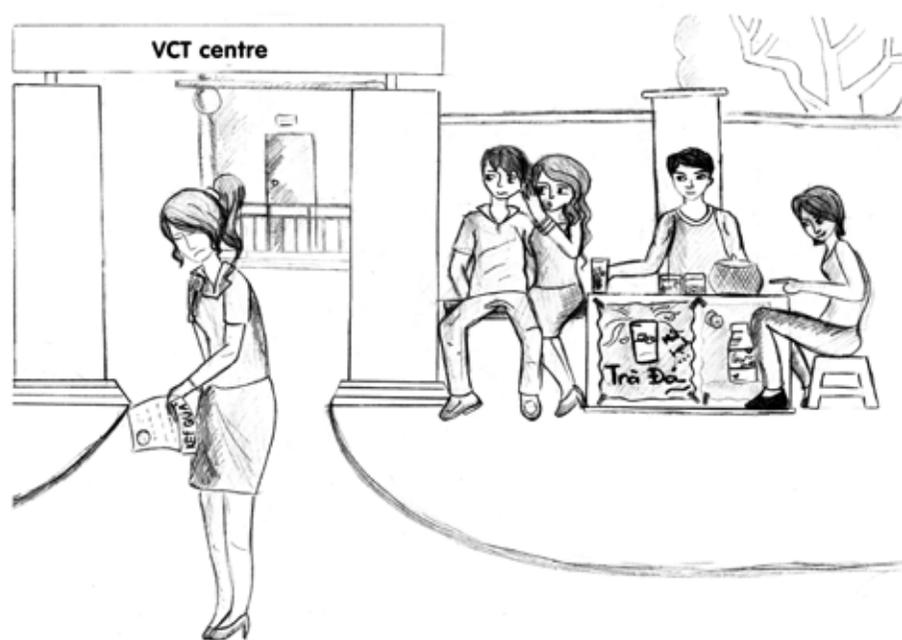


- Values**
- (1) Have a better understanding of how PLHIV feel if they are discriminated against because of their status
 - (2) Appreciate the importance of laws and measures to reduce stigma and discrimination against PLHIV
 - (3) Have increased awareness of the rights of PLHIV under Vietnamese and international law

1. Introduction

Stigma has been described as a process of devaluation that 'significantly discredits' an individual in the eyes of others. The qualities to which stigma adheres can be quite broad -- for example, skin colour, manner of speaking, sexual preference or certain behaviours. Within particular cultures or settings, certain attributes are seized upon and defined by others as discreditable or unworthy. When stigma is acted upon, the result is discrimination. Discrimination consists of actions or omissions that are derived from stigma and directed towards those individuals who are stigmatized⁹.

In the case of HIV, common areas of discrimination include medical support, education and employment. For instance, if a person living with HIV is subject to social pressure to leave school or to quit his/her job we can consider this discrimination against PLHIV. Furthermore, people associate HIV with behaviours that may be considered socially unacceptable by many people such as injecting drugs or homosexual intercourse¹⁰. Therefore, people living with HIV are frequently subject to double discrimination.



9 UNAIDS (2005) *HIV-Related Stigma, Discrimination and Human Rights Violations*

10 USAID, PEPFAR, ISDS, UNAIDS (2010) *Understanding and Reducing Stigma Related to Men Who Have Sex with Men and HIV: Toolkit for Action.*

Stigma and discrimination are among the most serious challenges PLHIV face. Stigma and discrimination deter individuals from finding out about their HIV status, and inhibit those living with HIV from sharing their diagnosis or accessing care, treatment or counselling services. Stigma and discrimination can also increase physical, psychological and social stress and may lead to depression.

It is critical that we consider how we perceive people living with HIV and make sure that we do not act in a way that adds to stigma or discrimination. To fight stigma and discrimination, it is very important to avoid using discriminatory language. Some of us may not be aware that we are using such language and we should make an effort to use and encourage suitable and accurate language. Avoid negative terms. Instead of saying, for example, that someone is "an AIDS victim", say that he/she is "living with HIV"¹¹.

Regardless of HIV status, everyone has the same needs and the same rights to love and have relationships.

2. Anti-stigma and anti-discrimination rights of PLHIV under Vietnamese law

Current legislation in Viet Nam provides strong protection for the rights of people living with HIV who face stigma and discrimination.

1992 Constitution of the Socialist Republic of Viet Nam (as amended in 2001)

- ⌘ **Article 52.** All citizens are equal before the law
- ⌘ **Article 12.** All infringements on the interests of the State and on the lawful rights and interests of collectives and citizens shall be sanctioned according to law.

Law on HIV & AIDS Prevention and Control (No. 64/2006/QH11)

This law defines the terms stigma and discrimination, prohibits stigmatizing and discriminating against people living with HIV and also details the responsibilities of different stakeholders to fight stigma and discrimination PLHIV:

- ⌘ **Article 2(4)** defines stigma against PLHIV as an attitude of contempt or disrespect towards another person because of the awareness or suspicion that such person is living with HIV or has a close relationship with a PLHIV or a suspected PLHIV.
- ⌘ **Article 2(5)** defines discrimination against a PLHIV as an act of alienation, refusal, isolation, mistreatment, humiliation, prejudice or restriction of rights towards another person because of the awareness or suspicion that such person is living with HIV or has

11 For more information on recommended terminology, please refer to: UNAIDS Terminology guidelines; http://www.unaids.org/en/media/unaids/contentassets/documents/document/2011/jc1336_unaids_terminology_guide_en.pdf

a close relationship with a PLHIV or a suspected PLHIV.

- ⌘ **Article 3** outlines the principles of HIV & AIDS prevention and control, and Article 3(4) provides that in the context of stigma and discrimination, this includes:
 - ▶ “elimination of stigma and discrimination against PLHIV and their family members; and
 - ▶ facilitation of PLHIV and their family members to participate in social activities, especially in HIV/AIDS prevention and control.”

Chapter II of the Law on HIV/AIDS Prevention and Control sets out societal duties to reduce discrimination and stigma. It makes it clear that a community approach is necessary to help overcome discrimination and stigma. That means it is everyone’s responsibility to think of ways to reduce discrimination and stigma. The duties listed in this chapter include:

- ⌘ **Article 9** sets out the requirement of providing information, education and communication on HIV&AIDS prevention and control and states that the purpose of this information is to raise awareness, change attitudes and behaviour, and fight stigma and discrimination against PLHIV. It also states that the information must be accurate, clear, simple, practical and targeted to the audience. For information to be useful to community members, it must be provided to them in a way that they understand properly and in a way that it is sensitive and respectful of their specific needs and culture.
- ⌘ **Article 10(7)** specifically refers to the content of information, education and communication on HIV & AIDS and states that among other things, it must fight stigma and discrimination against PLHIV.
- ⌘ **Article 14(1)(a)** places a positive obligation on employers to organise educational information on HIV & AIDS to tackle stigma and discrimination against PLHIV.
- ⌘ **Article 17(1)(e)** states that it is the responsibility of the People’s Committee to organise measures for anti-stigmatization and anti-discrimination against PLHIV in their specific communities.
- ⌘ **Article 17(2)(c)** states that the People’s Committee should also encourage and help street population groups, residential clusters, hamlets and villages to fight stigma and discrimination against PLHIV and their family members. It is a very clear expression that it is everyone’s responsibility in the community to take such measures.

In addition to stating the measures that should be adopted to foster anti-stigma and anti-discrimination, the law also clearly prohibits certain acts which should not be tolerated by the community. These acts are:

- ⌘ **Article 8**
 3. Stigmatizing and discriminating against PLHIV;
 4. Parents abandoning their minor children with HIV, or guardians abandoning their wards with HIV;
 9. Refusing to provide medical examinations or treatment to a patient knowing or suspecting that such person is living with HIV.

3. The right to non-discrimination against PLHIV under international law

Viet Nam is a member of the United Nations and has ratified (signed and agreed with) key international instruments recognizing human rights. This means that Viet Nam has committed to respect, protect and promote the rights set out in those international documents. To show that they agree with these rights and are serious about protecting them, the Vietnamese government must take these rights into consideration when drafting and implementing its domestic legislation. The right to anti-discrimination is specifically protected in international law. In practice, this means that PLHIV in Viet Nam also have their rights to non-discrimination protected through international law and this can be used alongside Vietnamese law guaranteeing similar rights and protections.

International Covenant on Civil and Political Rights (ICCPR)¹²

The right to equality/non-discrimination is specifically enshrined in the ICCPR. This creates binding obligations on signatories, such as Viet Nam, to respect this right.

- ⌘ **Article 26.** “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law... the law shall prohibit any discrimination... and (provide) effective protection against discrimination on any ground such as race, colour, sex,... or status.”

International Covenant on Economic Social and Cultural Rights (ICESCR)¹³

- ⌘ **Article 2(2)** State Parties to undertake to guarantee that the Rights of this Covenant to be “exercised without discrimination of any kind as to race, colour, sex, or status”.

¹² <http://www2.ohchr.org/english/law/ccpr.htm>

¹³ <http://www2.ohchr.org/english/law/cescr.htm>



LESSON PLAN

Content	Methods	Activity Instruction	Materials	Time
Introduction	Ice-breaker: The Greeting Game	<p>Before the lesson begins, take some index cards (one for each person) and write different points values on them. For the purposes of the game, it's best to use the values of 2, 1, 0, and -1. It is very important that at least two participants have more "-1" cards.</p> <ol style="list-style-type: none"> 1. Facilitator explains that participants are to play a game. In this game participants will compete to get the most points by greeting (by shaking hands, bowing, etc.) other participants in the class. However, each participant will have a points value assigned to them so they will have to be strategic about whom they choose to greet. (1) 2. Facilitator asks the participants to stand in a circle. (1) 3. Being careful not to let anyone see their own card, facilitator tapes one index card to each Participant's back with the number facing out so the other participants can see it. (3) 4. Facilitator instructs the class not to tell each other the value of the card on anyone's back. (1) 5. Once the cards are taped to the participants' backs, the facilitator instructs all participants to go around the class and greet each other with the aim of collecting as many points as possible in five minutes. Each participant will gain points according to the value of the numbers on the person's back. (5) 6. Facilitator asks the participants who had a -1 card how they felt. Did they notice that people did not want to greet them? Did they find it easy to greet other people? Ask the participants how they think this applies to HIV and people's attitude to PLHIV. (5) 7. Facilitator should present short lecture on the current situation in Viet Nam using information from Part 1 of this chapter. (4) <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ Facilitator should make sure that during the game the participants do not tell each other their card value. ☛ Facilitator should explain that people who have HIV may get treated differently because of their HIV status. This could lead to discrimination, loss of a job, and other personal consequences such as feeling isolated or depressed. 	Card with number	20'

Definition of stigma and discrimination	Mind mapping, Group discussion	<ol style="list-style-type: none"> 1. Facilitator asks the participants to individually (or in pairs) think of a definition for the terms 'stigma' and 'discrimination'. (3) 2. Each participant reads out their definitions and the facilitator writes key words in a mind map on the board. (5) 3. Afterwards the participants and facilitator should write a definition of each term using the keywords in the mind map. (3) 4. Facilitator discusses the definitions of the terms 'stigma' and 'discrimination' against PLHIV using the definitions in the 2006 Law on HIV/AIDS Prevention and Control – see difficult terms section in Appendix No. 1. (5) <p>Facilitator tips/suggested answers</p> <ul style="list-style-type: none"> ☛ Facilitator should make sure that the terms <i>discrimination</i> and <i>stigma</i> are very clear. If possible more than one participant should explain their definition and give some examples of <i>discrimination</i> and <i>stigma</i> they have seen or experienced. ☛ Facilitator should be aware that this may be a sensitive issue and therefore not press or force Participants to give examples of their own experiences of <i>discrimination</i> or <i>stigma</i> if they are reluctant. ☛ As an alternative to this activity the Facilitator can show the movie: <i>The Ugly Duckling</i> (length 8'38), the story about an outcast "duckling" who becomes a beautiful swan, based on the fairytale by Hans Christian Andersen. (http://www.youtube.com/watch?v=-fT_MwUUYo) ☛ The experience of <i>discrimination</i> and <i>stigma</i> depends on many factors. Facilitator can ask participants to think about female sex workers and transgender sex workers who become PLHIV -- who will face more discrimination? Or rich PLHIV and poor PLHIV -- who will face more stigma? If we forget all about race, economic status, education, religion, gender or HIV status we all are human together. 		20'
Stigma	Role-play, Debrief, Q&A	<ol style="list-style-type: none"> 1. Facilitator chooses 3-5 participants who are to role-play having an illness or medical condition. (1) 2. Facilitator then whispers a medical condition or illness to each of the chosen participants, such as: <ul style="list-style-type: none"> ▶ You bumped your head ▶ You have a cold ▶ You have a stomachache ▶ You hurt yourself in a motorbike accident ▶ You have HIV but you are healthy. You should perform an everyday activity like studying for school or eating at a restaurant. <p>Facilitator should ensure that only the participant hears and no one else. Facilitator instructs these participants to take turns acting out their roles for 30 seconds to 1 minute. (5)</p>		30'

		<p>3. After those participants finish, the facilitator asks the other participants to guess which participant is role-playing a PLHIV. Participants can discuss their answers in the group. Facilitator asks the participants to discuss why they chose the role-player they did as a PLHIV (5')</p> <p>4. Facilitator then explains that you cannot tell who has HIV just by looking at them. Many people often incorrectly think of PLHIV as being very sick and think of them as a patient or someone who is going to die soon. In fact, with the right treatment and lifestyle, many PLHIV live long and healthy lives and participate in everyday activities like playing sport or eating at a restaurant. (5')</p> <p>5. Facilitator asks participants how they would feel about having a classmate or work colleague with HIV. Then, facilitator asks participants how they would feel if they had HIV and people did not want to work or study with them. Facilitator explains that the Law on HIV/AIDS Prevention and Control requires that students and workers not be treated unfairly or differently (discriminated against) because of their HIV status. (10')</p> <p>Facilitator tips/suggested answers</p> <ul style="list-style-type: none"> ☛ Facilitator could hand out pieces of paper with medical condition/illness written on it if more appropriate. ☛ Participants who are role playing could be told not to talk but to act out silently. ☛ Facilitator should remind participants that the activity requires someone to role-play a PLHIV, and that all participants should continue to treat each other with respect. ☛ If participants are embarrassed or shy about role-playing a PLHIV, the facilitator could play this role himself/herself. ☛ Facilitator should encourage the participants to be honest about their attitudes towards PLHIV as this will promote better discussion and depth of understanding. ☛ If people present negative attitudes towards PLHIV and state they would be afraid to attend the same school or workplace as PLHIV, facilitator should briefly discuss HIV transmission using information from Chapter 1 and explain that HIV cannot be transmitted just by attending the same school/university or workplace with PLHIV. ☛ Facilitator could remind participants of the feelings that were discussed in Activity 1 where people did not want to greet a participant just because of the value of the number on their back. ☛ Facilitator should also emphasize what the law of Viet Nam says about the rights of persons living with HIV. The facilitator could remind the participants that every Vietnamese child has the right to go to school. The facilitator can ask the participants why going to school is important. ☛ For Step 4 of this activity, facilitator can refer to Parts 2 and 3 of this chapter for further legal information concerning the laws of discrimination. 	

Current laws in Viet Nam	Case study, Group discussion	<p>1. Facilitator gives each participant a copy of one of the legal articles listed in Handout 1. (1')</p> <p>2. Facilitator asks a participant volunteer to read out the 3 cases described in Handout 2 one at a time and after each one the facilitator asks the other participants if they are holding an article of law that can apply to that case. (4')</p> <p>3. Facilitator asks participants who are holding appropriate articles to stand up.</p> <p>4. Facilitator summarizes and lectures about each article the standing participants are holding. (5') (This is repeated for each of the 3 cases)</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ In case that the number of legal article in Handout 1 is not enough for all participants, facilitator should group participant in pair or small group (10 pairs or 10 groups) ☛ Ideal answers will include that it is against the law to discriminate against PLHIV and will also discuss issues such as how PLHIV feel when excluded (based on the role plays and games in earlier activities) as well as discuss the importance for everyone to be included in society regardless of their HIV status or any other factor. ☛ Suggested answers for each case: <ul style="list-style-type: none"> ▶ Case 1: Article 3(1)(c), Article 4(3), Article 8(2)(a), Article 14(2)(c) Article 14 Law on HIV/AIDS Prevention and Control. ▶ Case 2: Article 3(1)(a), Article 4(1)(c), Article 4(3), Article 8(2)(b), Article 15. ▶ Case 3: Article 4(1)(a) 	15'
Ways to overcome stigma and discrimination	Brainstorm	<p>1. Facilitator divides participants into no more than 5 groups. (1')</p> <p>2. Each group is assigned one of the following categories and must list ways that they can assist PLHIV to overcome stigma and discrimination: (2')</p> <ol style="list-style-type: none"> a. Communities b. Government c. Schools/Universities d. Families e. Employers f. Non-government Organisations g. Hospitals <p>3. Facilitator gives the groups 10 minutes to brainstorm and 3 minutes to present their ideas. After each presentation, other participants can make suggestions for additional anti-discrimination and anti-stigma measures that could be used. (25')</p> <p>4. At the end of this activity, facilitator asks the participants to spend 5 minutes thinking about what they can do individually to stop stigma and discrimination against PLHIV. Participants can then share their answers with the group if they choose to. (10')</p>	40'

Law on HIV/AIDS Prevention and Control**Article 14.** HIV/AIDS prevention and control in the workplace

1. The employer shall:

- a/ Organize information and education on HIV/AIDS prevention and control measures and anti-stigma and anti-discrimination against HIV-positive people in the agency, organization or People's Armed Forces unit;
- b/ Arrange jobs suitable to the health and professional qualification of HIV-positive workers;
- c/ Facilitate employees' participation in HIV/AIDS prevention and control activities;
- d/ Have other responsibilities related to HIV/AIDS prevention and control in accordance with the law.

Law on HIV/AIDS Prevention and Control**Article 14.** HIV/AIDS prevention and control in the workplace

2. The employer may not:

- a/ Terminate the labour or job contract of an employee or cause difficulties to this person in his/her work on the basis that such person is HIV-positive;
- b/ Force a physically fit employee to change the job he/she has been doing on the basis that they are HIV-positive;
- c/ Refuse to give a salary raise to or to promote an employee, or fail to ensure his/her legitimate rights or benefits on the basis that such person is HIV positive;
- d/ Request a job applicant to have an HIV test or produce an HIV test result, or refuse to recruit a person on the ground that such person is HIV positive, except for the cases specified in Clause 3, Article 28 of this Law.

Law on HIV/AIDS Prevention and Control**Article 15.** HIV/AIDS prevention and control in educational establishments within the national education system

1. Educational establishments shall organize education for students and learners on HIV/AIDS prevention and control integrated with sex and reproductive health education, and conduct other HIV/AIDS prevention and control activities at their establishments.

Law on HIV/AIDS Prevention and Control**Article 15.** HIV/AIDS prevention and control in educational establishments within the national education system

2. Educational establishments may not:

- a/ Refuse to admit a student or learner on the basis that such person is HIV-positive;
- b/ Discipline or expel a student/learner on the basis that such person is HIV-positive;
- c/ Separate, limit or forbid a student or learner from participating in the establishment's activities or services on the basis that such person is HIV-positive;
- d/ Request a student, learner or a candidate to have an HIV test or request an HIV test result.

**Handout 2: Cases**

1. Ms P has been working for a soap factory for three years. She lives very happily with her two children and her mother. She was being considered for a management position in the factory. Many years ago, she was an injecting drug user, but after she went through a drug rehabilitation program, she no longer used drugs. However, Ms P contracted HIV when she was using drugs. Somehow, Ms P's employer found out that she has HIV, and he appointed another person to the position. Ms. P definitely knows that this person is less experienced than she is. Ms P became very angry and asked for a meeting with her boss - they had a big argument. After the meeting, she was fired.

What are the legal problems? Which law(s) can protect her?

2. Mr Q has a son who is 8 years old. He was born with HIV transmitted by his mother, who has died. During his first two years at school, he got on very well with the other children in class. But when there were medical examinations for every student in school, they found out that he is HIV-positive. From a very lively young boy, Mr Q's son became very quiet because the other children didn't want to play with him. Whenever he came close to a group, they ran away; some even burst into tears. Mr Q's son was very sad and didn't want to hurt his friends. Then things got worse - many parents complained to the headmaster that they didn't want their children in the same classroom as someone living with HIV. The headmaster has asked Mr Q to come and talk. There is a chance that he will say Mr Q's son cannot go to school.

What can Mr Q do? What law(s) can protect his son?

3. Mr X is a farmer, but five years ago he came to the city to find a job. After returning to his village, someone spread a rumour that Mr X went out with sex workers in the city and now has HIV. People move away whenever he comes near to them and no one believes him when he says he is not HIV-positive. He feels very sad and isolated.

What law(s) can protect him?

CHAPTER 4

Rights of women living with HIV

OUTCOMES

After this lesson, participants will be able to:



- Knowledge**
- (1) Know the rights of women living with HIV (WLHIV) in Viet Nam that are protected by law
 - (2) Know some possible remedies for WLHIV if those rights are violated
 - (3) Understand why women can be more at risk than men for HIV and the factors that increase that risk
 - (4) Understand many of the challenges that WLHIV face



- Skills**
- (1) Identify the rights of WLHIV
 - (2) Discuss ways women can how protect themselves from HIV infection and how communities can reduce discrimination against WLHIV
 - (3) Identify and access available support services to help WLHIV when their rights are violated



- Values**
- (1) Understand the societal importance of equality for women and WLHIV
 - (2) Recognize how society's views of women's roles can make women more vulnerable to HIV

1. Introduction

In Viet Nam, the number of male adults living with HIV in 2007 was three times higher than the number of female adults living with HIV. Nevertheless, the Ministry of Health estimates that this male-female ratio will gradually decrease, reaching 2.6 by 2012. Although the HIV epidemic is currently concentrated among key populations at higher risk (men who have sex with men, sex workers, injecting drug users), there is a growing risk of transmission from men who have contracted HIV through high-risk behaviors (unsafe drug injection or unprotected sex with sex workers) to their spouses or regular partners.¹⁴

Although more men have HIV than women, women can be more vulnerable to HIV transmission than men. There are many factors that increase women's vulnerability to HIV. One reason is that women's bodies are more vulnerable if exposed to HIV¹⁵.

In addition to biological factors, social and cultural factors contribute to women's vulnerability to HIV transmission. Men generally have more power than women in society. Sometimes people do not think that women's needs are as important as the needs of men, and women can be treated as less than equal to men. Women often do not have as much control over their bodies as men do. Often, men feel they have power over women, particularly spouses or partners. A woman's male partner may not be monogamous, whereas her economic and social status, and even the safety of her life, may depend on her being faithful to him. Thus, when a woman is in a relationship with a man, the man may control when they have sex and whether or not they use condoms. A woman may not feel that she has enough power in the relationship to say 'no' to sex or to ask her partner to use a condom.

In Viet Nam, women are commonly expected to be morally virtuous, while it is acceptable for men to seek extramarital sex. Thus, although it is widely assumed that marriage provides protection from HIV, evidence suggests it can be a major HIV risk factor in cultures where men commonly seek extramarital partners¹⁶.

In addition, long-held social norms stigmatize the open discussion of sex between men and women in Viet Nam. This limits women's opportunities to seek safer sex, HIV testing and other preventive actions. Furthermore, a woman who knows that her partner is having affairs with other women may be "forced" to stay with her partner because she is economically dependent on him.

¹⁴ http://www.unaids.org/en/dataanalysis/monitoringcountryprogress/2010progressreportsubmittedbycountries/vietnam_2010_country_progress_report_en.pdf

¹⁵ The lining of the vagina is a mucous membrane and hence more permeable than the outside of the male penis. A woman's genitalia also have more surface area where HIV infection can occur than male genitalia. (<http://hivinsite.ucsf.edu/insite?page=ask-01-01-23>)

¹⁶ Results from a study by ISDS (Institute for Social Development Studies) show that 43% of married men either used to have or currently have extramarital partners.

Gender-based violence against women (one-third of Vietnamese women suffer from physical or sexual violence¹⁷) is another reason women are increasingly at risk of getting HIV. If a woman has experienced physical or emotional violence or is afraid that her partner will abuse her, then she may be too scared to ask her husband or partner to wear a condom during sex. Sexual violence or coercion - when one person forces or coerces another person to have sex (which is a brutal violation of women's rights) - is another problem women face, even within marriage. Sexual violence exacerbates the risk of HIV transmission not only because forced sex is almost always unprotected sex, but also because violent sex can result in damage to the woman's genitalia, such as abrasions, which facilitate HIV transmission.

Although women can be more vulnerable to HIV transmission, statistics suggest that Vietnamese women are less likely to take an HIV test and have less information about HIV prevention than men. According to the Viet Nam Population and AIDS Indicator Survey 2005 (VPAIS), just 2.1% of women aged 15-49 took an HIV test within the last twelve months and know their results, compared to 2.6% of men. The National Survey on Adolescents and Youth (SAVY) conducted in 2009 indicates that young women remain less aware than young men about methods of preventing HIV transmission.



2. The rights of WLHIV under Vietnamese law

2.1. What are the rights of WLHIV?

WLHIV have the same rights and obligations as other people. Additionally, they enjoy certain legal protections against discrimination and other difficulties, and they are entitled to a number of gender-specific medical benefits (e.g., free HIV tests for pregnant women). It is therefore important to look at laws that specifically protect PLHIV, as well as those that protect the rights of women. WLHIV often face double rights abuses as a result of their gender and HIV status. Therefore, WLHIV whose rights have been violated should try to use the protection of both sets of laws. There is also a relationship between gender-based rights abuses and HIV transmission. For this reason increasing the community's awareness and understanding of women's equal rights and the responsibilities of citizens to ensure that they are upheld also empowers women and protects them from HIV transmission.

2.2. Vietnamese laws on the HIV-related rights of women and women living with and affected by HIV

1992 Constitution of the Socialist Republic of Viet Nam (as amended in 2001)

- ⌘ **Article 63** states that male and female citizens have equal rights in all fields - political, economic, cultural, social and family. All acts of discrimination against women and all acts damaging women's dignity are strictly banned.

Law on HIV/AIDS Prevention and Control (No.64/2006/QH11)

- ⌘ **Article 11** provides that everyone shall have the right to access information, education and communication on HIV & AIDS prevention and control. It specifies that a number of key audiences will be given priority access to this information, including pregnant women.
- ⌘ **Article 35** states that:
 - ▶ Pregnant women who voluntarily take an HIV test shall be provided free HIV testing. WLHIV will be assisted in accessing measures to prevent mother-to-child transmission of HIV;
 - ▶ Women living with HIV who are pregnant or breastfeeding will be provided with special counseling on HIV prevention and control. Medical establishments are responsible for conducting supervision and providing treatment for pregnant women who are living with HIV and for taking measures to reduce mother-to-child transmission of HIV.

Law on Gender Equality (No.73/2006/QH11)

- ⌘ **Articles 11-18** of Law on Gender Equality affirm equality between men and women in the fields of politics, economy, labor, education and training, science and technology, culture, information and sports, public health, and the family. This means that women - including WLHIV - must not be discriminated against in any aspect of their lives, including education, access to treatment and access to employment or income-earning opportunities.
- ⌘ **Article 40** protects the rights of women to be equal in the areas of politics, economy, labor, education and training, science and technology, culture, information, sports, and public health. Violations against the law on gender equality in the field of labor, education, training and health include:
 - ▶ Applying different qualifications in recruiting male and female laborers for the same job for which both male and female laborers are qualified and have ability to perform, except for cases requiring the application of measures to promote gender equality;
 - ▶ Refusing to recruit or limiting recruitment of laborers, firing or dismissing laborers for gender reasons or because of pregnancy, childbirth or raising children;
 - ▶ Implementing discriminatory allocation of jobs between men and women leading to inequality in income or applying different pay levels for laborers of the same qualifications and capacity for gender reasons;
 - ▶ Not carrying out specific provisions for female laborers in labor laws;
 - ▶ Setting different ages for training and enrollment based on gender;
 - ▶ Agitating against or forcing people to leave school for gender reasons;
 - ▶ Refusing to enroll people who are qualified for training for gender reasons or because of pregnancy, childbirth, or raising children;
 - ▶ Career-oriented education, compilation and dissemination of textbooks that contain discriminatory gender stereotypes;
 - ▶ Refusing participation in training courses on science and technology based on gender;
 - ▶ Impeding men and women from composing music, writing literary and artistic criticism, performing and participating in any cultural activities based on gender;
 - ▶ Composing, circulating, authorizing the publication of works of any genre or form that encourage or propagate gender inequality and gender discrimination;
 - ▶ Spreading ideas, by oneself or by inciting others, that encourage people to practice gender discrimination of any kind;
 - ▶ Impeding, inciting or forcing other people not to participate in the activities of health education for reasons based on gender;
 - ▶ Choosing gender for the fetus under all forms or inciting and forcing other people to abort because of the fetus's gender.
- ⌘ **Article 41** protects against violations of the law on gender equality in the family and prohibits:
 - ▶ Impeding members of the family who have enough qualifications under the law from participating in the determination of assets of common property of a family based on gender;

- ▶ *Not allowing or impeding members of the family from contributing their opinion on the use of common assets of the family, from conducting income-earning activities or satisfying other needs of the family for reasons based on gender;*
- ▶ *Treating family members in an unequal manner based on gender;*
- ▶ *Constraining or forcing members of the family to leave school for reasons based on gender;*
- ▶ *Imposing family planning or contraceptive measures as the responsibility of only family members of one gender.*

Law on Domestic Violence Prevention and Control (No.02/2007/QH12)

This law defines domestic violence as purposeful acts of certain family members that cause or may possibly cause physical, mental or economic injuries to other family members. It prohibits these acts and also provides for support and care for victims. This law is important for WLHIV as studies have shown that HIV transmission often occurs in the context of gender-based sexual violence and unprotected forced sex. Abuse and fear of abuse makes it more difficult for women to negotiate safe sex with their partners and violent sex also can result in abrasions which increase the risk of HIV transmission¹⁸. Acknowledging and preventing domestic violence therefore protects women against both emotional and physical abuse and also HIV transmission.

⌘ **Article 2** cites acts of domestic violence:

1. *The acts of domestic violence consist of:*
 - (a) *Physical beating, abuse, mistreatment, torture or other purposeful acts causing injury to one's health and life;*
 - (b) *Insults or other intentional acts meant to offend one's pride, honour and dignity;*
 - (c) *The isolation or shunning of a family member, or creating constant psychological pressure on family members, causing serious consequences;*
 - (d) *Preventing the exercise of the legal rights and obligations in the relationship between grandparents and grandchildren, between parents and children, between husbands and wives, as well as among brothers and sisters.*
 - (e) *Forced sex.*
2. *The violent acts stipulated in Paragraph 1 of this article shall also be applicable to family members in cases of divorce or family members of couples living together as husband and wife without marriage registration.*

⌘ **Article 4** relates to the obligations of persons committing domestic violence:

1. *Respecting lawful community interference, immediately stopping violent acts against family members.*
2. *Complying with decisions of authorized institutions and organizations.*
3. *Timely sending of victims for first aid and medical treatment; taking care of the victims of domestic violence unless the victims refuse these offers.*

¹⁸ United Nations Viet Nam (2010), *HIV from men to women in intimate partner relationships in Viet Nam: A Discussion Paper*, p 14.

4. *Compensating for the damages and losses caused to domestic violence victims when required in accordance with this law.*

⌘ **Article 5** describes the rights and obligations of domestic violence victims:

1. *Victims of domestic violence shall have the following rights:*
 - (a) *To request the authorized institutions, organizations and individuals to protect their lives, dignity and other rights and legitimate benefits*
 - (b) *To request the authorized institutions and individuals to apply measures to prevent, protect and forbid contact as stipulated by this law.*
 - (c) *To be provided with medical services as well as psychological and legal advice;*
 - (d) *To be provided with temporary domicile which shall be kept confidential, as well as with other information that is regulated by this law;*
2. *Victims shall be obliged to provide information relating to the domestic violence to the authorized individuals, institutions and organizations when required.*

⌘ **Article 8** lists acts that are strictly forbidden:

1. *Acts of domestic violence as defined in Article 2 of this law.*
2. *Forcing, provoking, urging and enabling other persons to commit acts of domestic violence.*
3. *Using and diffusing information, images and sounds to provoke acts of domestic violence.*
4. *Avenging or threatening revenge against people who help the victims of domestic violence, or who discover, report and prevent acts of domestic violence.*
5. *Obstructing the discovery, reporting and settlement of acts of domestic violence.*
6. *Making use of domestic violence prevention and control to make profits or to carry out other illegal activities.*
7. *Complicity, covering up, avoiding settlement and mis-settlement of domestic violence violations and non-compliance with the law.*

⌘ **Article 23** regulates taking care of domestic violence victims at health stations

1. *Domestic violence victims, after receiving medical care and treatment, can request a certificate of injury.*
2. *Expenses for medical care and treatment for domestic violence victims shall be covered by medical insurance funds if they hold medical insurance cards.*
3. *Medical staff, in doing their jobs, shall be responsible for keeping the domestic violence victim's information confidential; in the event medical staff find physical evidence of suspected domestic violence, the staff must report the case to the Head of the health station, who shall report it to the police at the nearest station.*

⌘ **Article 31** stipulates Individual responsibility:

1. *Complying with laws on domestic violence prevention and control; on marriage and family; on gender equality; on drugs, sex and other social evil prevention and control.*
2. *Timely prevention of acts of domestic violence; reporting acts of domestic violence to relevant authorities.*

Marriage and Family Law (No. 22/2000/QH10)

⌘ **Article 2** provides protection for married women whose husbands are involved in extra-marital affairs and supports the basic principle of voluntary, progressive and monogamous marriage in which husband and wife are equal. This law is significant because studies have shown that the majority of women are exposed to HIV through 'intimate partner relationships' (IPT). That is, rather than as a result of their own actions, women are exposed to HIV unprotected sex with a husband or partner who has contracted HIV through unprotected sex with a sex worker or through unprotected sex with a male partner¹⁹.

Law on Education (No. 38/2005/QH11)

⌘ **Article 10** provides protection to women in the area of education by stating that "All citizens, regardless of their ethnicity, religion, belief, gender, family background, social status or economic conditions, are equal in learning opportunities." Therefore women should have equal access to education about their rights and bodies, including their sexual and reproductive health.

Viet Nam Penal Code

⌘ **Article 113** provides protection to women against rape and states that "those who employ trickery to induce persons dependent on them or persons being in dire straits to have sexual intercourse with them against their will shall be sentenced to between six months and five years of imprisonment." The imposable penalty is increased in the following particular circumstances: (a) being of an incestuous nature; (b) making the victim pregnant; and (c) committing the crime when the offenders know that they are living with HIV/AIDS.

3. The rights of WLHIV under international law

WLHIV in Viet Nam also have the protection of their rights through international law. A specific international treaty that Viet Nam has agreed to follow is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)²⁰. This treaty provides significant protection and states that countries who agree to the treaty should do everything they can to make sure women get proper health care while they are pregnant and after they have their baby, and that governments should try to provide women with free medical services when necessary.²¹

19 United Nations Viet Nam, Hanoi, (2010) *HIV from men to women in intimate partner relationships in Viet Nam: A Discussion Paper*, p 5.

20 <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

21 *Convention on the Elimination of All Forms of Discrimination Against Women, Article 12(2)*

Although CEDAW does not directly address HIV, it condemns violence within marriage and sets out a broad framework for gender equality in political, economic, legal and social spheres, including within marriage and the family. Recommendations accompanying the convention call upon States to provide women with access to a full range of health care, including sexual and reproductive health services, and to conduct a gender analysis of the HIV epidemic. It also asks States to increase public awareness, especially among women and children, about the risks and effects of HIV.

The treaty also says that governments should give women access to medical services that are equal to the medical services that men receive. For example, a doctor could not give anti retroviral therapy (ART) only to men. Doctors must give ART to both men and women as needed. The government must also try to give women equal access to family planning. Family planning includes educating people about decisions that they make about whether to have a baby or start a family. Article 12 also provides that parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

The 2001 Declaration of Commitment of the United Nations General Assembly Special Session on HIV/AIDS further includes a provision calling upon governments to advance women's human rights, to eliminate all forms of discrimination and gender-based violence, to "promote shared responsibility among men and women to ensure safe sex" and to "empower women to have control over and decide freely and responsibly on matters related to their sexuality to increase their ability to protect themselves from HIV infection". A subsequent political declaration by the UN in 2006 repeated these commitments and made a strong statement on ending violence against women, also noting the "importance of the role of men and boys in achieving gender equality". Although the Declaration of Commitment is not binding, all governments signed it and agreed to monitor progress toward the commitments on a bi-annual basis.

4. What to do if a WLHIV's rights are violated under the Law on Gender Equality

Women living with HIV may experience multiple kinds of rights violations. Depending on the nature of these violations, different remedies are available as explained in the following chapters:

- ▶ If a doctor refuses to give medical treatment to a woman due to her HIV-positive status, remedies are available under Decree No.69/2011/ND-CP of providing for the sanctioning of administrative violations in the field of healthcare, prevention, medical environment and HIV/AIDS prevention and control.
- ▶ If a boss fires a woman from his/her factory due to her HIV-positive status, the violation could be handled under Decree No.69/2011/ND-CP.

☞ Please refer to chapter 8 and 9 for additional information.

In addition to the discrimination based on HIV positive status, women living with HIV may also face gender discrimination:

- ▶ If a boss hinders the appointment of a women living with HIV because of gender bias, the violation could be handled under the Law on Gender Equality and related documents.
- ▶ If a school board forces a women living with HIV to leave school because of sex discrimination

☞ Please refer to information below

There are different available mechanisms for women living with HIV when they face gender discrimination.

- ▶ Informal discussions and negotiation
- ▶ Administrative law processes
- ▶ Judicial processes

The type of remedy that is sought is one of the factors which will determine which avenue a complainant should choose and which law they should use. Other factors include time, cost and the personal toll that legal proceedings often involve.

☞ For further detail on each type of process to seek redress, please refer to chapter 12.

The Viet Nam Law on Gender Equality No.73/2006/QH11 (2006), Decree No. 70/2008/ND-CP detailing the implementation of a number of articles on the Law on Gender Equality and Decree No. 55/2009/ND-CP on sanctioning of administrative violations of gender equality, provide mechanisms for WLHIV in those cases.

Law on Gender Equality (No.73/2006/QH11)

- ⌘ **Article 40 and 41** list the violations under the Law on Gender Equality in multiple fields including: politics, economy, labor, education, training, science and technology, culture, information and sports, public health and family.
- ⌘ **Article 42.** Forms of handling violations against the Law on Gender Equality:
 - ▶ Those who commit any violation of gender equality, depending on the nature and level of the violation, shall be subject to sanctions, fines or criminal procedure.
 - ▶ Agencies, organizations or individuals whose violations of gender equality law have caused damages must compensate for the damages in compliance with this Law.

Therefore, those people conducting discriminatory practices to women could be subject to administrative or criminal measures.

Decree No. 70/2008/ND-CP

This decree details the implementation of a number of articles on the Law on Gender Equality. Articles 3 - 7 establishes the responsibility of the Ministry of Labor, War Invalids and Social Affairs, ministries and ministerial-level agencies, provincial/ municipal People's Committees, People's Committees of rural districts, urban districts,

provincial towns and cities and commune/ward/township People's Committees for supervising and inspecting the implementation of the Law on Gender Equality, settling complaints and denunciations about and handling violations of the Law on Gender Equality in localities.

4.1. Administrative measures

Decree No. 55/2009/ND-CP on sanctioning of administrative violations of gender equality

This decree deals with administrative violations and sanctioning of gender equality in all fields of: social, economy, labor, education and training, science, technology, culture, information, sports, public health and family.

- ⌘ **Article 5** stipulates that violators shall be subject to either caution or fine. Depending on the nature and severity of their violations, violators may also be subject to additional sanctions such as:
 - ▶ Deprivation of the right to use licenses or practice certificates;
 - ▶ Confiscation of material evidence and means used in committing administrative violations.

In addition to the sanctions mentioned above, violators may be subject to one or more of the following remedies:

- ▶ Forcible issuance of public apology or rectification;
- ▶ Forcible restoration of lawful interests which have been infringed upon by acts of administrative violation of gender equality;
- ▶ Forcible payment of reasonable medical examination and treatment expenses in case acts of administrative violation cause damage to others health or morale;
- ▶ Forcible modification, supplementation, replacement, correction or destruction of objects or cultural articles that advocate, propagate or disseminate gender inequality or gender prejudice;
- ▶ Forcible dismantlement or removal of advertisements that advocate, propagate or disseminate gender inequality or gender prejudice;
- ▶ Requesting organizations and individuals that have issued regulations and rules with gender discrimination contents to revise or annul these documents or requesting competent agencies to annul these documents.

Finally, violators that cause damages to organizations and individuals shall, apart from being administratively sanctioned according to the above, pay compensation for damage as prescribed by the civil law.

Labor, War Invalids and Social Affairs inspectors, other specialized inspectors, presidents of People's Committees of various levels, the People's Police and Border Guard are competent agencies on sanctioning of administrative violation of gender

equality. Their different responsibilities are regulated in Articles 14, 15, 16 and 17 in this decree. For instance, Article 17 regulates the authority of People's Police and Border Guard:

⌘ **Article 17.** *Competence of the People's Police and Border Guard to sanction administrative violations*

People's police and border guard have the competence defined in Articles 31 a 32 of the Ordinance on handling of administrative violations to sanction administrative violations of gender equality directly related to domains under their management.

⌘ **Article 18.** *Determination of competence to sanction administrative violation*

- ▶ *In case an administrative violation of gender equality specified in this decree falls within the sanctioning competence of several persons, the person, who accepts the case first has competence to sanction it.*
- ▶ *The sanctioning competence of persons specified in Articles 14, 15, 16 and 17 of this decree is applied to an administrative violation. In case of imposing a fine, the sanctioning competence shall be determined based on the maximum level of the fine bracket prescribed for each specific violation*
- ▶ *In case of sanctioning one person who commits several administrative violations, the sanctioning competence shall be determined according to the principles specified at Article 42(3) of the Ordinance on Handling of Administrative Violations²²*

⌘ **Article 19**

- ▶ *Upon detection of acts of administrative violation of gender equality, people whose rights are violated shall send a complaint to competent organization to protect them (Labor, War Invalids and Social Affairs inspectors, other specialized inspectors, presidents of People's Committees of various levels, the People's Police and Border Guard).*
- ▶ *The complaint should include the following data: name, place of living, content of case. This information should be accompanied by evidence of the violation (if any) such as: photographs, witness testimony (attached document form), etc.*
- ▶ *In the case there are physical or mental damages (i.e losing property, light injury) victims shall send a complaint to the court of their place of residence or where the violation took place in order to ask for compensation.*
- ▶ *The document should include: name, address, content of case, damage, compensation for damage. Following code of civil procedure, ID card should be attached, evidences of damage such as: medical costs, compensation for mental damage...In the case that sue compensation for life and health, legal costs are free.*

4.2. Judicial measures

Besides sanctioning of administrative violations, there are judicial processes for violations related to gender equality. The most significant of these is regulated under the Penal Code which creates and punishes criminal offences.

⌘ **Article 130** *relates to the infringement upon women's rights to equality*

Those who use violence or commit serious acts to prevent women from participating in political, economic, scientific, cultural and social activities shall be subject to warning, non-custodial reform for up to one year or a prison term of between three months and one year.

In order for a criminal offence to be committed, the offender must:

- ▶ perform a 'preventative' act that stops women from equally participating in a political, economic, scientific, cultural or social activities (for example preventing women from studying or working, paying women a lower wage for the same job as a man); and
- ▶ the act must be serious or involve the use of violence (such as hitting a woman).

The procedures for judicial proceedings are regulated in the Criminal Procedure Code (No. 19/2003/QH11).

☞ *For further detail on each type of remedial process, please refer to chapter 12.*

22 *Ordinance No. 44/2002/PL-UBTVQH10 on the handling of administrative violations*



LESSON PLAN

Content	Methods	Activity instruction	Materials	Time
The current situation of women and HIV in Viet Nam	Small group discussion	<p>1. The facilitator divides participants into 3 to 5 small groups, gives each group Handout 1 and instructs the groups to look at the drawing on the handout and discuss how it relates to women and HIV. (2')</p> <p>2. The participants discuss in groups for 3 minutes and nominate one representative to report what their group thinks the drawing has to do with women and HIV. (3')</p> <p>3. The facilitator then asks the group representatives to report back for 1 minute each and instructs them not to repeat the same information the other group. (10')</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ The facilitator should make sure the groups do not just repeat one another when presenting on what the drawing means. ☛ The drawing represents a husband visiting a sex worker and refusing to use a condom. At the same time, the wife of the man waits at home for him, not knowing she is being at risk of getting HIV. This represents the increased vulnerability that women have in getting HIV due to societal conditions, including infidelity of their husbands and often a woman's inability to insist on her husband wearing a condom if she suspects he has been having sex with other people. 	Handout 1	20'
Introduce the topic of the lesson	Role play, Lecture, Large group discussion	<p>1. The facilitator asks for 8 volunteers and divides them into 4 groups of 2 people. (3')</p> <p>2. Each group is given one of the scenarios related to the current situation of WLHIV in Viet Nam. These scenarios are on Handout 2. The facilitator instructs the volunteers to act out their scenario in 1 minute, without speaking to the rest of the participants. (3')</p> <p>3. Each group in turn silently acts out their scenario and the rest of the participants try to guess what the scenario is. (4')</p> <p>4. The facilitator brings everyone back together for a whole-group discussion, with some brief explanation, about the various factual scenarios and the current situation of WLHIV in Viet Nam according to the information in Part 1 of this chapter. (5')</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ This is a very sensitive topic as it deals with sex and gender issues. The facilitator should make sure that the participants are comfortable role-playing these situations. ☛ Volunteers should be paired with the same gender for scenes of women being beaten. If the facilitator does not think the participants will be comfortable, then the situations could be presented by a group of facilitators or other persons that the facilitator knows will be comfortable. In any case, group discussion after the presentations should be strongly encouraged. 	Handout 2	15'
Women and the Law on Gender Equality	Each one/ Teach one, Q & A, Group discussion	<ul style="list-style-type: none"> ☛ If the lesson is being presented to an all-female group, then the facilitator could play the role of the male if the participants are uncomfortable playing a male role. Similarly, if the lesson is presented to an all-male group, then the facilitator could play the female role. ☛ There is a possibility of the group discussion becoming tense because of the sensitive nature of the topic. The facilitator should emphasize that open discussion is encouraged and that all the opinions of the participants should be respected. Debate and discussion should be encouraged, but the facilitator must moderate the discussion carefully to make sure that participants do not make personal arguments against other participants or directly put down other participants' opinions. Overall, the facilitator should emphasize that it is okay for women to defend their rights, especially in situations where they are vulnerable to getting HIV. <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ The facilitator should make sure all participants are involved in teaching and learning from each other. ☛ A sample answer at the end would be to ensure that women receive the same treatment as men in a range of fields including politics, economy, labour, education and training, science and technology, culture, information, sport, and public health and other areas discussed in part 1 & 2 of this chapter and that WLHIV may face further discrimination in the workplace, family, education and training. The laws are meant to help women receive the same treatment as men. These laws can also be used to inform the community about the link between gender inequality and HIV transmission and also reduce the negative social impact that contracting and living with HIV may have on women. 	Coloured stickers or coloured paper with tape	75'

How to help prevent women from getting HIV and protecting the rights of WLHV	Drawing, Group work, Q & A, Group discussion.	<p>1. The facilitator divides participants into 4 groups and gives each group 2 sheets of A0 paper. (5')</p> <p>2. The facilitator then gives each of the groups one of the statements below and asks them to strategize three ways to achieve the statement. (1')</p> <p>3. The facilitator explains that the groups are to use one of the A0 papers to write three ways and use the other A0 paper to do a drawing that represents one way to achieve each of the goals. (10')</p> <p>Statements:</p> <ol style="list-style-type: none"> Improve women's capacity to use preventative methods when having sex (i.e. ability to negotiate condom use). Increasing women's personal knowledge about HIV and how to prevent HIV Increasing WLHV knowledge about their rights under the law Men should share responsibility with women in the prevention of HIV. <p>4. Each participant group will have 3 minutes to present their ideas and show their drawings. (15')</p> <p>5. The facilitator asks the whole group for an open discussion on the various strategies presented. (10')</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> The facilitator should make sure all participants are involved in teaching and learning from each other. Sample strategies could include that sexual health workshops could be run in schools and universities for women and men about the importance of condom use. Special education programs on HIV and the role of women in society can be organized for teenage girls and for women who are heads of households. The facilitator should ask other groups to comment and give more ideas after each group presents. The answers should also provide information about organizations that do outreach work, because this will be helpful for participants and WLHV (see Appendix No.2 of this manual). (5') 	A0 paper, pens, coloured markers, Handout 4	40'
What to do if WLHV rights are violated	Brainstorm, Q&A, Lecture	<p>1. The facilitator asks the participants what they think a WLHV can do if her rights are violated and leads a Brainstorm Q & A session. The answers can be written on a board or large A0 paper by 1-2 participant volunteers. (10')</p> <p>2. The facilitator then provides a brief lecture on the information contained in Part 4 and discusses with the participants some of the remedies WLHV may have under the law. This information should also be recorded on the board or A0 paper by a volunteer participant or facilitator. (5')</p>	A0 paper or flipchart or board markers	15'
Mechanisms to protect rights		For lessons on mechanisms to protect rights, please refer to Chapter 12 of this manual		15'
Social Services	Handout	The facilitator should refer to Appendix No.4 of this manual for possible handouts for participants.		5'
Evaluation of lesson	Completion of form	The facilitator should give each of the participants a feedback form for this lesson. See evaluation form in Appendix No.5.	Evaluation form	5-10'
Total Time 200'				



Handout 1



Handout 2: Role-play scenarios

1	A woman receives the result of her HIV test: she is HIV-positive. She tells her husband and extended family and she is kicked out of her home and prevented from seeing her children.
2	A woman is beaten up by her husband/boyfriend because she asks him to use a condom before they have sex.
3	A female drug user's boyfriend insists that she shares his needle.
4	A female sex worker refuses to have a HIV test.



Handout 3: 10 articles to learn and teach

Article 63 - 1992 Constitution of the Socialist Republic of Viet Nam (as amended in 2001)

Male and female citizens have equal rights in all fields - political, economic, cultural, social, and the family.

All acts of discrimination against women and all acts damaging women's dignity are strictly banned.

Men and women shall receive equal pay for equal work. Women workers shall have special protections related to maternity.

Article 32 - Responsibilities of families - Law on Domestic Violence Prevention and Control

1. To educate and remind family members to comply with the laws on domestic violence prevention and control, marriage and family, gender equity, prevention and control of drugs, prostitution and other social evils.

2. To mediate conflicts and disputes between family members; to advise persons committing acts of domestic violence to stop their acts; to take care of domestic violence victims.

3. To coordinate with agencies, organizations and communities in preventing and controlling domestic violence.

4. To take other domestic violence prevention and control measures according to this law.

Article 5- Rights and responsibilities of domestic violence victims - Law on Domestic Violence Prevention and Control

1. Victims of domestic violence shall have the following rights:
- (a) To request the authorized institutions, organizations and individuals to protect their lives, dignity and other rights and legitimate benefits;
 - (b) To request the authorized institutions and individuals to apply measures to prevent, protect and forbid contact as stipulated by this Law;
 - (c) To be provided with medical services as well as psychological and legal advice;
 - (d) To be provided with temporary domicile which shall be kept confidential, as well as with other information that is regulated by this Law.
2. Victims shall be obliged to provide information relating to the domestic violence to the authorized individuals, institutions and organizations when required.

Article 23- Taking care of domestic violence victims in health care establishments - Law on Domestic Violence Prevention and Control

- 1. When receiving medical examination and treatment at health care establishments, domestic violence victims may request certification of their medical examination and treatment.
- 2. Expenses for medical examination and treatment of domestic violence victims shall be paid by the health insurance fund for persons covered by health insurance.
- 3. When performing their tasks, health workers shall keep information on domestic violence victims confidential; in the event medical staff detect signs of domestic violence, they shall promptly report them to the head of the health care establishment, who must report them to the nearest police station.

Article 2- Basic principles of the marriage and family law - Marriage and Family Law 2000

- 1. Voluntary, progressive and monogamous marriage in which husband and wife are equal.

Article 12- Gender equality in the field of economy - Law on Gender Equality

- 1. Men and women are equal in setting up a business, carrying out business and production activities, and managing business, and are equal in accessing information, capital, markets and labour sources.
- 2. Measures to promote gender equality in the field of economy include:
 - (a) Enterprises employing many female workers shall be given tax and financial preferential treatment according to the regulations of this law.
 - (b) Female workers in rural areas shall be given credit aid, encouraged to expand agriculture, forestry and fishery according to this law.

Article 13 - Gender equality in the field of labor - Law on Gender Equality

- 1. Men and women are equal in terms of qualifications and age in recruitment, and are treated equally in workplaces with respect to work, wages, pay and bonuses, social insurance, labor conditions and other working conditions.
- 2. Men and woman are equal in terms of qualifications and age when they are promoted or appointed to hold titles in the professions.
- 3. Measures to promote gender equality in the field of labor include:
 - (a) To provide for the recruitment of equal numbers of qualified men and women;
 - (b) To train and enhance the capacity and capability of female workers;
 - (c) Employers must create safe and hygienic working conditions for female workers in difficult and dangerous professions and occupations or those that have direct contact with harmful substances.

Article 10- Citizens' rights and obligations to learn - Law on Education

Learning is the right and obligation of every citizen.
All citizens, regardless of their ethnicity, religious belief, gender, family background, social status or economic condition, must have equal learning opportunities.
The State shall observe social justice in education and create conditions for everyone to have access to education. The State and the community shall help the poor access education, and create conditions for gifted people to develop their talents.
The State shall give priority to, and create conditions for, children of ethnic minorities, children of families in areas of extreme socio-economic difficulties, beneficiaries of preferential policies, disabled and handicapped people and beneficiaries of other social policies to realize their learning rights and obligations.

Article 17 - Gender equality in the field of public health - Law on Gender Equality

- 1. Men and women are equal in participating in the activities of education and communication on health care, reproductive health and in using health services.
- 2. Men and women are equal in choosing and deciding on contraceptive measures, measures for safe sex and for preventing and protecting against HIV/AIDS and other sexually transmitted diseases.
- 3. Poor women residing in remote areas and being ethnic minorities, excluding those who pay compulsory social insurance, when giving birth to a child in accordance with the population policy, shall be supported as provided by the Government.

Article 41 - Violations of the law on gender equality in the family - Law on Gender Equality

- 1. Impeding family members who have enough qualifications under the law from participating in the determination of the family's assets of common property for gender reasons.
- 2. Not allowing or impeding family members from contributing their opinion on the use of common assets of the family, or from conducting income-earning activities or satisfying other needs of the family based on gender.
- 3. Treating family members unequally based on gender.
- 4. Constraining or forcing members in the family to leave school based on gender.
- 5. Imposing family planning or contraceptive measures as the responsibility of only one family member, based on gender.



Handout 4: Statements

- a. Improve women's capacity to use preventative methods when having sex (i.e. ability to negotiate condom use).
- b. Increase women's personal knowledge about HIV and how to prevent HIV
- c. Increasing WLHIV knowledge about their rights under the law
- d. Men should share responsibility with women in the prevention of HIV

CHAPTER 5

Rights of children living with HIV

OUTCOMES

After this lesson, participants will be able to:



Knowledge (1) Understand the rights of children living with and affected by HIV.

(2) Understand many of the difficulties that children face if they are HIV-positive or affected by HIV



Skills (1) Identify the rights of children living with and affected by HIV

(2) Identify violations of the rights of children living with and affected by HIV



Values (1) Understand and discuss the societal importance of equality for children living with and affected by HIV

(2) Appreciate that all children, including children living with and affected by HIV, have rights and are protected by law

1. Introduction

According to the Ministry of Health (MoH), the number of children in Viet Nam living with HIV was 4,720 in 2009 - and will be 5,670 by 2012²³. HIV affects children in many ways, both directly and indirectly. HIV-related illnesses and societal stigma and discrimination can disrupt the livelihoods of families living with HIV and impoverish them. The children in these families, who may or may not be HIV-positive themselves, may be orphaned or abandoned. Some may resort to working on the streets or other dangerous situations just to survive, which increases the chance of being exploited and abused by others.



Vietnamese children living with and affected by HIV (CLHIV) face particular challenges related to the stigma and discrimination that unfortunately surrounds HIV. Many are prohibited from coming to school or segregated from other children when they do. Lack of understanding among school officials and parents of other students as to the causes and ways HIV is transmitted is one of the main reasons behind this denial of a child's basic right to education.

It is important therefore that all people learn about HIV in their schools and communities, including how it is transmitted, the means of prevention, and the right of CLHIV to live happy and successful lives, free of stigma and discrimination.

Children are the future and how society treats and cares for its children is a reflection of the strength of that society. It is vital for Vietnamese communities to ensure legal the rights of CLHIV are protected and, that children have access to that protection.

2. The rights of children living and affected by HIV under Vietnamese law

Viet Nam has in place laws that protect the rights of these children and it is very important that these rights and laws are known, understood and applied.

2.1 What are the rights of children living with HIV?

Children living with HIV have the same rights and obligations as other children. Additionally they enjoy certain legal protections against discrimination and other difficulties. It is therefore important to look at laws that protect the rights of all children as well as at those that specifically protect PLHIV. If the rights of CLHIV are violated, then the protection of both laws that protect PLHIV as well as other laws that specifically protect the rights of children should be used.

2.2 Vietnamese laws relating to the basic rights of children

Law on Child Protection, Care and Education (No. 25/2004/QH11), all children have the basic rights, such as:

- ♥ Right to have birth registered and acquire nationality
- ♥ Right to be cared for and brought up
- ♥ Right to live with parents
- ♥ Right to be respected and have their life, body, dignity and honor protected
- ♥ Right to health care

- ♥ Right to study
- ♥ Right to join in recreational, entertainment, cultural, art, physical, sport and tourist activities
- ♥ Right to develop aptitudes
- ♥ Right to have assets
- ♥ Right to access information, express opinions and participate in social activities

Marriage and Family Law (No. 22/2000/QH10). This law also establishes the rights of children and the obligations of family, State and the society toward children:

- ⌘ **Article 2 - Basic principles of the marriage and family regime**
 - ▶ Parents are obliged to bring up their children into citizens useful for the society;
 - ▶ The State and society shall not accept the discrimination among children, between sons and daughters, between biological and adopted children, between in-wedlock and out-of-wedlock children.
- ⌘ **Article 34 - Obligations and rights of parents**
 - ▶ Parents have the obligations and rights to love, look after, rear, care for, and protect the legitimate rights and interests of their children; respect their children's opinions; attend to the study and education of their children so as to ensure their healthy development in all physical, intellectual and moral aspects to become pious children of the family and useful citizens of the society.
 - ▶ Parents must not discriminatorily treat, ill-treat or persecute their children, or hurt their honor; must not abuse the labor power of their minor children; must not incite or compel their children to act against law and social morality.

2.3. Vietnamese laws relating to the rights of children living with HIV

Law on HIV/AIDS Prevention and Control (No. 64/2006/QH11)

The Viet Nam Law on HIV/AIDS Prevention and Control has specific rights and protections for CLHIV. These rights and protections can be used alongside the same or similar rights guaranteed by the Law on the Protection of the Child (see reference below).

- ⌘ **Article 4** states that CLHIV are clearly guaranteed the following rights:
 - ▶ to be fully integrated in the community and society. This means it would be unlawful to segregate or separate out children living with or affected by HIV from other people, especially with regard to their family, at schools or in other sectors of the community.
 - ▶ to receive medical treatment and health care. This means it would be unlawful for a doctor or others to deny CLHIV proper and appropriate medical care.
 - ▶ to receive general education, vocational training and employment. This means that CLHIV have the same right to education and employment as others and cannot be treated differently.
 - ▶ to have their private information related to HIV or AIDS kept confidential. This means it is illegal for school officials or employers to let other people know about

the HIV status of a CLHIV.

- ⌘ **Article 8** prohibits stigmatizing and discriminating against PLHIV. This means that it is prohibited for schools or employers to reject or segregate children in schools or in the work place. It also specifically prohibits parents/guardians from abandoning a child who has HIV. This helps to guarantee that CLHIV are provided support and are not sent out onto the streets to try to live and survive.
- ⌘ **Article 13** protects the rights of CLHIV to be loved, supported and cared for. This article states that families of CLHIV shall rear, care and provide moral support to CLHIV so as to help them live in integration with their families, community and society; and they should collaborate with agencies, organizations and communities in HIV/AIDS prevention and control.
- ⌘ **Article 39(2)** states that CLHIV under the age of 6 are to be provided completely free anti retroviral therapy (ART) paid for by the State. Article 39(3) prioritizes children living with HIV from 6 to 16 years old for the provision of ARV free of charge, paid by the State or sponsored by domestic or foreign organizations.

Law on Child Protection, Care and Education (No. 25/2004/QH11):

In addition to the Law on HIV, the Law on Child Protection, Care and Education has a number of provisions that help to guarantee the rights of children living with and affected by HIV are protected, as well as means to punish those persons who violate these rights.

- ⌘ **Article 11** of this law ensures that children have the right to have their births registered so they can become citizens of Viet Nam and be eligible to all the same protections that other citizens have.
- ⌘ **Article 12** states that all children have the right to be cared for and brought up. This includes being cared for physically, intellectually, mentally and ethically. This means that it is against the law to abandon or mistreat children living with and affected by HIV.
- ⌘ **Article 13** guarantees children the right to live with their parents. This means that it is against the law to forcefully take children living with and affected by HIV away from their parents unless it can be shown it is in the child's best interest.
- ⌘ **Article 14** guarantees children the right to have their life, body, dignity and honor protected by their families, the State and society. This means that there is an obligation on the part of everyone to protect the rights of children living with and affected by HIV.
- ⌘ **Article 15** guarantees all children under the age of 6 to primary health care and free medical examination and treatment at public medical establishments. This means that infants and young children living with or affected by HIV are ensured fully and proper treatment for HIV and HIV related illnesses.
- ⌘ **Article 16** guarantees all children studying at the primary education level the right to study, and without having to pay additional fees. This means it is against the law to prohibit children from studying in public school.
- ⌘ **Article 17** guarantees all children the right to join in recreational, entertainment, cultural, art, and physical sport and tourist activities. This means that children living with and affected by HIV have the right to be on sports teams at schools and participate in other physical activities just like any other children.



- ✂ **Article 19** guarantees children the right to have assets and to inheritance rights under the law. This means that children living with and affected by HIV cannot not be denied the right to inherit property because they have HIV or because their parents were HIV positive.
- ✂ **Article 20** guarantees children the right to access information, express opinions and participate in social activities. This means children living with and affected by HIV have the same right to gather as other children, and participate in social activities, including social activities related to school and education, like any other children.
- ✂ **Article 28** places an obligation on the Government and the family to ensure children's right to study. This is very important for CLHIV, who are often denied admission because of their HIV status. This article includes the responsibility to:
 - ▶ Make sure a child's general right to education and that this education must create a good condition for them to study at a higher level. This means that it would be wrong for children living with and affected by HIV to have his/her education limited in any way do to the reason that the child has HIV. An example of this would be limiting the amount of time a child is able to attend school, or segregating a children living with and affected by HIV, as this may create a bad condition that would hurt them from studying at a higher level.
 - ▶ Educate children fully and comprehensively.
 - ▶ Provide adequate teaching staff, materials and facilities to ensure quality education for children being educated at primary school establishments.
- ✂ **Article 7** set out specific acts against children that are prohibited. This is important as CLHIV are often more vulnerable than other children to abuse, neglect and exploitation. These prohibitions are vitally important as they provide specific prohibitions against both institutions and individuals. They include:

- ▶ Parents or guardians abandoning their children;
- ▶ Seducing or enticing children to leave home; abusing street children for profit;
- ▶ Seducing, forcing or tricking children into the sale, transport, storage or use of drugs; enticing children to gamble; selling alcohol, beer, tobacco, stimulants or any other unhealthy substance to children;
- ▶ Seducing, enticing, forcing or tricking children into prostitution, harboring children for purposes of prostitution, sexual abuse of children;
- ▶ Enticing or coercing children to buy, sell or use cultural products that promote violence and pornography, making, copying, distributing, transporting or storing pornographic products; production and trading of toys and games harmful to the healthy development of children;
- ▶ The torture, abuse, humiliation, seizure, abduction, sale or exchange of children, abusing children for profit; inciting children to hate their parents or guardians or to infringe upon the body, dignity or honor of others.
- ▶ Child-labor abuse, using children to do hard work, work that involves exposure to hazardous or toxic substances, or any work that is contrary to the provisions of labor law;
- ▶ Impeding or preventing a child's education;
- ▶ Applying corporal punishments to, or applying measures that offend or lower the honor or dignity of, juvenile offenders;
- ▶ Producing or storing pesticides, toxic chemicals, flammable materials or explosives near child-care facilities, educational institutions, health-care, culture, recreation or children's entertainment centers.

3. The protection of the rights of children living with and affected by HIV under international law

Children living with and affected by HIV in Viet Nam also have the protection of their rights through international law and these laws can be used alongside Vietnamese laws guaranteeing similar rights and protections. They include:

Convention on the Rights of the Child²⁴

This international law convention guarantees many rights for children and requires the State to protect these rights. Some of them that are very useful for CLHIV include:

- ✂ **Article 2**, which protects children against discrimination;
- ✂ **Article 3**, which requires the State to guarantee that it will make laws and apply standards that are in the best interest of a child;
- ✂ **Article 6**, which protects the right of children to life, survival and development;
- ✂ **Article 12**, which respects the views of the child.

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<http://www2.ohchr.org/english/law/crc.htm>

International Covenant on Civil and Political Rights²⁵

This international law convention guarantees many rights for all people. It also has some specific guarantees for children. This includes:

- ⌘ **Article 24:** Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

25 <http://www2.ohchr.org/english/law/ccpr.htm>

LESSON PLAN

Content	Methods	Activity instruction	Materials	Time
Introduction	Ice-breaker, Game, Q & A	<ol style="list-style-type: none"> 1. Facilitator divides participants into two groups (2) 2. Facilitator asks the participants in each group to stand closely in a circle holding hands. Each team will pick a slim person and let that person stand in the centre. Each person in the center of each team will exchange the name card. The task of people in the circle is to protect the person inside, and the task of the person in the centre is to stick the name card to the person in the centre of other team. The winning team is the team can stick the name card to other team first.(5) 3. The facilitator asks the participants about the legal meaning of this activity relating to the rights of CLHV.(3) <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ Facilitator should make sure that the instructions are clear that the participants should stay connected ☛ One of the suggested answer is about the position of the person stand in the centre, it looks like a child needs the protection of others. And the position of people in the circle is the position of different people and organizations in the society (family, school, Women Union, UNICEF, ..). They need to make a strong link to work together to protect the rights of CLHV. 		10'
Current situation of CLHV in Viet Nam	Discussion, Q & A, Group discussion, Lecture, Power Point	<ol style="list-style-type: none"> 1. The facilitator uses a ball and throws it to participants who must then discuss what they know about the challenges, including legal problems CLHV face. (10') <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ Facilitator should rely on the information in section 1 of this chapter including discrimination, failure to be allowed in school, abandonment by family, in danger of having to survive by themselves. ☛ Facilitator should make sure that the participants try to discuss some of the legal problems CLHV face and if they have a difficult time coming up with examples, the facilitator can give them hints but try not to directly tell them. 	1 ball	10'
Activity about the rights of children living with HIV	Lecture, Group work	<ol style="list-style-type: none"> 1. Facilitator gives a brief lecture about some of rights of children under international law and under Vietnamese law according to section 2 of this chapter. Facilitator can use a power point to help demonstrate these rights and try to develop photos/drawings that illustrate the right rather than just having words on a power point presentation. Alternatively, facilitator can make poster boards that illustrate these rights. (10') 2. Facilitator divides the participants into 3 groups (Group 1 - Right to live in integration with the community and society; Group 2 - Right to enjoy medical treatment and healthcare; Group 3 - Right to education). (3') 		

			<p>3. Facilitator gives each group a sheet of paper and ask them to write down their ideas and knowledge about the assigned rights of children living with HIV (5')</p> <p>4. Each group then presents their ideas about the rights for 2 minutes each (6')</p> <p>5. After each group presents the other groups are asked to give examples of violations of the described rights for 2-3 minutes per presentation (8')</p> <p>6. Facilitator then follows up with a general group discussion to expand on the groups' answers making sure the information is accurate and complete. Facilitator should rely on sections, 1, 2 and 3 of this chapter (5')</p>	Power point projector, laptop, poster boards (optional) 3 sheets of paper in A0 size, 3 markers.	25'
Violations of the rights of children living with HIV.	Role-play	<p>1. Facilitator divides participants into 3 groups and gives each a small paper with a violation on it. (Handout 1) (3')</p> <p>2. Facilitator explains that each group must act out the violation for 1-2 minutes and the other groups must guess what it is. Each group is given 5 minutes to prepare (7')</p> <p>3. Each group presents their violation and the other groups try to guess what the violation is (10')</p> <p>4. The facilitator asks 2-3 participants to summarize the lesson that they learned. If they leave points out, other participants can add to the information after the 2-3 participants have fully given their explanation. (5')</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ <i>Facilitator should try to make sure the participants stay in role and take the role-play seriously. This should be stressed because the topic is very important and not something to make fun of.</i> ☛ <i>Facilitator should help the 2-3 participants report back if they need help but should not give them the full answers. Facilitator should restrict other participants from helping the 2-3 presenting participants until the presenting participants are completely done with their presentations.</i> 	Handout 1	25'	
Mechanisms to protect rights		For lessons on remedies, please refer to Chapter 12 of this manual.			15'
Evaluation of lesson	Completion of form	Facilitator should give each of the participants feedback form about this lesson. See evaluation form in Appendix No. 5		Evaluation form	5-10'
<p>Total Time  110 - 115'</p>					



Handout 1

- (1) A child living with HIV is discriminated against by the school and denied admission.
- (2) A child under 6 living with HIV is discriminated against by a hospital that would not provide free ART.
- (3) A child is abandoned by his/her parents/guardian because the child is HIV-positive.

CHAPTER 6

Right to education of people living with HIV

OUTCOMES

After this lesson, participants will be able to:



- Knowledge**
- (1) Understand the right to education for PLHIV
 - (2) Know what remedies there are for PLHIV when their right to education is violated
 - (3) Be able to demonstrate the ways the community and Government can support the right to education for PLHIV



- Skills**
- (1) Identify the rights and duties of PLHIV concerning the right to education
 - (2) Identify when someone's right to education may have been violated and provide possible solutions
 - (3) Identify support services available to PLHIV with respect to their right to education



- Values**
- (1) Appreciate how important the right to education is for PLHIV
 - (2) Appreciate how important the right to education is for fulfilling human potential
 - (3) Appreciate and understand that families, society, and the Government can assist PLHIV to protect and support their right to education

1. Introduction

Everyone has the right to education. Unfortunately, people living with HIV (PLHIV), in particular children living with or affected by HIV in Viet Nam, may find it difficult to claim this right.



At present, there is no statistical data on how many people living with PLHIV are denied access to an education because of their HIV status. Despite families, educational agencies, local authorities and schools having made efforts to provide schooling, it can be still very difficult for PLHIV (and even people affected by HIV, such as family members) to go to school. There are many obstacles, especially fierce objection from parents of other pupils studying at the school, as well as cases of children being taken out of the classroom because they have HIV or schools refusing to allow students with HIV to participate in extra-curricular activities. This is because teachers and students may think they can get HIV just from being in the same classroom as PLHIV. People may also think that PLHIV are too sick to go to school. The main cause behind this behaviour towards PLHIV is an inadequate and inaccurate understanding of the ways HIV is transmitted. This lack of knowledge results in discriminatory attitudes and actions towards people living with HIV in many areas of life, including education.

In 2009, the Vietnamese government issued its National Plan of Action for Children affected by HIV/AIDS (NPA)²⁶. The goal of the NPA is to ensure that the needs of most

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Ministry of Labour, Invalids and Social Affairs (2009), *National Plan of Action for Children affected by HIV and AIDS until 2010, with a vision to 2020*.

children affected by HIV are met by 2020. This includes protecting children's rights, as the government has committed itself to do. The plan provides guidelines for the relevant governmental bodies, donors, NGOs and the community in how to provide and improve care for children and families affected by HIV. The government projected that 97.4 billion VND was needed to improve the situation of children living with HIV by the year 2020, including ensuring they have access to education.

2. The right to education of PLHIV under Vietnamese law

2.1 What is the right to education of PLHIV in Viet Nam?

It is the right to have a comprehensive education in all respects: mental, physical and moral development at all levels and through all forms of educational institutions. This right ensures that PLHIV, especially children, are being integrated into their communities, and are not discriminated against because of their HIV status.

The right to education means children and adults living with HIV can study at all types of schools, including both public and private schools, and can study at all levels (nursery school education, general education, vocational education and higher education, including undergraduate and postgraduate levels). The right to education not only means the right to take part in the school's core curriculum, but also the right to take part in all extra-curricular activities that have an educational purpose.

2.2 Vietnamese laws relating to the right to education of PLHIV

1992 Constitution of the Socialist Republic of Viet Nam (as amended in 2001)

- ⌘ **Article 59** states that education is a right and obligation of citizens... Citizens have the right to have schooling and vocational training in many forms.
- ⌘ **Article 65** specifically provides for the rights of children to an education, stating that "children enjoy protection, care and education by the family, the State and Society".

Law on Education (No. 38/2005/QH11)

- ⌘ **Article 10** states that all citizens, regardless of ethnic group, religion, belief, sex, family background, social status or economic situation, shall have the same education opportunity. The State shall implement social justice reform in education and facilitate equal opportunity to education for all...

Law on HIV/AIDS Prevention and Control (No. 64/2006/QH11)

- ⌘ **Article 4 (1) (c)** articulates that people living with HIV have the right to have schooling and vocational training and the right to work.
- ⌘ **Article 15 (2)** includes various prohibited acts of educational institutions towards PLHIV including:
 - ▶ Refusing to accept students because they are HIV-positive;
 - ▶ Punishing or expelling students from school because they are HIV-positive;
 - ▶ Separating, restricting or prohibiting students from taking part in school activities because they are HIV-positive;
 - ▶ Asking students to take an HIV testing or to submit to HIV test results
- ⌘ **Article 12** sets the responsibilities for information, education and communication on HIV prevention and control. The Ministry of Education and Training has the responsibility to direct education establishments within the national education system to provide education on HIV/AIDS prevention and control.

Schools should conduct educational awareness campaigns to raise the awareness of teachers, parents and students about HIV and how HIV is transmitted. Schools should conduct educational programs about HIV preventive measures within their institutions.

Law on Child Protection, Care and Education (No. 25/2004/QH11)

- ⌘ **Article 7 (8)** states that “impeding children’s educational study is strictly prohibited”.
- ⌘ **Article 16** clearly states that “Children have the right to education.”
- ⌘ **Article 28** states that “Families and the State have the responsibility of guaranteeing the right to education of children.”

Decree No. 36/2005/ND-CP

- ⌘ **Article 10** explicitly forbids obstructing children’s study, including through force or threat of force, compelling children to give up their study, or forcing children to give up their studies in order to avoid pressure, or preventing them from initiating lawsuits or joining demonstrations, amongst other things.

Directive No. 61/2008/CT-BGDĐT dated 12/11/2008 of the Ministry of Education and Training

This law relates to enhancing the prevention and control of HIV/AIDS in the education sector.

- ⌘ **Section 6** provides clear protection and states:
 - ▶ Schools shall not discriminate against students, teachers or staff who are living with HIV or affected by HIV;
 - ▶ Schools shall ensure the right to education, the right to work and the right to be integrated into the community for PLHIV or affected by HIV;
 - ▶ Schools shall enhance informational and educational programs to foster humanity and sympathy for PLHIV and people affected by HIV; and
 - ▶ Schools shall encourage PLHIV to participate in HIV/AIDS prevention and control activities.

Decision No. 84/2009/QĐ-TTg

This decision approves the national plan of action for HIV/AIDS-affected children up to 2010 with a vision toward 2020.

In order to safeguard the rights mentioned above the Government of Viet Nam has approved the National Plan of Action for Children affected by HIV and AIDS. This decision is designed to raise awareness and social action on the prevention, protection and care of children affected by HIV & AIDS. It aims to reduce the proportion of children affected by HIV & AIDS and to ensure children affected by HIV & AIDS are provided with care by families and the state, counseling and access to education.

3. The right to education of PLHIV under international law

Viet Nam is a member of the United Nations and has ratified the key international instruments recognizing human rights. When enacting and implementing domestic legislation governments must take into consideration their obligations under international law to respect, protect and fulfil the human rights obligations that are set out in the ratified international human rights treaties and other relevant instruments. The right to education is also guaranteed under the international human rights treaties ratified by Viet Nam. The key international instrument relevant to the protection of the right to education for PLHIV in Viet Nam is the Universal Declaration of Human Rights²⁷ (UDHR). It pronounces the inherent dignity and of the equal and inalienable rights of all members of the human family, therefore including PLHIV. It places an obligation on signature states, and thus Vietnam, to respect, protect and fulfil the rights.

The right to education for all encapsulated in the UDHR includes three broad components which do or may apply in the context of HIV/AIDS:

- ⌘ States should ensure that both children and adults living with HIV are not discriminatorily denied access to education, including access to schools, universities, scholarships and international education or subject to restrictions because of their HIV status. This obligation is found by reading Articles 2 and 26 (1) together:
 - ▶ **Article 2** states that “[e]veryone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”
 - ▶ **Article 26 (1)** states that “everyone has the right to education”.

²⁷

<http://www.ohchr.org/EN/UDHR/Pages/Language.aspx?LangID=vie> – Vietnamese and <http://www.un.org/en/documents/udhr/index.shtml> - English

Reading those articles together means that education cannot be provided on a discriminatory basis in relation to any status whatsoever.

States should, through education, promote understanding, respect, tolerance and non-discrimination in relation to persons living with HIV. This obligation is derived from Article 26 (2) which states that the provision of state education should strengthen the respect for human rights and freedoms.

Children and adults arguably also have the right to receive HIV-related education, particularly regarding prevention and care.

4. What to do if the right to education of PLHIV is violated?

There are different remedies available when the right to education of PLHIV is violated for example, if a member of school management makes a decision to expel a student from school because of HIV or demands a student to take a compulsory HIV test, this person can seek redress through different mechanisms.

Redress is available through:

- ▶ informal sharing of information and negotiation
- ▶ administrative law processes; and
- ▶ judicial processes (going to court).

The laws under which these processes can be accessed and the remedies available under these laws are listed below. The type of remedy that is sought is one of the factors which will determine which avenue a complainant should choose and which law they should use. Other factors include time, cost and the personal toll that legal proceedings often involve. Parents/legal guardians should carefully consider which way to pursue their case because each way has its advantages and disadvantages. It is strongly advised to see legal advice before making a decision.

4.1. Redress through informal sharing of information and negotiation

As a first step, the parents/legal guardians could write to or meet the school manager or headmaster and ask him/her to implement the law. Parents/legal guardians can ask someone on their behalf, such as peer counsellors and members of PLHIV self-help groups, legal service providers to help to draft a letter or to meet with school management/teachers in their place or to accompany and support them.

Case Study - Right to Education

Cong had a difficult beginning: he was born HIV-positive to parents who used injecting drugs and who were also living with HIV. When he was old enough to attend primary school, his parents brought him to the LX Primary School and asked the school to admit him. They informed the school that Cong was living with HIV and would require some extra care. This honest request caused them great difficulties. As soon as the school board knew Cong was HIV-positive they refused to accept him.

After his parents died, Cong's adoptive parents returned to the school many times, hoping to convince the board to admit him to school, but had no success. They did not know what to do. Luckily, they heard that their province had a legal aid clinic under the management of the Provincial Lawyers' Association and they went there to ask for help. The legal aid clinic informed the LX Primary School that based on the Law on Child Protection, Care and Education; the Education Law, the Law on HIV/AIDS Prevention and Control and Directive 61 on strengthening HIV prevention and control in the field of education, the school was responsible for fulfilling Cong's right to go to school. Now Cong goes to school like other children. He has a loving family who overcame major obstacles to give him the best care possible.

Text taken from "Legal Aid. Happiness for people living with HIV". (June, 2010)

Attitudes towards PLHIV in schools is most often a result of misinformation about the routes of transmission and this leads to severe stigma and discrimination. In some cases, the school board has been pressed by the parents of other pupils to expel the children living with HIV from the school. Therefore, in addition to persuading schools to implement the law, addressing the concerns of the parents of other pupils about HIV transmission is also very important and parents/legal guardians need to be prepared to do this.

☞ For more information on the routes of HIV transmission, please refer to chapter 1 and for more information on stigma and discrimination please refer to chapter 3.

In order to increase knowledge and understanding about HIV transmission, agencies and social organizations can be asked to help:

- ▶ The Viet Nam Authority of HIV/AIDS Control (VAAC) under the Ministry of Health and the provincial centres for HIV/AIDS control (PACs) under Departments of Health at provincial level are to help schools to conduct HIV preventive measures and take part in informational activities to raise awareness of HIV/AIDS.
- ▶ Departments of education at all levels can consider engaging members of PLHIV networks to visit school and talk to teachers and parents about HIV/AIDS on topics such as transmission and the issue of stigma and discrimination.²⁸

☞ For more detailed information and tips on how to prepare for and conduct informal discussions and negotiations, please refer to Chapter 12.

If this step is not successful, the parents/legal guardians have the right to choose either to make a complaint to the relevant administrative agency or to take the case directly to court.

²⁸ Ministry of Health (2007), National Action Programme on information, education and propaganda to change HIV / AIDS Prevention and Control Activities by 2010.

4.2. Redress through administrative agencies

The following decree sets out specific administrative sanctions in the case of a violation of the right to education:

Government Decree No. 69/2011/ND-CP on handling administrative violations in healthcare, prevention, medical environment and HIV/AIDS prevention and control

This decree states that schools that violate the right to education of PLHIV by basing admission to the school on HIV test results or dismissing students because they are HIV-positive or have an HIV - positive family member can be forced to:

- ▶ Accept PLHIV back into school (via an injunction);
- ▶ Pay a fine from 5 million VND to 10 million VND; and/ or
- ▶ School that discipline or expel students because of their HIV - positive status or because one of their family members is HIV - positive can be forced to:
 - ◆ Pay a fine from 10 million VND to 15 million VND
 - ◆ Re - admit PLHIV into school (via an injunction)

In order to address a violation of the right to education and obtain these types of remedies, a person living with HIV (or the parents/legal guardians in case of children living with HIV) shall pursue general administrative law processes.

This process starts by making a claim to the relevant state agencies. With respect to the right to education, the relevant agencies to whom a claim about a violation should be made are:

- ▶ The local People's Committee; or
- ▶ The Education and Training Department (at the provincial level) or Education and Training office (at the district level).

These agencies are responsible for considering and investigating the facts of the case and for making an administrative decision to resolve the case and enforce it against the violator. For instance, they can direct schools to admit children living with and affected by HIV, and to monitor to ensure that they are participating in all learning activities in school. They can also impose a fine against the school. The person who has had their rights violated does not personally receive any money.

If the claim is not resolved at the level of the District People's Committee, it can be referred to the Provincial People's Committee. If the claim is not resolved by the education office at the district level, it can be referred to the Department of Education at the provincial level, and if that fails, finally to the Ministry of Education.

In order to follow administrative process, asking for the help of legal service providers may be considered.

☞ For further detail on administrative law processes and mechanisms to protect rights, refer to chapter 12.

4.3. Judicial redress through the courts

A person living with HIV who has had their right to education violated can also choose to go to the District People's Court under the Civil Code and have the matter heard and determined by a judge. A judge has the power to:

- ▶ Order injunctions (for example to order that the child be accepted back into the school); and/or
- ▶ Personal compensatory damages to address the breach. That means that the person whose rights have been violated can receive money.

The person who wants to seek redress through courts must be aware that there are statutory limitations to applying the law (usually of two years). In other words, if one waits too long after the violating act occurs to ask for help from the courts, it could be too late.

Under the Civil Procedure Code (No. 24/2004/QH11), if the claimant disagrees with the decision of the local district people's court, he/she can appeal to a higher court, namely the provincial people's court.

☞ For further information on the process for going to court and an explanation of the types of judicial remedies available, please refer to chapter 12.



LESSON PLAN

Content	Methods	Activity Instruction	Materials	Time
The value of education	Group discussion	<ol style="list-style-type: none"> The facilitator asks the participants to write down three things that they like about school/university or three of their best memories about school/university. (3') The facilitator asks a few of the participants to volunteer to share their answers with the group. (3') The facilitator then asks each participant to cross out these statements and imagine they were never allowed to go to school or university. (1') The facilitator asks the participants to discuss their feelings about being told they cannot go to school and then write the answers on the white board. (2') The facilitator introduces the topic of the lesson and explains that many PLHIV face this problem and are often refused enrolment in schools or universities. (1') The facilitator asks participants whether their feelings on being told they could not go to school would be the same as the feelings experienced by someone living with HIV who is denied education. The facilitator finalizes this activity by giving a short lecture on the current situation in Viet Nam using information from part 1 of the chapter (Introduction). (5') 	Pieces of paper, Pens	15'
What does the 'right to education' mean?	Q & A, discussion	<ol style="list-style-type: none"> The facilitator divides participants into 2 groups and gives each group 4 cards with letters A, B, C, D on each card (Handout 1). (2') The groups discuss and choose the right answer to the question: "Where can people living with HIV get education?" (2') <ul style="list-style-type: none"> A. Only at special schools for people with HIV; B. Only at public schools; C. Only at private schools; D. All kinds of schools (correct answer) After two minutes, both groups must, at the same time, show their answer by raising the card with their chosen answer to the question when asked to do so by the facilitator. (4') The facilitator asks each group to justify their answer. (4') The facilitator then gives each group 7 cards (Handout 2) containing different education levels that people living with HIV can achieve. (2') 	Tape or other sticky material	20'

Content	Methods	Activity Instruction	Materials	Time
	Q & A Discussion	<ol style="list-style-type: none"> a. kindergarten, b. primary school, c. secondary school, d. high school, e. university f. masters, g. doctorate, <ol style="list-style-type: none"> The facilitator asks the participants to discuss each level of education and stick on the wall the answer card(s) they think are appropriate for PLHIV. (5') The facilitator summarizes the content, stressing that people living with HIV are legally entitled to study at all kinds of schools and at all levels. (5') <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ The participants may answer the question of where PLHIV can study by saying that PLHIV have the right to study, but to make people safe from HIV transmission, they should study in a special school. The facilitator should explain that PLHIV usually live healthy and happy lives and can and should integrate into the community. The facilitator should also give additional information about HIV transmission using information from Chapter 1 of this manual as necessary. The facilitator should understand and acknowledge that parents and school officials often feel frightened and overwhelmed by the idea of PLHIV in their school, but should still insist that educational institutions and educators must provide knowledge about HIV and HIV transmission and be part of the solution, not the problem, of discrimination against PLHIV. ☛ The doctorate level especially medical doctor may be the most sensitive topic - participants may ask how we can trust that doctors who are PLHIV can treat people safely while they themselves are sick. The facilitator has to clarify that PLHIV are not patients, just humans with HIV inside their bodies and not dissimilar to other viruses. For example, when you get chickenpox (varicella) the virus that caused chickenpox is still in your body after you get better and no longer have symptoms. A medical doctor's high level of education should mean that he/she will be a very knowledgeable person about how HIV is - and is not - transmitted, and therefore will treat people "safely." 	Handout 2	

Under standing Vietnamese and international law on the right to education for PLHIV	Game, Role-play, Group discussion	<p>1. The facilitator divides the participants into 6 groups (and names them Group 1, 2, etc.) (1')</p> <p>2. The facilitator gives each group two strips of paper cut from Handout 3, explaining they have part of a law and must find the other part by asking other groups until they find a match. (1')</p> <p>3. The groups have only three minutes to put completed provisions of the law on the board or flipchart (using sticky tape). (3')</p> <p>4. After all groups have finished, the facilitator asks each group to explain why they think "their" law is matched correctly. After all the groups have explained their choices, the facilitator corrects as necessary and summarizes the first activity. (10')</p> <p>5. The facilitator gives each group a strip of paper cut from Handout 4, listing one act prohibited by law. The facilitator explains that all participants of each group are to role-play the law, while the rest of the participants try to guess what the law says. Each group has 4 minutes to develop a 2-minute role-play based on the text on their paper. (5')</p> <p>6. Each participant group role-plays the act that is prohibited by law and the other participants try to guess what the act is. After each role play is finished, the facilitator asks all participants to discuss what they think the appropriate penalty for the school should be. (20')</p> <p>7. The facilitator will then tell Participants what are some of the penalties under the law for such actions. (5')</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ <i>In the first activity the facilitator needs to explain that there are many laws to protect the right to education of PLHIV. It's not necessary to give details about each law.</i> ☛ <i>The facilitator should not forget to mix the strips in the first activity in order to make sure that each group doesn't have 2 correct parts of a provision.</i> ☛ <i>The facilitator should make sure that after each role play, the prohibited act is understood by the participants.</i> ☛ <i>For the penalties under the law refer to Decree No.69/2011/NĐ-CP in Part 4 of this chapter.</i> ☛ <i>The facilitator should encourage open discussion as to what the participants feel the appropriate penalties should be for violating the law and why and should point out that the comments are opinions so there are no wrong or right answers.</i> ☛ <i>The facilitator may want to ask the participants what they believe the societal value is in having the legal penalties.</i> 	Handout 4, Handout 5	40'
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Mechanisms to protect rights	Case study Group discussion	<p>1. The facilitator divides the participants into small groups (no more than 5 participants to each group). (2')</p> <p>2. The facilitator gives each group a copy of the right to education case study about 'Cong' (a PLHIV denied school enrolment) contained in Part 4 of the chapter. The facilitator tells participants that this is a real story. (2')</p> <p>3. The facilitator instructs the participants to discuss the following questions in their groups (5'):</p> <ol style="list-style-type: none"> a. If they think the situation is fair for Cong b. If they think what the school did is against the law c. What the parents of Cong should do. <p>4. The facilitator asks the groups to present their answers. The facilitator asks one participant from each group to briefly write what they think Cong's parents should do on the white board. (10')</p> <p>5. The facilitator explains that the participants will return to this case study at the end of the lesson and discuss what Cong's parents did. (1')</p> <p>Facilitator tips/suggested answers</p> <ul style="list-style-type: none"> ☛ <i>The facilitator could consider using powerpoint presentation to better engage participants.</i> ☛ <i>The refusal of the school to enrol Cong is against the law (as noted in the laws described in this Chapter). Further information on this case can be found at p32 of Legal Aid: Happiness for People Living With HIV.³³</i> ☛ <i>If there are participants who think it is 'fair' that Cong should not go to school, the facilitator could ask all participants to remember how they felt in Activity 1 about crossing out their favourite memories and imagining never experiencing the things they like (d) about school. The facilitator could also briefly explain what the law says about education using the information in Part 2 of this Chapter.</i> ☛ <i>The facilitator must be respectful of the answers of the participants even if some feel it is "fair" that Cong should not go to school. However, the facilitator should try to stress, or have other participants explain why this is unfair. The facilitator may explain that more knowledge, especially about how HIV is (and is not) transmitted could help persuade people who might agree that it's fair that Cong not go to school to change their minds – but changing attitudes takes time as well as education.</i> 	-White-board Markers -Pens -Paper -Legal Aid: Happiness for People Living with HIV Handbook Handout 1 (Optional: Laptop, projector, and the slides for the Power Point).	25'
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Total Time

150'



Handout 1: Places where PLHIV can receive education

A Only at special schools for people living with HIV
B Only at public schools
C Only at private schools
D All kinds of schools



Handout 2: Levels of education that PLHIV can attain

Kindergarten	Kindergarten
Primary school	Primary school
Secondary school	Secondary school
High school	High school
University	University
Masters	Masters
Doctorate	Doctorate



Handout 3: Vietnamese and international laws

People living with HIV (PLHIV) have the right to have schooling and vocational training and
The right to work.
Children enjoy protection, care and education by the family,
The State and Society.
All citizens, regardless of ethnic group, religion, belief, sex, family background, social status or economic situation,
shall have the same education opportunity.
Children have the right
to education.
Families and the State have the responsibility of guaranteeing
the right to education of children.
Schools shall ensure the right to education, the right to work and the right to be integrated into the community for
PLHIV or affected by HIV



Handout 4: Prohibited acts of schools

- (1) Refuse to accept students because they are HIV-positive.
- (2) Punish or expel students from school because they are HIV-positive.
- (3) Separate, restrict or prohibit students from taking part in school activities because they are HIV-positive.
- (4) Ask students or enrollees to have HIV testing or to submit HIV testing results.
- (5) A school treats a teacher differently (discriminates against him/her) because he/she has HIV.
- (6) A school treats a student differently (discriminates against him/her) by making him/her eat lunch alone.



Handout 5: Prohibited acts of schools

Case Study - Right to Education³⁰

Cong had a difficult beginning: he was born HIV-positive to parents who used injecting drugs and who were also living with HIV. When he was old enough to attend primary school, his parents brought him to the LX Primary School and asked the school to admit him. They informed the school that Cong was living with HIV and would require some extra care. This honest request caused them great difficulties. As soon as the school board knew Cong was HIV-positive they refused to accept him.

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Taken from Legal Aid: Happiness and People Living with HIV at page 32-34

CHAPTER 7

HIV testing and counselling and the right to privacy

OUTCOMES

After this lesson, participants will be able to:



Knowledge

- (1) Understand what HIV testing and counselling are
- (2) Understand the law surrounding HIV testing and counselling
- (3) Understand that in the vast majority of cases, testing is voluntary
- (4) Understand the right of PLHIV to privacy under Vietnamese law
- (5) Understand the consequences and possible repercussions of violations of the right to privacy



Skills

- (1) Recognise when someone's right to privacy has been violated
- (2) Identify appropriate action to take following violations of privacy rights



Values

- (1) Understand why HIV tests are important for individuals and for the community as a whole
- (2) Recognize why it is important that PLHIV receive professional counselling.
- (3) Appreciate why it is important to respect the privacy of PLHIV

1. Introduction

An HIV test is the only way to determine a person's HIV status. Testing allows people to make informed decisions about their lives. If people test positive, they can take the necessary measures to adapt their lifestyle or change behaviors that would put them or others at risk, and a doctor can monitor their health and prescribe the needed therapy.

An 'HIV test' is a blood test. Within three months after exposure to HIV, the body will produce proteins-called "antibodies"-to fight the virus, however the antibodies are not fully effective against it. The presence of these antibodies in the blood is a clear sign that the person being tested is HIV positive.

It is recommended that a person get tested for HIV immediately after possible exposure. This first test will serve as a baseline. If a person know that he/she was negative before the exposure, a positive result will indicate that he/she has been exposed to the virus since the last test. If the test is negative, it does not guarantee that the person has not been infected. The person has to wait three months for a second HIV test to be sure³¹.

Although current HIV antibody tests are very sensitive, there is a window of 3 to 12 weeks between the HIV infection and the appearance of detectable antibodies to the virus. During this period, the person infected with HIV does not have antibodies in his/her blood that can be detected by a blood test, provides a false negative result. Therefore, the person would not know he/she is HIV-positive, and can transmit HIV to another person very easily during this time.

Despite the importance of HIV testing, people fail to get tested for HIV for many reasons: lack of access to HIV testing and counselling services, fear of stigma and discrimination, fear that the test will be positive, fear of disclosure, and lack of access to treatment. Many opportunities for increased access to treatment, care, support and prevention have been - and are being - missed.

In order to encourage people to be tested, privacy laws are critically important. They protect information by ensuring that it is kept confidential. In a medical setting, rules of privacy apply to any information concerning a patient and his/her medical condition.

Maintaining privacy is important because it ensures that individuals retain control over sensitive personal information. This is particularly important for PLHIV because of the social stigma attached to HIV. HIV-positive people are vulnerable to social exclusion and discriminatory behavior when their HIV status becomes public knowledge. Knowing that this information will be kept private therefore helps encourage people not only to be tested, but also to access appropriate medical assistance.

³¹ For further information please refer to WHO guidelines at <http://www.who.int/hiv/topics/vct/en/>.

Although Vietnamese law protects the right to privacy, the law is not always respected: sensitive information like a person's HIV status is sometimes illegally disclosed, with potentially damaging consequences to the individuals affected.

UNAIDS and WHO recommend that all testing should be conducted under the conditions of the "Three C's". It must be:

- ▶ Confidential
- ▶ Accompanied by counselling
- ▶ Only conducted with informed consent, meaning that it is both understood and voluntary.

In late 2010, the Viet Nam Authority for HIV/AIDS Control (Ministry of Health) was finalizing national guidelines for provider-initiated testing and counselling (PITC) at health-care facilities. HIV testing by health care providers will routinely be offered to certain patients (TB patients, pregnant women, etc). This kind of testing must also comply with the 3Cs.

2. Current law in Viet Nam

2.1. Vietnamese laws relating to HIV testing

Law on HIV/AIDS Prevention and Control (No. 64/2006/QH11)

- ⌘ **Article 27** states that:
 - ▶ HIV testing shall only be conducted on the basis of 'voluntariness' of persons to be tested. That means the test should be done voluntarily and with their informed consent.
 - ▶ Persons who voluntarily seek HIV testing must be 16 years or older and have full civil act capacity³².
 - ▶ HIV testing of persons under 16, or persons who have lost their civil act capacity may only be conducted when there is written consent of his/her parent or guardian.
- ⌘ **Article 14** relates to HIV & AIDS prevention and control in the workplace and it states that "employers shall not be allowed to request a job applicant to have an HIV test or produce an HIV test result".
- ⌘ **Article 15** relates to HIV & AIDS prevention and control in educational establishments within the national education system and states that "educational establishments shall not be allowed to request a student, participant or a candidate to have an HIV test or produce an HIV test result".

³² According to article 17 of the Civil Code of the Socialist Republic of Viet Nam, the capacity for civil acts of individuals is defined as: "The capacity for civil acts of an individual shall be the capability of the individual to establish and exercise civil rights and perform civil obligations through his or her acts".

Decision No. 647 on Promulgation of Voluntary HIV Counselling and Testing

This document also states that HIV testing must be voluntary.



Exceptions to the 'voluntariness' rule

However, it is important to note that there are exceptions to the 'voluntariness' rule which means that people can be forced to undergo tests, as explained below:

Law on HIV/AIDS Prevention and Control (No. 64/2006/QH11)

⌘ **Article 28** states that:

- ▶ Compulsory HIV testing shall be conducted in cases where there is an official request for judicial appraisal or a decision of an investigative body, a people's procurer or a people's court.
- ▶ The Minister of Health shall issue regulations on compulsory HIV testing in certain necessary cases for diagnosis and treatment purposes.
- ▶ The Government shall issue a list of occupations and professions requiring HIV testing before recruitment.

Decree No. 108-2007-ND-CP

This decree details the list of occupations requiring HIV testing before recruitment.

⌘ **Article 20(1)** says that there are two categories of job which require applicants/employees to take an HIV test before recruitment. They are:

- ▶ Aircrew members, defined as those who control airplanes, including pilots and flight attendants (Article 72 of Viet Nam Airline Law 2006);
- ▶ Special jobs in the field of security and defense.

Therefore, except in the cases mentioned above, everyone has the right to refuse HIV testing.

2.2. Vietnamese laws relating to HIV counselling

Law on HIV/AIDS Prevention and Control (No. 64/2006/QH11)

Under law, counselling should always be offered before and after someone has an HIV test. Counselling is an opportunity to educate patients about HIV prevention, provide information about where to get medical care and where to seek support and it also helps people come to terms with their status and deal with any associated problems.

⌘ **Article 26** provides that:

- ▶ Counseling shall be provided to all cases of HIV testing before and after testing.
- ▶ HIV testing establishments shall be responsible for organizing pre-test and post-test counselling.
- ▶ Only staff who have been trained in counselling on HIV/AIDS prevention and control shall be allowed to provide pre-test and post-test counselling.

Decision No. 647 on Promulgation of Voluntary HIV Counselling and Testing

This decision provides guidelines and standards for the operations of VCT services and clinics. VCT key principles include privacy and voluntariness.

- ▶ Special provisions exist for pregnant women, including pre-test counselling sessions.
- ▶ Counselling will be provided for anyone who takes an HIV test, both before and after testing, and will be organized by HIV-testing clinics.
- ▶ During a pre-test counselling session, the counselor will: explain the privacy of the test; discuss the patient's risk of exposure to HIV; explore and negotiate options for reducing the risk of HIV infection; prepare the patient for the HIV test; and describe the benefits and challenges of anonymous and confidential testing options.
- ▶ Post-test counselling will be provided for patients with both positive and negative test results. Follow-up counselling sessions may also be provided, subject to the needs and requests of individual patients. During these sessions counselors will provide sympathy and support to HIV-positive patients and refer them to appropriate medical and socio-psychological services.



2.3. Vietnamese laws protecting the right to privacy of PLHIV

Law on HIV/AIDS Prevention and Control (No. 64/2006/QH11)

- ⌘ **Article 4** states the general rule that PLHIV have the right to have their privacy related to HIV & AIDS respected
- ⌘ **Article 8** expands on the general privacy rule and prohibits making public the name, address and image of a PLHIV or disclosing information on a person's HIV infection to another without their consent.
However, despite the existence of a general rule to privacy, there are important exceptions to this prohibition on disclosure.
- ⌘ **Article 30** specifies that HIV tests results are to be disclosed to the following specific people:
 - ▶ Tested persons;
 - ▶ Spouses of tested persons, parents or guardians of tested persons who are minors or who have lost their civil capacity;
 - ▶ Staff members who are assigned to provide direct counselling and inform tested persons of positive test results;
 - ▶ Persons who are responsible for providing care and treatment for PLHIV at medical establishments, including: heads of medical departments or wards; chief convalescence workers at establishments where PLHIV are treated; and health workers who are assigned to directly provide treatment and care for HIV-infected people;
 - ▶ Directors, medical officers and staff who are assigned to directly take care of PLHIV in medical treatment establishments, educational establishments, reformatories, social relief establishments, prisons or detention camps;
 - ▶ Heads and authorized persons of agencies defined, Article 28(1) of this law.
- ⌘ **Article 30** further explains that those people are 'responsible for keeping positive HIV test results confidential'. That means once they have been told, they cannot tell anybody else.
- ⌘ **Article 4** also outlines the obligations that PLHIV have, one of which is to inform their positive HIV test result to their spouse or fiancé/fiancée.

Furthermore, medical professionals, workers who give HIV tests, or persons working with HIV test results must report to the provincial/district health department certain information about cases of people who test positive for HIV. The provincial/district health department next tells the Ministry of Health. It is important for governments and health professionals around the world to know how many people have HIV, the locations where people are getting HIV, and the behaviors people engaged in that put them at higher risk. The report should not include the person's name, address, or any information to identify the person; only basic information like gender, date of birth, and the behaviors people engaged in that put them at higher risk. This information helps doctors understand HIV and how to help stop this disease. It is important to understand that reporting does NOT mean that the results of a person's HIV/AIDS test are made public in any way. A person's privacy is maintained at all times.

3. The right to privacy of PLHIV under international law

PLHIV in Viet Nam also have their privacy rights protected through international law, and this law can be used alongside Vietnamese laws guaranteeing similar rights and protections. Viet Nam is a member of the United Nations and has ratified the key international instruments recognizing human rights. When enacting and implementing domestic legislation, governments must take into consideration their obligations under international law to respect, protect and fulfill the human rights obligations that are set out in the ratified international human rights treaties and other relevant instruments. The right to privacy is guaranteed under the international human rights treaties ratified by Viet Nam.

Universal Declaration of Human Rights (UDHR)³³

The UDHR sets out rights belonging to all human beings. It has become the basis for a number of international treaties and other laws relating to human rights.

- ⌘ **Article 12** refers to the right to privacy and states that no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

International Covenant on Civil and Political Rights (ICCPR)³⁴

The right to privacy, as defined above, is specifically outlined in Article 17 of the ICCPR. This creates binding obligations on signatories, such as Viet Nam, to respect this right.

4. What should PLHIV do if their right to testing, counselling or privacy is violated?

There are different available remedies when the right to testing, counselling or privacy of PLHIV is violated. Redress is available through:

- ▶ informal discussions and negotiation
- ▶ administrative law processes; and
- ▶ judicial processes.

³³ <http://www.ohchr.org/EN/UDHR/Pages/Introduction.aspx>

³⁴ <http://www2.ohchr.org/english/law/ccpr.htm>

The laws under which these processes can be accessed and the remedies available under these laws are listed below. The type of remedy that is sought is one of the factors which will determine which avenue a complainant should choose and which law they should use. Other factors include time, cost and the personal toll that legal proceedings often involve. A PLHIV should carefully consider which way to pursue his/her case because each way has its advantages and disadvantages. It is strongly advised to seek legal advice before making a decision.

☞ For further detail on each type of legal process and the remedies they provide, please refer to Chapter 12.

4.1. Redress through informal discussions and negotiation

As a first step, a person living with HIV whose right has been violated can take the complaint directly to the violator (or, if there is one, to the governing body at the institution where the violator works, for example the Board of Directors or Committee of Management) either personally or with the assistance of a specialist HIV legal services or legal aid clinics who assist complainants to contact relevant people, draft letters and attend meetings. This is often a successful, time and cost effective way to solve the problem.

If informal discussions are not successful, a PLHIV has the right to choose either to make a complaint to the relevant administrative agency or to take the case directly to court.

☞ For more detailed information and tips on how to prepare for and conduct informal discussions and negotiations, please refer to Chapter 12.

4.2. Redress through administrative agencies

The following decree sets out what specific remedies are available when administrative law processes are used in the case of a violation of the right to testing, counselling or privacy:

Government Decree No. 69/2011/ND-CP on handling administrative violations in healthcare, prevention, medical environment and HIV/AIDS prevention and control

λ Article 18(5)(b) stipulates that a fine from 15 milion - 20 milion VND will be issued as punishment against individuals or organizations that disclose the HIV status of a PLHIV without permission. A public apology on the mass media may be required.

In order to address a violation of the right to testing, counselling or privacy and obtain a remedy, a person living with HIV shall pursue general administrative law processes. This process starts by making a claim to the relevant state agencies. With respect to the right to health, the relevant agencies to whom a claim about a violation should be made are:

- ▶ the local People's Committee; or
- ▶ the Department of Health (at the provincial level) or healthcare office (at the district level).

These agencies are responsible for considering and investigating the facts of the case and for making an administrative decision to resolve the case and enforce it against the violator. For instance, they can also impose a fine against the hospital or a newspaper that publish the name of a person living with HIV without his/her consent. The person who has had their rights violated does not personally receive any money.

If the claim is not resolved at the level of the District People's Committee, it can be referred to the Provincial People's Committee. If the claim is not resolved by the healthcare office at the district level, it can be referred to the Department of Health at the provincial level, and if that fails, finally to the Ministry of Health.

In order to follow administrative process, asking for the help of legal service providers may be considered.

4.3. Judicial redress through the courts

Under the Civil Code, a PLHIV who has had their right to testing, counselling or privacy violated can also choose to go to the District People's Court and have the matter heard and determined by a judge. A judge has the power to:

- ▶ order injunctions (for example to order that the PLHIV be treated); and/or
- ▶ personal compensatory damages to address the breach. That means that the person whose rights have been violated can receive money.

PLHIV must also be aware that there are statutory limitations to applying the law (usually one year). In other words, if the person waits too long after the violating act occurs to ask for help from the courts, it could be too late.

Under the Civil Procedure Code (No. 24/2004/QH11), if the claimant disagrees with the decision of the local District People's Court, he/she can appeal to a higher court, namely the Provincial People's Court.

☞ For further information on the process for going to court and an explanation of the types of judicial remedies available, please refer to Chapter 12.



LESSON PLAN

Content	Methods	Activity Instruction	Materials	Time
Introduction to HIV testing and counselling	Interactive game "Finding the Conductor"	<p>1. The facilitator calls for a volunteer participant, and asks this volunteer to leave the room for a minute. (1)</p> <p>2. The facilitator then chooses a "conductor" from among the rest of the participants. The participants will move around in a circle and do whatever action the conductor does -- while trying to keep the identity of the conductor secret from the volunteer participants. The conductor must change the action every five seconds. (2)</p> <p>3. The facilitator asks the volunteer participant to come back in and stand in the middle of the circle. The facilitator explains that the actions of the circle will change and the volunteer should try to determine who the "leader" or "conductor" is who is deciding what actions the others should follow. When the facilitator gives the start signal, the participants circle around the volunteer and continues to follow the conductor's actions without letting the volunteer know who the conductor is. The volunteer must watch all the participants and guess who the conductor is. If the volunteer correctly identifies the conductor, the volunteer has a reward (e.g. a candy). If not, all the other participants have a reward. (4)</p> <p>4. The facilitator asks participants about meaning of this game and then sums up. (3)</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ The facilitator should ensure that the volunteer participant cannot see or hear anything when he/she is out. ☛ The meaning of this game should include: You cannot know who has HIV just by looking at them (in case they do know if someone has HIV) is by testing. Because it can take up to 3 between the time someone is exposed to HIV and the time HIV antibodies appear in their blood, HIV testing should be done two or more times, three months apart, using two or more separate blood samples). ☛ The facilitator should explain that the game also shows the importance of keeping information private. If the participants in the circle don't disclose who the conductor is, it will be very difficult for the volunteer to guess. However, if one of them discloses the information, it has an immediate and negative impact on the conductor. 	Candies	10'

What is an HIV test?	Q & A, Power point, drawing,	<p>1. The facilitator asks participants what an HIV test is, how it is given, how accurate it is and how many are needed. (5)</p> <p>2. The facilitator asks how long it takes before antibodies appear in a person's blood after exposure to HIV. (2)</p> <p>3. The facilitator divides the participants into small groups of 3-4 people, and gives each group 4 cards:</p> <ul style="list-style-type: none"> ▶ Possible exposure ▶ HIV enters body ▶ "Window" period ▶ Initial HIV testing <p>4. The facilitator asks each group to stick the 4 cards on a time line (a line drawn on the board or on A0 paper) in the correct order. (3)</p> <p>5. The facilitator asks a representative of each group to show their group's timeline and explain/justify it, in turn. Then, the facilitator asks if everyone agrees and has groups "correct" one another. Finally, the facilitator shows a correct timeline. (3)</p> <p>6. The facilitator sums up this activity with a short lecture about HIV testing from the content in Part 1. (5)</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ The facilitator should ensure that answers to the opening questions include: People who are at risk for HIV must be tested regularly. The HIV test is an HIV antibody test. As the body fights viruses, the immune system creates antibodies to that virus. HIV antibody tests do not measure or detect the virus itself but instead look for the body's reaction to the virus - the presence of antibodies to HIV. The time it takes an antibody to appear in the blood can be 3-6 months. For this reason, people who suspect they have been exposed to the virus should get another test three months later to confirm their status. ☛ Facilitator could find a drawing or photo of an HIV antibody and show it to the participants. 	Laptop and led projector, OHP or poster board, photo/drawing of an HIV antibody, Marker, Whiteboard, A0 paper	20'
PLHIV and the right to counselling for HIV test	Role play, Q & A, Group discussion, Lecture	<p>1. The facilitator chooses 4 participants to role play the scenario and tells them the role play will be no longer than 3 minutes (Handout 1). (5)</p> <p>2. Participants do the role play. (3)</p> <p>3. The facilitator asks the participants what they think the role play means and what they think about the idea of a counsellor helping Hien. (5)</p> <p>4. The facilitator lectures about counselling for PLHIV and the relevant law in Viet Nam. (5)</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ The facilitator should make sure the participants focus on the way the counselor helped Hien and the fact that prior to her receiving the counseling she did not know what her rights were or what services were available to her and therefore believed she would die, making her very depressed. ☛ The information for the lecture is located in section 2.2 of this chapter. 	Handout 1	20'

Privacy rights of PLHIV and the law in Viet Nam	Lecture, Group work "Sentence Action"	<p>1. The facilitator divides participants into 2 groups. (1-2')</p> <p>2. Each group is given a copy of Handout 2, one A4 paper, a pen and 100 dollars in play money. (1-2')</p> <p>3. The facilitator explains that the handout contains a number of sentences about Vietnamese law on privacy and PLHIV. Some of the sentences are true and some are false. The groups must compete to buy the most correct sentences. The participants should spend \$ 100 to buy the correct sentences instead of saving their money. (2')</p> <p>4. The facilitator reads each sentence individually and writes them on the whiteboard. The groups have one minute only to decide if the sentence is true or false and, if true, how much they want to pay for it. They must write down their price without revealing it to the other groups. (10')</p> <p>5. After finishing all statements, both groups must reveal how much they paid for each sentence at the same time. If the sentence is true, the group that paid the most hands over their money and receives one point. If either team thinks a false statement is true, they should lose the money they "bid" on that statement. The group that has the most points when all the sentences have been "sold" is the winner. (5')</p> <p>6. At the end of this activity, the facilitator reviews each sentence, adding and explaining in more detail. (5')</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ The facilitator should prepare the list of laws on privacy of PLHIV from the lesson content. Facilitator may add the picture and comic picture related to the laws to make presentation look interesting and clear. If there is no projector or computer, facilitator should print out a copy of the computer screen and put it up on the board or on a flipchart. ☛ The facilitator should make sure the time limits are respected. ☛ The facilitator should make sure all participants in each group are involved in the activity. ☛ For questions 4 and 5, participants are 'correct' if they explain their 'false' answer with the information in brackets. <p>True/false answers :</p> <ol style="list-style-type: none"> 1. True 2. False 3. False 4. True (however in some types of employment [air crew and the military] this is allowed) 5. True 6. False 7. True 8. False (it is only criminal if the action threatens the health, life or dignity of the PLHIV) 	Laptop, LCD projector (A0 paper if no laptop and projector), Pictures and comic included in lesson plan, Fake money or objects to be used as money (e.g., paperclips), Handout 2, A4 paper and pen for each group, Watch to keep the time	30'
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Legal obligation of PLHIV to inform their spouse and fiancé/e about their HIV status	Debate "Take a Stand"	<p>1. The facilitator explains that PLHIV have a legal obligation to inform their spouse or fiancé/e of their HIV status. (5')</p> <p>2. The facilitator divides class into two groups and explains that they are going to debate the advantages and disadvantages of disclosing HIV status to a spouse or fiancé/e. (1')</p> <p>3. The facilitator assigns one group to agree with the law (Group 1), the other to disagree (Group 2). They must argue this side even if they personally disagree with it. They can only speak about information from the handout. (1')</p> <p>4. The facilitator draws a line (real or imaginary) down the middle of the room and Groups 1 and 2 stand on opposite sides of the room facing each other. (1')</p> <p>5. Participants will speak for their group, in the following order: Group 1 Speaker 1, Group 2 Speaker 1, Group 1 Speaker 2, Group 2 Speaker 2 and so on. (12')</p> <p>6. When the debate is finished, the facilitator tells participants they have 30 seconds to decide if they should be on the other side of the room or stay where they are – reminding them that one side is advantages and the other disadvantages of disclosing your status to your spouse or fiancé/e. Those who change sides will have to say "why". (1')</p> <p>7. Individual participants can now take the opportunity to express their individual point of view. (5')</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ The facilitator should make sure to state clearly the issue raised in the debate, that is although PLHIV have a right to privacy in public -- within society, their community, their workplace and even within their family -- in their private lives, they have an obligation not to put another person's health at risk and they have a legal obligation to inform their spouse or fiancé/e of their HIV-positive status. ☛ The facilitator should make sure to inform the participants that there is no one "right" answer in a debate and that their opinion on this topic is the opinion of many other people. However, during the debate the facilitator must keep speakers focused on the information they were given in the handout. <p>List of the advantages and disadvantages of the law:</p> <ul style="list-style-type: none"> ▶ Advantages <ul style="list-style-type: none"> ◆ Disclosure is an important public health goal. It encourages partners to be tested and change behavior to decrease the risk of transmission. ◆ It may encourage PLHIV to access medical services. ◆ It may increase opportunities for social support. ▶ Disadvantages <ul style="list-style-type: none"> ◆ The privacy of the PLHIV (as protected under domestic and international law) is compromised. Should people be forced to disclose something about themselves if they don't want to? ◆ PLHIV fear and risk being discriminated against. If they disclose their status, they may suffer violence, loss of economic support, abuse, abandonment and social isolation, stigma, breaking-down of family relationships, etc. ◆ The law only relates to a spouse or fiancé/e. Should it extend to other people who are in contact with PLHIV? Do other people, such as casual sexual partners, have a right to know? Can you make spouses and other people respect your privacy by not telling anyone else? 	A chart of legal obligations of PLHIV to inform their spouse or fiancé, Universal Declaration of Human Rights (the right to privacy section - Article 12)	25'
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The consequences of violating the privacy rights of PLHIV	Game "Hand-Ball", Group discussion.	<p>1. The facilitator gives each participant a ball (tennis ball). All balls are stuck with a piece of paper. Some balls are marked with an X sign under the piece of paper. All participants have 30 seconds to find out if their ball is marked X by peeling and then sticking the piece of paper back again immediately. The facilitator asks one participant to watch this process and try to remember whose balls are marked X. (5)</p> <p>2. Each participant is given one chance to roll their ball into a goal (made by 2 chairs or other things). (1)</p> <p>3. The facilitator asks a participant to play goal keeper. The goal keeper has to keep out all X balls with a stick. The participant who watched everyone peeling the pieces of paper must stand beside the goal keeper and tell him/her which balls should be kept out. (10)</p> <p>4. The facilitator explains the meaning of this game. (5)</p> <p>5. After explaining the meaning of the game the facilitator leads a short group discussion on what lessons can be learned from this game and how to overcome the problems presented by the game. (10)</p> <p>6. The facilitator should ask 2-3 of the participants to summarize how to overcome the problem. Other participants can assist if help is needed. (5)</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ The facilitator must tell the participants not to throw or kick the ball. ☛ The explanation of the meaning of this game should include: The X balls represent PLHIV. The goal keeper represents the stigma or discrimination that prevents PLHIV from integrating into the community (the goal). The main point is: the disclosure of which ball is marked X by a person who may or may not have the information right (like gossip) violates the right to privacy. And other point is the misinformation can lead wrongly identifying a PLHIV and maybe cause the discrimination to him/her. ☛ The facilitator should explain more about the consequences of violating the privacy rights of PLHIV. The balls represent people at risk when they are kicked out. ☛ To overcome the problem, it's very important to change attitudes in the community about PLHIV. Education about how HIV is transmitted is essential. Communities must understand that they are not at risk if PLHIV keep their status private and they will be responsible for informing their husband/ wife/ fiancée about their test result. Secondly, PLHIV need encouragement to integrate into the community. 	Tennis balls (one per participant), Pieces of paper stuck on the balls, A stick	40
Mechanisms to protect rights		For lessons on mechanisms to protect rights, please refer to Chapter 12 of this manual.		15'
Social services	Handout	The facilitator should refer to the Appendix No. 4 of this manual for possible handouts for participants.		5'
Evaluation of lesson	Completion of form	The facilitator should give each of the participants a feedback form for this lesson. See evaluation form in Appendix No. 5.	Evaluation form	5-10'
Total Time 185'				



Handout 1 (Role play)

People:

- 1) Hien 2) Doctor 3) Counsellor 4) Friend

Role Play Facts Scenario:

Hien goes to her doctor and requests an HIV test. The doctor talks with her to ease her anxiety, explains the benefits of testing and counseling and gives Hien an overview of the exact procedure of HIV testing, so that she can make an informed decision by herself. Hien decides to do the HIV test. 3 weeks later Hien comes back for the results of the test but the doctor is not there to give her the results. Instead she is given a piece of paper that says she is HIV-positive. No one speaks to her about this at the doctor's office and she becomes very upset. Hien goes home and does not know what to do. She becomes more and more upset and begins to tell people that she is now going to die. Hien becomes very depressed and for 1 month is not able to work or do anything productive.

Then, one day, Hien shares her status with her best friend; fortunately, the friend knows the address of the counselling service. Hien goes there and has a warm, welcoming talk with a counsellor. Hien finds out that she has the right to professional counselling and goes to see the counsellor regularly. The counsellor helps Hien discover how to live with HIV and how to take advantage of the services that are available to her.

Another month goes by and Hien is back to being much happier. She is able to work. She is following doctor's orders about taking her medicine and she is no longer depressed.



Handout 2

"Sentence Auction"

1. It is illegal to reveal the name, address or image of someone living with HIV without their permission.
2. People living with HIV do not have to tell their spouse or fiancé that they have HIV.
3. All employers are allowed to ask their employees or job applicants to take an HIV test.
4. It is illegal in most cases for employers to ask their employees about their HIV status.
5. Parents or guardians are entitled to know the result if a child under 16 in their care is tested for HIV.
6. Compulsory HIV tests are always illegal.
7. People who breach (break) the privacy of someone living with HIV can be fined.
8. People who breach (break) the privacy of someone living with HIV can be charged under criminal law in all cases.

CHAPTER 8

Right to work of people living with HIV

OUTCOMES

After this lesson, participants will be able to:



Knowledge

- (1) Understand the right to work for PLHIV
- (2) Understand how Vietnamese law protects PLHIV in their employment



Skills

- (1) Know what to do if the employment rights of PLHIV are violated
- (2) Identify the responsibilities of an employer in relation to workers living with HIV
- (3) Identify conflicting rights between employers and employees
- (4) Know what to do if the employment rights of PLHIV are violated



Values

- (1) Understand the importance of the right to work for PLHIV
- (2) Recognize that PLHIV should not be discriminated against in their employment because of their HIV status

1. Introduction

People living with HIV (PLHIV) have the same rights as everyone else, including the right to work. The right to work is one of the most important rights of human beings. Through working, people are able to provide for themselves an adequate standard of living and fulfill their human potential.



Many PLHIV in Viet Nam face discrimination in their employment. The following are cases in which people lost their jobs because they were HIV-positive:

Case Study 1

Anh was a nursery school teacher in the same school for ten years. She had an excellent record and good relationships with her students. Nevertheless, when the school board learned that she was living with HIV, Anh was removed from her teaching position and assigned to be an 'assistant to the headmaster' – a job in name only.³⁵

Case Study 2

Mr. T, a dynamic union secretary, had a good relationship with his co-workers. But when people found out that he was HIV positive, the company manager began accusing him of not completing his tasks. Even a close colleague, with whom he had shared many things in work and life, did not want to meet and talk with him anymore. Even though the company did not actually fire Mr. T, eventually he felt forced to resign.³⁶

Case Study 3

Mr H said: "I work in a bank. Just one day after the company found out that I am living with HIV, the director called me and ordered me to be immediately moved from the credit department to the administration department. My colleagues dare not touch my glass with their hands. Everyone is nervous when talking to me. I cannot stand the pressure, I will resign, turn off the phone, stop having contact with anyone and wait to die."³⁷

³⁵ CCLPHH (2010), *Legal Aid: Happiness for People Living with HIV*

³⁶ <http://vietbao.vn/Viec-lam/Nguoi-lao-dong-nhiem-HIV-bi-ky-thi/40057791/271/>

³⁷ <http://vietbao.vn/Viec-lam/Nguoi-lao-dong-nhiem-HIV-bi-ky-thi/40057791/271/>

Discrimination within the workplace is a common problem. Many PLHIV disclose that when their colleagues discover they are HIV positive in the workplace, they distance themselves due to fear of HIV transmission. This alienation sometimes pushes PLHIV to resign from their work. It is therefore important that there is a strong enforceable legal framework so the right to work of PLHIV is safeguarded. It is also critical that employers receive and disseminate to their employees meaningful and comprehensive information about how HIV is transmitted so colleagues are no longer fearful of getting HIV while working with PLHIV.

2. The right to work of PLHIV under Vietnamese law

2.1. The right to work of PLHIV

Vietnamese laws relating to the right to work of PLHIV:

- ✂ 1992 Constitution of Socialist Republic of Viet Nam (as amended in 2001)
- ✂ Labor Code of Socialist Republic of Vietnam (as amended and supplemented in 2002, 2006 and 2007)
- ✂ Law on HIV/AIDS Prevention and Control (No. 64/2006/QH11)

Right to work of PLHIV	Source of rights	What it means
Work is the right of all citizens	Article 55, Vietnamese Constitution	All citizens over 15 years of age have the right to work in certain specific fields. 18+ year olds have the right to work in all lawful fields. Nobody has the right to prevent any citizen from exercising their right to work.
PLHIV have the right to choose freely the type of work or trade they wish to pursue	Article 5(1), Labor Code	PLHIV can do any type of work they want just like other people. No-one can prohibit PLHIV from doing any work because of their status.
PLHIV have the right to learn a trade	Article 5(1), Labor Code	PLHIV have a right to equal access to employment/job training as other people.
PLHIV have the right to improve their professional skills	Article 5(1), Labor Code	PLHIV have the right to study, attend training workshops and employ other ways to improve their professional skills.
PLHIV have the same right to work and choose their work without being discriminated against on the basis of their gender, race, social class, beliefs, or religion	Article 5(1), Labor Code	PLHIV have the same right to work as all other people. If employees are fired due to their HIV status, employers can be forced to re-employ them and place them in a suitable position.

2.2. Employer obligations to protect the right of PLHIV in the workplace

Source of obligations	Obligation	Are not allowed to...
Article 14(1)(a), Law on HIV/AIDS Prevention and Control	Organizing information and education on HIV&AIDS prevention and control measures and anti-stigmatization and anti-discrimination measures in the agency, organization or people's armed force unit	Terminate the labor or job contract of an employee or cause difficulties to this person in his/her work on the ground that the person has HIV
Article 14(1)(b), Law on HIV/AIDS Prevention and Control	Arranging jobs suitable to the health and professional qualification of workers with HIV	Force a physically fit employee to change the job he/she has been doing on the ground that the person has HIV
Article 14(1)(c), Law on HIV/AIDS Prevention and Control	Facilitating employees' participation in HIV&AIDS prevention and control activities	Refuse to give a salary raise to or to promote an employee, or fail to ensure his/her legitimate rights or benefits on the ground that the person has HIV
Article 14(1)(d), Law on HIV/AIDS Prevention and Control		Request a job applicant to have an HIV test or produce an HIV test result, or refuse to recruit a person on the ground that the person has HIV, except for the case specified in Article 28(3) of this law



3. The right to work of PLHIV under international law

Viet Nam is a member of the United Nations and has ratified (signed and agreed to) key international instruments recognizing human rights. This means that Viet Nam has committed to respect, protect and promote the rights set out in those international documents. To show that they agree with these rights and are serious about protecting them, Vietnamese government must take these rights into consideration when drafting and implementing its domestic legislation. The right to work is specifically protected in international law. In practice, this means that PLHIV in Viet Nam also have their rights to work protected through international law and this law can be used alongside Vietnamese laws guaranteeing similar rights and protections.

Universal Declaration of Human Rights

✂ **Article 23** sets out the right to work:

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

International Convention on the elimination of all forms of racial discrimination

✂ **Article 5.** In compliance with the fundamental obligations laid down in Article 2 of this convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- ▶ Economic, social and cultural rights, in particular:
- ▶ The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;

International Covenant on Economic Social and Cultural Rights

✂ **Article 6**

- ▶ The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

- ▶ *The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.*

⌘ **Article 7**

- ▶ *The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:*
 - ◆ *Remuneration which provides all workers, as a minimum, with:*
 - *Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;*
 - *A decent living for themselves and their families in accordance with the provisions of the present Covenant;*
 - ◆ *Safe and healthy working conditions;*
 - ◆ *Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;*
 - ◆ *Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.*

These international laws stipulate the right of every person to access employment without any discriminatory precondition (including HIV testing), except for the necessary occupational qualifications. The right to work includes the right of every human being to decide freely to accept or choose work. It also implies the right not to be unfairly deprived of employment.

States must ensure that PLHIV are allowed to work as long as they can carry out the functions of their jobs. PLHIV are entitled to equal access to existing sickness and disability schemes including when they are no longer able to work. States' obligations to prevent all forms of discrimination in the workplace, including on the grounds or HIV, should be extended to the private sector.

In June 2010, government, employers' and workers' representatives from the Member States of the International Labor Organization (ILO) adopted the Recommendation Concerning HIV and AIDS and the World of Work (R200)³⁸. The new labor standard is the first human rights instrument to focus on HIV/AIDS in the world of work, and calls for the world's workplaces to play an unprecedented role in ensuring that PLHIV have access to quality jobs and the same social security benefits as other workers. The standard calls for the delivery of workplace safety and health and HIV prevention, care and treatment to all workers and their families/dependents, and in all labor forms or arrangements including formal and informal sector workers, sex workers, migrant workers and people in the uniformed services.

38 <http://www.ilo.org/ilolex/cgi-lex/convde.pl?R200>

4. What to do if the right to work of PLHIV is violated

There are different available remedies when the right to work of PLHIV is violated. Redress is available through:

- ▶ Informal discussions and negotiation
- ▶ Administrative law processes; and
- ▶ Judicial processes.

The laws under which these processes can be accessed and the remedies available under these laws are listed below. The type of remedy that is sought is one of the factors which will determine which avenue a complainant should choose and which law they should use. Other factors include time, cost and the personal toll that legal proceedings often involve.

For further detail on each type of mechanism to protect rights, please refer to Chapter 12.

4.1 Viet Nam Labor Code (as amended in 2006)

Mechanisms to deal with violations of the right to work are set out in specific legislation, namely the Viet Nam Labor Code, which is the main piece of law dealing with labor matters. Therefore, this part describes the types of remedy available and the process of seeking these remedies under this Code. It provides remedial mechanisms through informal discussions, administrative law processes and judicial processes.

Under the Code, if an employer unlawfully terminates a labour contract, the employer has an obligation under law to offer to reinstate the terminated employee into their old job in accordance with their old contract and compensate him/her for loss of earnings plus at least two month's salary.

If the employee does not want to return to work for the employer, he/she will be entitled to receive severance plus compensation.

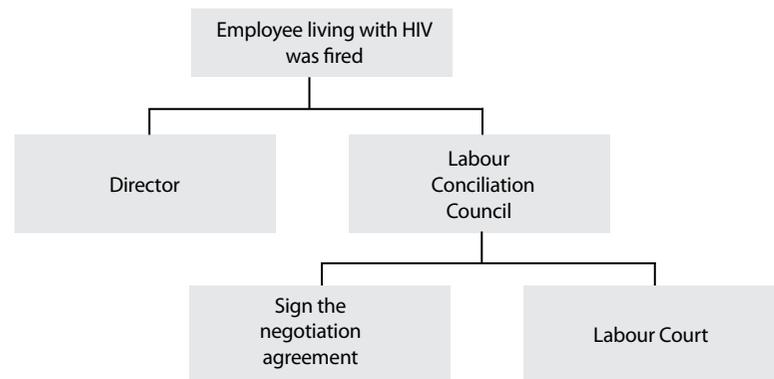
If the employer does not want the employee to return to work, the employer will be obliged to pay the employee severance pay and compensation (as set out above) and an additional amount to compensate the employee for agreeing to terminate their labour contract. In practice, the employee could make use of this provision to ask for a high compensation amount in return of his/her agreement to terminate their labour contract.

In order to resolve a labor dispute under the Code, several processes can be followed as previously mentioned. They are negotiation, conciliation or court proceedings.

Each of these processes are further described below. According to the Code the first two options should be prioritized:

⌘ **Article 159**

1. Agencies and organizations shall create favorable conditions for the two parties to settle their disputes through negotiation and conciliation to ensure their interests, production and business stability and social safety and order.



4.1.1 Negotiation

If an employee who has worked for a company is illegally fired because he/she is HIV positive, the employee can appeal the decision to the director of the company and ask for the remedies provided for under law as noted above. For assistance in this process, an employee can seek the assistance of a lawyer. Some lawyers can provide legal advice and representation for free, for example in Legal Consultation Centres, including some university law clinics. It is not mandatory for an employee to talk to the director of the company. The employee can go straight to conciliation.

4.1.2 Conciliation

If an employee does not want to talk to the director of the company or if such talks do not resolve the dispute, the employee can, pursuant to Articles 159 and 165, take the dispute to the grassroots labor conciliation council of the enterprise or the local labor office for resolution. The request must be in writing by one or both parties. The conciliation will take place within 3 working days of receiving a written request:

⌘ **Article 159(1)** states that the competent agency or organization in charge of labor dispute settlement shall get involved in settling a dispute when one party refuses to negotiate or both parties cannot reach a settlement despite negotiation and either or both of the parties makes or make a written request for labor dispute settlement.

⌘ **Article 165** indicates that agencies or organizations in charge of settling individual labor disputes are:

1. Grassroots conciliation councils or labor conciliators;
2. People's courts.

⌘ **Article 165a.** The grassroots labor conciliation council or labor conciliators shall conciliate individual labor disputes according to the following provisions:

1. The conciliation time limit is three working days at most, counting from the date of receipt of a written request for conciliation;
2. Both parties to the dispute must be present at conciliation meetings. They may send their authorized representatives to attend these meetings.
3. The grassroots labor conciliation council or the labor conciliator shall suggest conciliation solutions for the two parties to the dispute to consider.

If the two parties to the dispute agree to the suggested solution, the grassroots labor conciliation council or the labor conciliator shall make a written record on successful conciliation to be signed by the two parties and the chairman and secretary of the council or the labor conciliator. The two parties to the dispute are obliged to abide by the agreements stated in the written successful conciliation record.

If the two parties to the dispute disagree to the conciliation solution or either of them does not show up at the second proper request for meeting without a plausible reason, the grassroots labor conciliation council or the labor conciliator shall make a written record of unsuccessful conciliation to be signed by the party to the dispute present at the meeting and the chairman and secretary of the council or the labor conciliator.

4. A copy of the written record of successful conciliation or unsuccessful conciliation shall be sent to each party to the dispute within one working day after the date of its making.
5. In case of unsuccessful conciliation or at the expiration of the settlement time limit specified in Clause 1 of this article the grassroots labor conciliation council or the labor conciliator still fails to conciliate the dispute, any party to the dispute is entitled to request settlement by a People's Court.

Conciliation is an alternative dispute resolution mechanism that does not involve the courts. At the grassroots level, it is an informal process which involves the use of a conciliator who helps the parties discuss the issue and find a resolution by suggesting solutions. For certain types of labor disputes conciliation is compulsory and so the parties must go through the process before they can go to court.

The decision is however not binding on the parties as it cannot be enforced and they can still choose to go to the District People's Court if the agreement is not upheld.

4.1.3 Court proceedings

If the conciliation is unsuccessful, either party can also bring a case to the District People's Court either where the enterprise is registered or in the area where the employee lives.

Under Article 166 (2), there are also a limited range of disputes that may be directly submitted to the District People's Court without going through the procedure of conciliation. These include: disputes concerning labor disciplinary measure of

dismissal, or the unilateral termination of a labor contract; and disputes concerning workers' compensation for damages, and allowances when terminating a labor contract, disputes between domestic help and their employers.

If a party does not agree with the decision of the District People's Court, the party can appeal against the decision of that court the Provincial People's Court.

If a party does not agree with the decision of the Provincial People's Court, they can appeal against the decision to the Supreme People's Court.

An important factor to consider is that there are time limits for bringing an action to court so people should consult with a lawyer as soon as possible.

4.2. Government Decree No. 69/2011/ND-CP on handling administrative violations in healthcare, prevention, medical environment and HIV/AIDS prevention and control

⌘ **Article 22** stipulates that employers who violate the right to work of PLHIV can be forced to take back PLHIV and arrange appropriate jobs for them. It also states that employers can be forced to pay

- ▶ A fine from 5 million VND to 10 million VND if they refuse to recruit PLHIV because of their HIV status
- ▶ A fine from 10 million VND to 15 million VND if they do not arrange suitable jobs for PLHIV or terminate labour contract because of HIV-positive status.

In order to pursue this process, under Articles 45-47, an employee who has had his/her rights violated can take his/her case to either:

- ▶ the local health inspectors or to the chief health inspectors of the municipal or provincial Health Services or the Chief Inspector of the Ministry of Health.
- ▶ to the Presidents of the People's Committee.

These authorities have the power to impose penalties and ensure that they are enforced. The nature of the dispute will determine at which level of the People's Committee (commune, district or provincial) or at which health inspector level the matter will be dealt with. The higher level Committees have the power under law to impose higher penalties.

☞ For further detail on enforcement of penalties, please see Chapter 12

LESSON PLAN

Content	Methods	Activity instruction	Materials	Time
Introduction	Ice-breaker - "Dream-job Game", Situation discussion, Lecture	<ol style="list-style-type: none"> 1. The facilitator gives a small piece of paper or card to each participant. Each card has been randomly marked with either a plus sign (+) or a minus sign (-). The facilitator must make more minus signs than plus signs. (2) 2. The facilitator asks the participants to draw a picture of their dream job. (4) 3. The facilitator asks participants to stand in a circle, selects a few participants (about 4 people) and asks them to introduce themselves and describe their picture without naming the job. Other participants will guess what job they are describing and why it is their dream job. (4) 4. The facilitator then tells the participants that those with the plus sign must sit down. They have been dismissed from their jobs. 5. The facilitator asks the participants who have a minus sign whether they think it is fair that those with the plus sign were dismissed. (4) 6. The participants with the plus sign tell the group how they feel about being dismissed from their job because of their plus status. (4) 7. The facilitator then divides participants into 4 groups, and give each group one case - A, B, C or D (See Handout 1). The facilitator asks each group to discuss what happened to these employees and why. (10) 8. Using the information provided in the introduction, the facilitator provides information about the current situation in Viet Nam and gives some reasons. <p>Facilitator tips suggested answers:</p> <ul style="list-style-type: none"> ☛ The facilitator should emphasize that participants draw their dream job, not other general dreams. ☛ The facilitator should keep plus sign marks to a low number, especially in small groups. ☛ To save time, the facilitator could ask participants to explain why they have chosen their dream job (in just one sentence). ☛ After explaining that participants with plus signs (+) have been fired because of their HIV-positive status, the facilitator asks them how they feel about that -- is it fair that they were dismissed from their job? ☛ The facilitator should then give the following lecture: discrimination is a big problem in the workplace. Even if people are not fired, as soon as their co-workers know they have HIV, they keep away. This puts pressure on the employee with HIV, who may feel forced to resign. 	Paper, Pens and pencils, Handout 1	30'
The right to work of PLHIV	Group discussion, Lecture	<ol style="list-style-type: none"> 1. The facilitator divides participants into groups of 3 or 4 people. (1) 2. The facilitator gives each group a list of questions (see Handout 3). (1) 3. The facilitator asked the groups to discuss the possible answers for the questions. (5) 4. The facilitator then asks each group to read out a question and explain their response. (3) 5. The facilitator summarizes each case. (5) 	Handout 3	15'

Handout 3

Choose one answer you think is true for each question:

1. Do you think all citizens over 15 years of age can work in all lawful areas?

- a) Yes, they can.
- b) No, they cannot work in all areas because 15 years of age is too young for many professions.
- c) Yes, they can, as long as 15-17-year-olds have the consent of their parent or guardian.

2. Can PLHIV become doctors?

- a) Yes, they can.
- b) No, they cannot. No one would want to be their patient.
- c) I don't know.

3. Mr B was fired after his company received the results of his annual medical checkup. He was fired because he was HIV positive. Some law students want to help him. What can the law students do?

- a) Give him some money.
- b) Find him another job.
- c) Consult or introduce him to a legal aid centre.

Handout 4

There are different remedies available when the right to work of PLHIV is violated (sanctions, court, etc). This information describes the types of mechanisms available to address rights violations and the process of seeking them under the Viet Nam Labor Code, the main piece of law dealing with labor matters.

Viet Nam Labor Code (as amended in 2007)

Mechanisms to address rights violations under the Code

Under the Labor Code, if an employer unlawfully terminates a labour contract, the employer has an obligation under law to offer to reinstate the terminated employee into their old job in accordance with their old contract and compensate him/her for loss of earnings plus at least two month's salary.

If the employee does not want to return to work for the employer, he/she will be entitled to receive severance plus compensation.

If the employer does not want the employee to return to work, the employer will be obliged to pay the employee severance pay and compensation (as set out above) and an additional amount to compensate the employee for agreeing to terminate their labour contract. In practice, the employee could make use of this provision to ask for a high compensation amount in return of his/her agreement to terminate their labour contract.

Process for seeking redress for rights violations

If an employee who has worked for a company is illegally fired because he/she is HIV positive, the employee can appeal the decision to the director of the company and ask for the remedial mechanisms provided for under law as noted above.

If this does not resolve the dispute, the employee can, pursuant to Article 165, take the dispute to the grassroots labor conciliation council of the enterprise or the local labor office for resolution according to Article 165a. The request must be in writing by one or both parties. The conciliation will take place within 3 working days of receiving a written request. Conciliation is an alternative dispute resolution mechanism that does not involve the courts. At the grassroots level, it is an informal process which involves the use of a conciliator who helps the parties discuss the issue and find a resolution by suggesting solutions. For certain types of labor disputes, conciliation is compulsory and so the parties must go through the process before they can go to court.

If both sides agree with the conciliation council outcome, they both sign the conciliation minutes and commit to enforce the negotiated agreement (Article 165a). The decision is however not binding on the parties and they can still choose to go to the District People's Court.

If the two parties to the dispute disagree with the conciliation solution or both fail to attend the meeting without good reason, the labor conciliation council or conciliator records the process as having been unsuccessful.

The parties can then take the case to the District People's Court either where the enterprise is registered or the area where the employee lives.

If a party does not agree with the decision of the District People's Court, the party can appeal against the decision of that court to the Provincial People's Court and then to the Supreme People's Court.

CHAPTER 9

Right to health care of people living with HIV

OUTCOMES

After this lesson, participants will be able to:



Knowledge

- (1) Understand the right to health care of Vietnamese citizens under Vietnamese law
- (2) Understand the specific rights to health care of PLHIV under Vietnamese law



Skills

- (1) Identify which medical professionals and which facilities are responsible for providing health care to PLHIV
- (2) Identify the responsibilities and obligations of health care providers towards PLHIV and identify instances of discrimination against PLHIV
- (3) Identify ways that many segments of the community, including the family and civil society groups, can help address the issues surrounding HIV and AIDS



Value

- (1) Appreciate the importance of equal health care for all

1. Introduction

As mentioned in Chapter 1, the drugs developed to suppress the growth of the HIV virus are known as antiretrovirals or ARVs. Introduced in 1996, ARVs come in a variety of formulations designed to act on different stages of the life-cycle of HIV.

To minimize the risk, people with HIV are generally treated with a combination of ARVs. ARVs have greatly prolonged and improved the quality of the lives of many people living with HIV (PLHIV) in places where the drugs are available³⁹. Nevertheless, ARVs are not a cure. If treatment is discontinued, the virus starts to replicate again, so a person on ARVs must take them for life.

ARV drugs prevent the multiplication of HIV and restore immune function, which in turn reduces the incidence of opportunistic infections (tuberculosis, pneumonia, etc.) and improves the overall health of the patient. ARVs also reduce the likelihood of HIV transmission from person to person by reducing the amount of virus in a person's body. So, it is in the interests of the entire community that PLHIV are provided with the appropriate health-care they require. This health-care also includes education on the prevention of HIV transmission from mother to her child during pregnancy, childbirth and breastfeeding.

☞ For more information about antiretrovirals and antiretroviral therapy (ART), please see Chapter 1.

One of the major successes of Viet Nam's HIV response in recent years has been the rapid increase in availability of ART services. At the end of 2009, 36,008 adults and 1,987 children were receiving ART in Viet Nam - a 14.2 fold increase from the end of 2005. In 2007, ART coverage was only 30% of PLHIV in need. By the end of 2009, coverage had increased to 53.7%. The Ministry of Health also reported that a study completed in 2009 found that 84.4% of adults and 80.6% of children receiving ART continued to receive treatment 12 months after the initiation of ART.

Although these statistics show a rapid increase in the accessibility and quality of ART, they also reveal that nearly half of all PLHIV in need of this kind of treatment are still not receiving it. Moreover, access is even more limited for certain key groups. For example, only 32.3% of HIV-positive pregnant women were receiving antiretroviral medicines to reduce the risk of mother-to-child transmission at the end of 2009⁴⁰.

Data like these indicate that although hospital and clinic-based treatment programs are benefiting an increasing number of people, many PLHIV still lack access to the health care that is their right under Vietnamese law.

Sixty-three provinces in Viet Nam now provide ART services and most provinces also have pediatric ART services. A total of 288 different sites were providing ART in 2009. This includes 14 sites at the national level, 125 at the provincial level and 149 at the district level.

☞ For a list of HIV treatment and care and PMTCT services and their locations, please refer to Appendix No.2.

In addition to ART, PLHIV need treatment for opportunistic infections. PLHIV are most prone to infections once the virus has seriously damaged their immune system. Routine monitoring of the immune system is recommended, as it contributes to preventing some of the opportunistic infections that affect PLHIV. Tuberculosis is the most common cause of illness and death among people living with HIV in many parts of the world, despite being a preventable and curable disease. PLHIV should therefore also be screened regularly for tuberculosis.

Although access to health care for PLHIV has improved in recent years, there are still significant barriers that prevent PLHIV from accessing the health care to which they are entitled, including stigma and discrimination within the health-care system, lack of access to health insurance and significant out-of-pocket expenses, etc. Furthermore, the provision of treatment in detention centers and prisons, despite the higher prevalence of HIV of detainees and inmates, is still very limited.

Finally, in addition to treatment, PLHIV need care and support from many people, including their family. They may be very scared, ashamed, nervous or angry about their disease. It is important that they get both emotional support and physical support. This is especially true if the person is starting to get progressively more unwell. People can support them and ensure that they are receiving and taking their medicine, having regular medical follow-ups, eating healthy meals and getting enough rest. This helps their bodies become stronger and better able to fight HIV. Also, families of PLHIV can help them avoid taking illicit drugs, smoking and drinking alcohol.

³⁹ In recent years, first-line antiretroviral (ARV) drugs for HIV/AIDS have become more affordable and available in many countries, including developing countries. However, for patients facing drug resistance and side-effects, second-line ARV drugs and other newer formulations are still very expensive and inaccessible in many countries.

⁴⁰ According to a recent survey conducted by the Ministry of Health, there are an estimated 6,000 pregnant women infected with HIV annually in Vietnam, 35 percent of whom are likely to transmit the virus to their newborn babies. Vietnam Estimates and Projections 2007 - 2012 - Ministry of Health.

2. The right to health care of PLHIV under Vietnamese law

2.1. What is the right to health care of PLHIV?

Under Vietnamese law, all Vietnamese citizens have the right to health care. Therefore, PLHIV are entitled to receive treatment for HIV and other medical conditions. It is illegal to deny treatment to someone because they are living with HIV or because they are believed to be HIV-positive. Healthcare workers and facilities are prohibited from discriminating against PLHIV in any way.

1992 Constitution of the Socialist Republic of Viet Nam (as amended in 2001)

- ⌘ **Article 61** states that citizens are entitled to health care.

Law on Protection of People's Health Care 1989

- ⌘ **Article 1(1)** stipulates that citizens have the right to health protection, rest, recreation, physical exercise, guaranteed hygiene at work, nutrition and hygiene, environmental sanitation and service of medical professionals.

2.2. Vietnamese laws relating to treatment

Law on Medical Examination and Treatment (No.40/2009/QH12)

- ⌘ **Chapter IV** describes the right of citizens to treatment and the responsibility of health facilities and physicians to diagnose and treat patients. Section 1 of this Law requires medical examination and treatment facilities to meet the technical standards regulated by the Ministry of Health and to have sufficient and professional staff with at least 36 months of experience.

Law on HIV/AIDS Prevention and Control (No. 64/2006/QH11)

This law describes the right of people living with HIV to receive medical care and treatment.

- ⌘ **Article 4** includes the right to receive medical treatment and care among the rights of PLHIV.
- ⌘ **Article 8** forbids discrimination in the provision of medical examinations or treatment for PLHIV.
- ⌘ **Article 38(3)** stipulates that when PLHIV access treatment and care they 'shall be treated equally to other patients.'
- ⌘ The law also explains which facilities and professions are responsible for providing treatment to PLHIV, including antiretroviral treatment.
- ⌘ **Article 38** lists the facilities and professions responsible for providing treatment:
 - ▶ Medical establishments are responsible for providing medical examinations and treatment for PLHIV.

- ▶ Medical practitioners and health workers are responsible for providing treatment for PLHIV. It is their responsibility to ensure that PLHIV understand their condition so that they can take care of their own health and avoid transmission of HIV to other persons.
- ▶ PLHIV with opportunistic infections or other HIV-related illnesses shall be treated at appropriate medical departments (i.e. departments specializing in the kind of infection that each individual patient is suffering from). They shall receive the same treatment as other patients.

The Law on HIV/AIDS Prevention and Control also controls access to antiretroviral therapy (ART). It states that the government has the responsibility to regulate the management, distribution and use of ARVs. It also creates an obligation of the State in some instances to provide free ART. Everybody has the right to access ART, but it is not free for everybody and is only provided by the State in some circumstances.

- ⌘ **Article 39** sets out the groups of people who will be provided free ART by the State:
 - ▶ People who have contracted HIV from their occupation;
 - ▶ People who have contracted HIV from medical procedures;
 - ▶ Pregnant women living with HIV; and
 - ▶ Children under six years of age living with HIV.
- ⌘ **Article 39** further states that for ART provided free of charge, they will be provided with ART in the following priority order:
 - ▶ Children living with HIV between the ages of 6 and 16;
 - ▶ PLHIV who actively participate in HIV/AIDS prevention and control;
 - ▶ PLHIV under particularly difficult circumstances.

Ideally all citizens would have equal access to ART and no group would be prioritized over others. The above list simply reflects what is stipulated in Article 39 of the 2006 Law.

- ⌘ **Article 35** refers specifically to the treatment of pregnant women living with HIV:
 - ▶ Women living with HIV shall be facilitated to have access to measures to prevent mother-to-child HIV transmission.
 - ▶ Medical establishments shall be responsible for conducting supervision and providing treatment for pregnant women living with HIV and taking measures to reduce mother-to-child HIV transmission.
 - ▶ The Ministry of Health shall issue detailed regulations on the care for and treatment of women living with HIV during pregnancy and delivery and on measures to reduce mother-to-child HIV transmission.

Law on Drug Prevention and Control (No.16/2008/QH12)

- ⌘ **Article 32(4)** states that drug detoxification institutions have to respect the honor, dignity, life, health and property of the drug addicts being detoxified therein. In addition there are provisions relating to release from detention if a person has advanced HIV.

2.3. Vietnamese laws related to health insurance for PLHIV

Viet Nam has established the goal of universal coverage of health insurance by 2014.

Law on HIV/AIDS Prevention and Control (No. 64/2006/QH11)

⌘ **Article 40** states that PLHIV with health insurance shall have their medical examinations and treatment expenses covered by the medical insurance fund. The Ministry of Health determines which ARVs are covered by the medical insurance fund.

This means that those people living with HIV who have health insurance shall have access to subsidized examination and medication.

Law on Health Insurance (No. 25/2008/QH12)

The Health Insurance Law defines health insurance as “a form of insurance applied in the health care sector for non-profit purposes, organized by the State and joined by responsible persons under this Law”.

This law defines the rights and responsibilities of people with respect to enrollment to, and benefits from, the national health insurance scheme:

⌘ **Article 12** list the different types of insured (i.e. persons on pensions; professional officers; children under 6; people on monthly social welfare allowance; poor households, etc).

▶ For certain groups of insured such as children under 6 or poor people, it is the State budget that covers the monthly premium.

▶ The level of cost covered by the health insurance fund depends on the type of insured. For instance, a child under 6 who uses the medical services defined in the Law has 100 per cent of the medical care costs covered by health insurance. Poor households would have 95 per cent of the cost covered and the 5 per cent left should be covered by the person.

⌘ **Article 21** sets out the benefits of health insurance members, which include, among others, cost of medical examination and treatment, function rehabilitation, regular pregnancy check-ups and birth giving as well as cost of medical examination for screening and early diagnosis of some diseases.

⌘ **Article 22** stipulates the level of benefits of insured members (how much of the costs are covered).

⌘ **Article 23** lists the conditions/services goods that will not be covered by the health insurance fund.

⌘ **Article 36** of this law states that health insurance participants have the right to:

▶ Be granted a health insurance card.

▶ Choose their initial examination and treatment provider.

▶ Receive examination and treatment and be reimbursed for the costs of these.

▶ Request health insurance agents, health insurance-covered medical care providers and relevant agencies to explain and provide information on health insurance.

▶ To complain about or denounce violations on health insurance.

⌘ **Article 37** lists the responsibilities of the insured:

▶ Participants have the obligation to pay their health insurance premiums fully and on time.

▶ They are expected to use their health insurance cards properly and not lend them to others.

▶ They should also pay for the healthcare costs that are not covered by the health insurance fund.

⌘ **Article 43** states that it is the responsibility of health insurance-covered medical care providers to provide medical care services according to simple and convenient procedures for the insured.

3. The right to health under international law

PLHIV in Viet Nam also have their right to health care protected through international law. This law can be used alongside Vietnamese laws guaranteeing similar rights and protections. Viet Nam is a member of the United Nations and has ratified the key international instruments recognizing human rights. When enacting and implementing domestic legislation, governments must take into consideration their obligations under international law to respect, protect and fulfill the human rights obligations that are set out in the ratified international human rights treaties and other relevant instruments. The right to health is guaranteed under the international human rights treaties ratified by Viet Nam.

Universal Declaration of Human Rights

⌘ **Article 25(1)**. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

This section is extremely expansive. It identifies a number of necessities that are required for a healthy life beyond the specific right to access health services and health care professionals. It therefore places an obligation on signatory governments to provide many different kinds of services beyond direct health services to maintain their citizens' health. This article can therefore be used to argue for comprehensive HIV prevention education and harm reduction programs.

International Covenant on Economic, Social and Cultural Rights (ICESCR)

The right to health is also specifically enshrined in Article 12 of the ICESCR. This creates binding obligations on signatories, such as Viet Nam, to respect this right. This Article further demonstrates that under international law, the right to health care is considered to be “a claim to a set of social arrangements - norms, institutions,

laws, and enabling environment - that can best secure the enjoyment of this right.”⁴¹ It includes the basic preconditions for health.

⌘ **Article 12** states:

1. *The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.*
2. *The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:*
 - (a) *The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;*
 - (b) *The improvement of all aspects of environmental and industrial hygiene;*
 - (c) *The prevention, treatment and control of epidemic, endemic, occupational and other diseases;*
 - (d) *The creation of conditions which would assure to all medical service and medical attention in the event of sickness.*

This article states that everyone is entitled to the same level of healthcare, and that this level should be the highest, not simply basic.

Furthermore, other articles in this covenant state that services must be provided without discrimination and those services must respect a variety of other rights, including the right to physical integrity, autonomy, confidentiality and informed consent.

3.1. Right to health care in detention under international law

There are provisions in international law to which Viet Nam is signatory that provide for access to health care such as people detained in prisons and other closed settings, at the same standard available in the community. This is significant because of the higher prevalence of HIV and opportunistic infections in these settings.

3.2. Drug dependence treatment services

Drug dependence treatment services should comply with human rights obligations and recognize the inherent dignity of all individuals without discrimination, including the right to enjoy the highest attainable standard of health and well-being.

⁴¹ World Health Organization (2002), *25 Questions and Answers on Health and Human Rights, Health & Human Rights Publication Series*, Issue No.1, p. 11

4. What should PLHIV do if their right to health is violated?

There are different available remedies when the right to health of PLHIV is violated. Redress is available through:

- ▶ informal discussions and negotiation
- ▶ administrative law processes; and
- ▶ judicial processes.

The laws under which these processes can be accessed and the remedies available under these laws are listed below. The type of remedy that is sought is one of the factors which will determine which avenue a complainant should choose and which law he/she should use. Other factors include time, cost and the personal toll that legal proceedings often involve. A PLHIV should carefully consider which way to pursue their case because each way has its advantages and disadvantages. It is strongly advised to seek legal advice before making a decision.

☞ For further detail on each type of legal process and the remedies they provide, please refer to Chapter 12.

4.1. Redress through informal discussions

As a first step, a PLHIV can take the claim to the Board of Directors of a private or public hospital, either directly or with the assistance of a specialist HIV legal services or legal aid clinics who assist complainants to contact relevant people, draft letters and attend meetings. This is often a successful, time and cost effective way to solve the problem.

If informal discussions are not successful, a PLHIV has the right to choose either to make a claim to the relevant administrative agency or to take the case directly to court.

☞ For more detailed information and tips on how to prepare for and conduct informal discussions and negotiations, please refer to Chapter 12.

4.2. Redress through administrative agencies

The following decree sets out what specific remedies are available when administrative law processes are used in the case of a violation of the right to health:

Government Decree No. 69/2011/ND-CP on handling administrative violations in healthcare, prevention, medical environment and HIV/AIDS prevention and control

- ⌘ **Article 22(1) (g)** sets out fines that will be issued as punishment against persons or organizations that breach the rights to health of PLHIV by refusing to provide medical treatment. The fines are between 5,000,000 - 10,000,000 VND.

In order to address a violation of the right to health and obtain the above type of remedy, a PLHIV shall pursue general administrative law processes. This process starts by making a claim to the relevant state agencies. With respect to the right to health, the relevant agencies to whom a claim about a violation should be made are:

- ▶ the local People's Committee; or
- ▶ the Department of Health (at the provincial level) or healthcare office (at the district level).

These agencies are responsible for considering and investigating the facts of the case and for making an administrative decision to resolve the case and enforce it against the violator. For instance, they can also impose a fine against the hospital. The person who has had his/her rights violated does not personally receive any money.

If the claim is not resolved at the level of the District People's Committee, it can be referred to the Provincial People's Committee. If the claim is not resolved by the healthcare office at the district level, it can be referred to the Department of Health at the provincial level, and if that fails, finally to the Ministry of Health. In order to follow administrative process, asking for the help of legal service providers may be considered.

4.3. Judicial redress through the courts

Under the Civil Code, a PLHIV who has had his/her right to health violated can also choose to go to the District People's Court and have the matter heard and determined by a judge. A judge has the power to:

- ▶ order injunctions (for example to order that the PLHIV be treated); and/or
- ▶ personal compensatory damages to address the breach. That means that the person whose rights have been violated can receive money.

PLHIV must also be aware that there are statutory limitations to applying the law (usually one year). In other words, if a person wait too long after the violating act occurs to ask for help from the courts, it could be too late.

Under the Civil Procedure Code (No. 24/2004/QH11), if the claimant disagrees with the decision of the local District People's Court, he/she can appeal to a higher court, namely the Provincial People's Court.

☞ For further information on the process for going to court and an explanation of the types of judicial remedies available, please refer to Chapter 12.

4.4. Health insurance disputes

According to the Law on health insurance, health insurance disputes are disputes related to: health insurance rights, duties and liabilities of the insured and their representatives; the health insurance premium paying organizations and individuals; and health insurance agents or health insurance-covered medical care providers.

⌘ Article 48 states that health insurance disputes shall be settled as follows:

(a) The disputing parties shall reconcile their dispute

(b) In case of unsuccessful reconciliation, the disputing parties may initiate a lawsuit at a court in accordance with the law.



LESSON PLAN

Content	Methods	Activity instruction	Materials	Time
The rights of PLHIV in the field of health care	Role-play - "Medical discrimination" game	<p>1. The facilitator selects 3 participants to be "doctors". The rest of the participants are "patients". The facilitator secretly explains to the "doctors" that they are not to treat anyone with a red card/sticker/paper and they are not allowed to tell the patient why. (1')</p> <p>2. The facilitator gives each "patient" a color-coded card, sticker or paper (red plus any two other colors) at random and without explaining anything about the color. (1')</p> <p>3. The "patients" are told to find a doctor to treat them. Each doctor can only treat one patient at a time (and when they see patients with red cards/stickers/papers they tell them they "need to see another doctor"). The "doctors" sign other "patients'" cards/stickers/papers to indicate they have been treated. After everyone but those with red stickers/tape are treated, the game ends. (5')</p> <p>4. The facilitator asks the participants what happened to the people with red cards/stickers/papers. Then, the facilitator asks the participants with the red color code how they felt when they were denied help without being told why. (3')</p> <p>5. The facilitator then explains the meaning of the game. (5')</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> • The participants with red color coding represent PLHIV. They are denied help due to their HIV status. The doctors have violated the right to health care of PLHIV. The information about rights is contained in Section 2 of this Chapter. • The facilitator should encourage the participants to discuss what discrimination is and the consequences of being discriminated against, for example that it means not being provided with the medical care that is needed and what this means for PLHIV, their families and the community as a whole. 	3 different colored cards, Stickers or paper (or plain paper with one of three different colored marks on it)	15'
Violations of the rights of PLHIV to health care	Role-play	<p>1. The facilitator divide the participants into groups of 3 or 4. (1-2')</p> <p>2. Each group is given a handout (below) with one Vietnamese law written on it. (1')</p> <p>3. The participants are given time to read and to come up with a way to act out a scene where that law is violated. They should use real-life dialogue, not the specific terminology of the law. (10')</p> <p>4. Each group performs, and the other groups have to guess what the law is. (5')</p> <p>5. To sum up, the facilitator should ask participants what the consequences are of violating PLHIV's right to health care. (10')</p>	Handout	30'

		<p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> • Rights relating to health care under Vietnamese law can be found in Section 2 of this Chapter. • The facilitator should encourage discussion about the consequences of violating each of those laws: e.g. there will be more cases of children living with HIV if mothers are not given access to information about how to prevent transmission. PLHIV have a right to be provided with information so that they can make decisions about how to live their lives, and they need to receive proper health care in order to have the means to survive, e.g., to work. Not having correct information or proper health care may also lead to an early death. • The facilitator should ask the participants to describe what they learnt in this lesson and whether they have any questions. If there are any questions, the facilitator should ask if any of the other participants know the answer. If necessary, provide additional information to give a full answer. • The facilitator should also mention that if those rights are violated, for example, if the State does not provide free ART treatment to those groups entitled under law, that those people can demand treatment and take measures to enforce their right as it is the obligation of the State to provide it. • Make sure everyone is actively participating, not just some participants. 		
The right to care & support for PLHIV	Group discussion	<p>The facilitator ask the participants to discuss ways of providing care and support for PLHIV and focuses the discussion on the health care services for PLHIV, the difficulties PLHIV may face when getting the health services and how other individuals and organizations can help PLHIV when they are sick.</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> • Vietnamese law relating to the right to care and support for PLHIV can be found in Section 2 of this chapter. • The facilitator should let the participants share their experience about the health services and may ask them what they expect and would want others to do when they are sick. • The facilitator should add any extra ideas on how to support/care for PLHIV that the participants do not come up with. There are many things that everyone in a community can do to help the community as a whole to manage the existence of HIV/AIDS. It is up to everyone to help and it is not a problem to be dealt with only by PLHIV. For example: 		15'

CHAPTER 10

Harm reduction

OUTCOMES

After this lesson, participants will be able to:



Knowledge

- (1) Understand what harm reduction is
- (2) Understand how harm reduction strategies aim to reduce the transmission of HIV
- (3) Know the law relating to harm reduction in Viet Nam
- (4) Understand how stigma and discrimination can undermine the effectiveness of harm reduction activities



Skills

- (1) Describe how some of the harm reduction measures work in Viet Nam
- (2) Describe some of the key groups targeted by harm reduction activities in Viet Nam and why they are at risk of HIV transmission
- (3) Critically analyse the law and identify inconsistencies that affect its implementation and enforcement



Values

- (1) Appreciate that providing harm reduction programs protects people's health and respects their human rights
- (2) Acknowledge the rights of groups at high risk of HIV infection, such as injecting drug users, sex workers and men who have sex with men

1. Introduction

1.1. Overview of harm reduction

Harm reduction has been defined in many different ways and has a variety of meanings to different people. In basic terms, harm reduction refers to the policies and programmes that reduce the harmful effects of a behavior without necessarily changing the behavior. Its overall objective is the improvement of quality of life, and it accepts that some people are unable or currently unwilling to stop their harmful behavior.

The term 'harm reduction' was originally used in the early 1980s in relation to drug use. According to the International Harm Reduction Association (IHRA), 'harm reduction' refers to "policies, programmes and practices that aim primarily to reduce the adverse health, social and economic consequences of the use of legal and illegal psychoactive drugs without necessarily reducing drug consumption"⁴².

Others sources suggest using harm reduction as a broader term, referring to the efforts to reduce the harmful consequences of other high risk behaviors such as sex work or alcohol consumption⁴³.

Beyond the definition, harm reduction experts agree that harm reduction approaches are based on a strong commitment to public health and human rights, include accessible, flexible and non-judgemental interventions and demand participation of the individuals and communities affected⁴⁴. The harm reduction approach ensures that high-risk activities are done as safely as possible to avoid serious consequences, including HIV transmission.

⁴² Please refer to Chapter 1 for information about HIV transmission.

Existing harm reduction strategies all over the world include:

- ▶ needle & syringe exchange programmes
- ▶ public smoking restrictions
- ▶ methadone maintenance programmes
- ▶ education & outreach programmes
- ▶ condom distribution programmes
- ▶ sex education for youth

42 International Harm Reduction Association (2010), *What is Harm Reduction? A position statement from the International Harm Reduction Association*.

43 Michael L Rekart (2005), *Sex-work harm reduction*, The Lancet.

44 Principles of Harm Reduction, Harm Reduction Coalition at <http://www.harmreduction.org/section.php?id=62>

1.2. Current situation in Viet Nam

The Law on HIV/AIDS Prevention and Control (No. 64/2006/QH11), its implementing Decree No.108/2007/ND-CP and the Viet Nam National Strategy on HIV/AIDS Prevention and Control in Viet Nam till 2010 with a vision to 2020, support scaling up comprehensive harm reduction interventions to reduce HIV transmission in high-risk groups (namely sex workers and their customers, addicts to opiate substances, people living with HIV (PLHIV), persons having homosexual relations, mobile populations groups and persons having sexual relations with the previous groups). According to the regulations relating to harm reduction, intervention measures in the prevention of HIV transmission include:

Provision of condoms and guidance on condom use

Promotion and provision of condoms has been selected as a primary harm reduction measure to prevent sexual transmission of HIV among sex workers, men who have sex with men (MSM), injecting drugs users (IDUs), mobile populations, clients of sex workers and their sexual partners.

Unprotected sex is one of the main routes of HIV transmission. The Condom Use Program (CUP) is the main harm reduction intervention implemented to reduce HIV transmission associated with this high-risk behaviour.

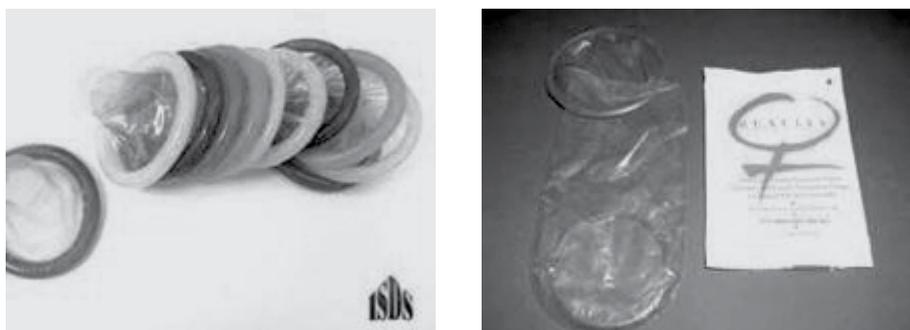
Data show that condom use among MSM and IDUs remains low. According to the 2010 UNGASS report, only 58.5% of MSM reported using a condom in the last anal sex act with their male partner and only 56.8% of IDUs reported using a condom the last time they had sexual intercourse. Data also shows the limited use of condoms by PLHIV and IDUs with their primary sexual partner⁴⁵. On the other hand, data on female sex workers' sexual behaviours reveals that a high proportion of sex workers (89%) used a condom with their most recent client⁴⁶.

Establishments and public places where people may solicit sex have been selected as strategic places where condoms are to be provided⁴⁷. A collaborative approach with many segments of the community is the most effective way for harm reduction programmes to work in these locations. Collaboration within the business community (transport, entertainment places, hotels, etc.) is needed to ensure that condoms are available and accessible in those places where people engaged in most at-risk behaviours would be in need of them.

45 A survey carried out in Ha Noi in 2008 among the primary sexual partners of IDUs found that 67% live in a sero-discordant or unknown HIV status relationship, yet only 17% reported always using a condom. *Female sexual partners of injection drug users in Viet Nam: an at-risk population in urgent need of HIV prevention services*. Hammet T, Van N, Kling R, Binh K and Oanh K, 2010.

46 *Integrated Biological and Behavioral Surveillance 2009*.

47 *Integrated Biological and Behavioral Surveillance 2009*.



Condoms for men and women

Provision of sterile syringes and needles

Providing sterile needles and syringes (N&S) has been selected as a primary harm reduction measure. It is very easy to spread HIV through the sharing of needles and syringes among injecting drug users (IDUs) and can expose a HIV negative person to the body fluids of someone who has HIV. For example, if someone who uses heroin uses a needle that has been already used by someone with HIV, then that person can also get infected because they will inject the virus directly into their bloodstream. Alarmingly, in Viet Nam, 18.4% of male IDUs are living with HIV⁴⁸.

To provide sterile injecting equipment, Viet Nam has implemented needle and syringe programmes (NSPs) that make it easier for people to get clean, unused injecting equipment. For example, clients can access needles and syringes through a variety of fixed sites such as commune health stations, street vendors and pharmacies. As of 2009, 60 provinces had such programmes and 24 million needles were distributed in 2009.



Needles and syringes

48 UNGASS (2010) *The Fourth Country Progress Report on Following up on the Declaration of Commitment on HIV/AIDS*

Treatment of addiction to opium-related substances with substitute substances and other harm reduction interventions

Another harm reduction programme targeting IDUs is Methadone Maintenance Therapy (MMT). In Viet Nam, a national pilot MMT programme implemented at the provincial level was established in 2008 with programmes in Ho Chi Minh City and Hai Phong. By the end of 2010, eight more provinces/cities participated in the methadone programme, namely Hanoi, Da Nang, Can Tho, Hai Duong, Dien Bien, Thanh Hoa, Nam Dinh and Thai Nguyen. Statistics show that this measure produces positive health and life-style outcomes for IDUs. The target of the Vietnamese Government is to have 80,000 IDUs benefiting from methadone programmes by 2015.⁴⁹



Methadone

Broad government and community understanding and involvement are critical in order for harm reduction measures to work. Enabling legislation is required and the participation of the police and judicial system is necessary to ensure that the laws are implemented and enforced. Civil society groups need to be involved in the delivery of these programmes and monitor their implementation and individuals need to be educated and sensitized to the rationale behind these measures so that they understand them and do not impede their implementation.

49 UNGASS 2010 report

2. Current law related to harm reduction in Viet Nam

Viet Nam has a legal framework that supports harm reduction measures. Harm reduction is provided for explicitly in both Article 21 of the Law on HIV/AIDS Prevention and Control and also in supporting provisions of Decree 108.

2.1. The relevant laws relating to harm reduction are:

Law on HIV/AIDS Prevention and Control (No. 64/2006/QH11)

⌘ **Article 21:** Harm reduction intervention measures to prevent HIV transmission:

1. Harm reduction intervention measures to prevent HIV/AIDS transmission shall be implemented among target groups with risky behaviours through programs and projects suitable to their socio-economic conditions.
2. The Government shall provide for the organization of implementation of harm reduction intervention measures to prevent HIV transmission.

This article essentially creates the overarching authorization for harm reduction intervention measures. It stipulates that they must be implemented among target groups with risky behaviours and it creates an obligation on the Government to support these measures.

Decree No. 108/2007/ND-CP

This decree provides further detail and guidance on the implementation of the harm reduction article listed above of the Law on HIV/AIDS Prevention and Control. The most significant articles with respect to harm reduction are:

⌘ **Article 3** states that the following actions are prohibited:

1. Hindering the implementation of programmes and projects to deploy harm reduction intervention measures in the prevention of HIV transmission.
2. To take advantage of harm reduction interventions measures in the prevention of HIV transmission to abet or organize prostitution and drug trafficking activities.
3. To sell syringes, condoms, drugs administered in replacement of opiate substances and HIV medicines which are prescribed to be supplied free of charge.

⌘ **Article 4** lists the three primary harm reduction intervention measures regarding the prevention of HIV transmission:

1. Provision of condoms and guidance on condom use.
2. Provision of clean needles and syringes and guidance on their use.
3. Treatment of addiction to opiate substances with substitution drugs.

☞ Each of these measures is dealt with in more detail in Articles 8-10.

⌘ **Article 5** identifies the target groups of harm reduction intervention measures in the prevention of HIV transmission:

1. Sex workers and their customers;
2. Addicts to opiate substances (drug users, particularly IDUs);
3. People living with HIV (PLHIV);
4. Persons having homosexual relations
5. Mobile (transient) population groups;
6. Persons having sexual relations with those specified in Clauses 1, 2, 3, 4 and 5 of this article.

These groups have been identified by the national HIV policy as the most at-risk groups of HIV transmission in Viet Nam and therefore those most in need of harm reduction intervention.

⌘ **Article 7** spells out the rights and responsibilities of outreach workers who participate in implementing programs and projects on harm reduction interventions in the prevention of HIV transmission

1. Outreach workers who participate in programs or projects on harm reduction interventions in the prevention of HIV transmission are entitled to:
 - (a) Benefits and allowances from these programs and projects;
 - (b) Protection by law when providing condoms, clean needles and syringes or treatment of addiction to opiate substances with substitution drugs for those stated in article 5 of this Decree;
2. Outreach workers who participate in programs or projects on harm reduction interventions in the prevention of HIV transmission have the following responsibilities:
 - (a) To notify the commune-level People's Committee and police before implementing harm reduction intervention measures in localities;
 - (b) Use their cards (documents that certify them as licenced outreach workers) in performing their assigned tasks.
3. The Ministry of Health shall assume the primary responsibility for, and coordinate with the Ministry of Public Security in establishing guiding criteria for card holders; the form of the card; the issuance, and the management and use of cards nationwide when implementing programs or projects on harm reduction interventions in the prevention of HIV transmission.

Outreach workers (frequently referred to as peer educators), regardless of status as IDUs, PLHIV or sex workers, are guaranteed protection by law and should be granted cards to enable them to identify themselves and do their jobs if approached by police. This article should protect outreach workers from any negative repercussions (particularly from law enforcement and vigilantism) due to their association with communities who engage in high-risk activities which attract social criticism and stigma.

⌘ **Articles 8-10** set out further details about the main harm reduction programmes in Viet Nam.

These articles also create a positive obligation on harm reduction service providers to provide education to their target communities when implementing the programmes. Education is important so that people at high risk understand how HIV is transmitted and therefore understand the reason for and significance of the harm reduction measures they are being encouraged to support and apply. For example, when providing IDUs with sterile injecting equipment, providing information about why using non-sterile needles is dangerous leads to an understanding of why sterile injecting equipment should be used motivate people to use such equipment. Education is also important to inform people where to go to access services, such as those that offer free condoms or clean syringes.

⌘ **Article 8:** Provision of condoms and guidance on condom use

1. Condoms are provided free of charge or sold at a subsidized price under programs or projects to those stated in Article 5 of this decree by outreach workers holding cards or through the network of condom distribution points stated in Clause 3 of this article.
2. Condoms provided free of charge as stipulated in Clause 1 of this Article must have the phrase "For free distribution only, not for sale" on their packings or supplementary labels.
3. Managers of programs or projects may:
 - (a) Expand the network of free-of-charge condom distribution points, install condom vending machines and arrange condom retail points in entertainment centers, railway or bus stations, hotels, guest houses, restaurants and other accommodation service facilities;
 - (b) Promote the free-of-charge provision of condoms and the sale of condoms at subsidized price to users.
4. Managers of programs and projects shall:
 - (a) Provide guidance on proper condom use;
 - (b) Notify the commune-level People's Committee and police before providing condoms and guidance on condom use.
5. Owners of entertainment centers, railway and bus stations, hotels, guest houses, inns, restaurants and accommodation service facilities are responsible for collaborating with programs and projects in providing condoms free of charge or installing condom vending machines within their establishments.
6. The People's Committees at all levels and police offices at the same level are responsible for creating favourable conditions for programs and projects to operate and develop the network of condom distribution points in their localities.



⌘ **Article 9:** Provision and guidance for use of clean needles and syringes

1. Clean needles and syringes are provided free of charge under programs and projects to injecting drug users by outreach workers holding cards or through the network of clean needles and syringes distribution points stated in Clause 5 of this Article.
2. Needles and syringes stated in Clause 1 of this Article must have the phrase "For free distribution only, not for sale" on their packaging or supplementary labels.
3. When distributing clean needles and syringes to injecting drug users, outreach workers shall:
 - (a) Give instructions on the safe use of needles and syringes;
 - (b) Distribute correct quantities of clean needles and syringes provided by the program or project, and collect all used ones in safe hard-shell containers and carry them to prescribed places for destruction in accordance with the law on waste disposal;
4. Injecting drug users shall collect used needles and syringes and hand them to outreach workers according to Point b, Clause 3 of this Article.
5. Programs and projects may expand their fixed or mobile networks of providing clean needles and syringes at HIV/AIDS prevention and control centers, provincial- and district-level preventive medicine centers, drug stores, voluntary counselling and testing centres and other appropriate sites.
6. People's Committees at all levels and polices of the same level are responsible for creating favourable conditions for programs and projects to operate and develop clean needle and syringe distribution points in their localities.

⌘ **Article 10:** *Treatment of addiction to opiate substances with substitution drugs*

1. *Treatment of addiction to opiate substances with substitution drugs is provided at medical establishments that have adequate physical facilities, equipment and personnel and are designated by provincial or municipal-level Health Services through programs or projects approved by competent state agencies defined in article 6 of this Decree. Treatment of addiction to opiate substances with substitution drugs is not permitted at medical treatment establishments set up under the Ordinance on the Handling of Administrative Violations (No. 44/2002/PL-UBTVQH10).*
2. *Treatment of addiction to opiate substances with substitution drugs is provided only to addicts of opiate substances who voluntarily enter the program and commit in writing to adhere to the treatment guidelines. For addicts under 16 years old, their parents or lawful guardians shall express their consent and commit in writing to adhere to the treatment guidelines.*
3. *Addicts to opiate substances shall use substitution drugs under the supervision of health workers.*
4. *During the process of treatment of addiction to opiate substances with substitution drugs, addicts will not be confined to medical treatment establishments set up under the Ordinance on Handling of Administrative Violations, unless they illegally use narcotics.*
5. *Only medical doctors and assistant doctors who have completed training in treatment of addiction to opiate substances with substitute drugs according to regulations of the Minister of Health and are assigned by the medical establishments stated in Clause 1 of this Article can prescribe substitution drugs for addicts to opiate substances who are on the list for such treatment under the program or project approved by a competent state agency.*
6. *Substitution drugs used in the treatment of addiction to opiate substances shall be managed in accordance with the law on management of habit-forming drugs and psychotropics.*
7. *The Minister of Health shall issue specific guidance on the conditions of medical establishments designated to provide treatment of addition to opiate substances with substitution drugs, and procedures and guidelines for treatment of addition to opiate substances with substitution drugs*

Decision No. 96/2007/QĐ-TTg on the management, care, counselling, and treatment for HIV-infected people and on HIV prevention at educational establishments, correctional centres, treatment centres for drug users and sex workers, social welfare establishments, prisons, and other correctional institutions

This document regulates HIV prevention, treatment and care services specifically in correctional centers, including prisons and administrative detention centers (05/06 centers) for sex worker and drug users.

- ⌘ **Article 5** *sets out the responsibility that the establishment has with respect to HIV prevention. It includes behaviour change communication, instructions on safe drug injection and sexual behaviour, information and communication on substitution therapy for opiate addiction, and implementation of medical regulations on handling HIV transmission at the establishments.*

Despite the positive intent, studies report that HIV prevention measures in detention centers are extremely limited. This is extremely worrying, as HIV prevalence within them is estimated to be as high as 50% in the centers and 30% in prisons.⁵⁰

Decision No. 5073/2007 QĐ-BYT

This decision by the Ministry of Health authorized the commencement of the National Pilot Methadone Maintenance Treatment Program in May 2008 in Hai Phong and HCMC.

2.2. Limitations of the laws relating to harm reduction in administrative detention centers

There are still inconsistencies regarding support for harm reduction interventions between the Law on HIV/AIDS Prevention and Control, the Decree 108/2007/ND-CP and the Ordinance on Administrative Violations (No. 44/2002/PL-UBTVQH10), under which sex work and drug use (despite it having been decriminalised under an amendment to the Law on Drug Prevention and Control (No.16/2008/QH12) and The Penal Code 2009)⁵¹ are administrative violations and result in detention for up to two years in centers managed by the Ministry of Labour, Invalids and Social Affairs (MOLISA). These centers are referred to as 05 Centers for female sex workers and 06 Centers for illegal drug use. This Ordinance remains a barrier to the provision of effective HIV services as the fear of being detained continues to deter some IDUs and sex workers from making use of the harm reduction services available.

3. International law related to harm reduction

Viet Nam is a member of the United Nations and has ratified (agreed to and signed) the key international instruments affirming globally recognized human rights. When enacting and implementing domestic legislation, governments must take into consideration their obligations under international law to respect, protect and fulfill the human rights obligations that are set out in the ratified international rights treaties and other relevant instruments.

There are international rights laws which can be used to support harm reduction measures. For example, harm reduction can be considered an element of the right to health which is enshrined in international law.

⁵⁰ WHO (2009) *Assessment of compulsory treatment of people who use drugs in Cambodia, China, Malaysia and Vietnam* states that in most of the 06 centers condoms are not available, despite evidence that sex occurs frequently in the centers.

⁵¹ See also the Ordinance on Prostitution Prevention and Control which outlaws sex work and dictates that anyone selling sex is subject to administrative detention in 05 Centers.

International Covenant on Economic, Social and Cultural Rights (ICESCR)

The right to health is specifically enshrined in Article 12 of the ICESCR. This creates binding obligations on signatories, such as Viet Nam, to respect this right.

⌘ **Article 12** states:

1. *The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.*
2. *The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:*
 - (c) *The prevention, treatment and control of epidemic, endemic, occupational and other diseases;*

Harm reduction measures can be construed as a step that governments must take to safeguard the health of their citizens, including the prevention of HIV transmission. Harm reduction, then, is not a policy option, but a fundamental human right that must be protected. International law can therefore be used to advance support for harm reduction measures and counter criticism of such measures.

Political Declaration on HIV/AIDS, unanimously adopted at the 65th UN General Assembly Session

Countries, including Viet Nam, pledged within the Political Declaration that they would develop and implement many different programs to meet specific targets on HIV prevention, treatment, care and support by 2013, including implementing and expanding harm reduction programs and expanding access to essential commodities particularly male and female condoms and sterile injecting equipment.

LESSON PLAN

Content	Methods	Activity instruction	Materials	Time
What is harm reduction	Q&A, Brief lecture	<p>1. The facilitator asks the participants what the words 'harm reduction' mean. The facilitator should also ask participants what harm reduction measures are used when a person rides a motorbike (i.e. wearing a helmet, being educated about the traffic law...) or smokes (i.e. education about the harmful effects of smoking). (5')</p> <p>2. The facilitator explains the definition of "harm reduction" and emphasizes the meaning of "reducing harm without changing behaviour" by using the content in part 1.1 (5')</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ <i>The facilitator may use a marker to note some of the main ideas that participants provide when explaining the definition of harm reduction</i> ☛ <i>The facilitator should use the question: "what harm reduction measures exist in Viet Nam" to lead to the next activity – the ice breaker</i> 	Marker, A0 paper, Flip-chart	10'
The main harm reduction measures in Viet Nam	Q&A, Ice-breaker - paired introduction	<p>1. The facilitator sticks 3 pictures (Handout 1) on the wall (or board). (1')</p> <p>2. The facilitator divides the participants into 3 groups and asks them to name their groups. (2')</p> <p>3. The facilitator gives each group pieces of paper from Handout 2 (with words that have been cut out) and pens and asks them to mark their paper with a symbol/name representing their group.(2')</p> <p>4. Each group has 3 minutes to read and decide which words match each picture, and then stick them on the wall/ board beside the suitable picture. (3')</p> <p>5. The facilitator asks each group to explain why they chose those words for each picture and checks and corrects the result if necessary. (5')</p> <p>6. The facilitator introduces the 3 harm reduction measures and the current situation in Viet Nam (use the information in Part 1.2) (5')</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ <i>The facilitator should check that each group has marked its piece of paper to make it easy for group members to identify their answers.</i> ☛ <i>The facilitator should be careful to give enough space to each picture of Handout 1, so groups have room to stick up the pieces of paper.</i> ☛ <i>Some keywords in Handout 2 can be used for 2 pictures (i.e., CLEAN, PROPERLY, USE-BY DATE...). The facilitator should let the participants discuss which picture is the most suitable choice.</i> 	Handout 1, Handout 2, Stick, Pens	20'

Current law on harm reduction	"Running Game", Lecture	<p>Suggested answers:</p> <ul style="list-style-type: none"> ▶ <i>Picture 1 - Condoms: CONSISTENT, PROPERLY, USE-BY DATE/ ONE TIME</i> ▶ <i>Picture 2 - Needles: CLEAN, ONE TIME, EXCHANGE</i> ▶ <i>Picture 3 - Methadone: DAILY, ON TIME, DRINK</i> <ol style="list-style-type: none"> 1. The facilitator uses Handout 3 displayed on a piece of A0 paper to introduce Article 21 of the Law on HIV/AIDS Prevention and Control and Article 3 in Decree 108/2007/ND-CP. (5') 2. The facilitator divides the participants into 2 groups and asks each group to nominate 2 members to join this activity. (1') 3. The facilitator asks each group to discuss and list the most affected risk populations (MARPS) – that is, the main clients of the harm reduction measures in 2 minutes. (5') 4. The facilitator cuts Handout 4 into cards, then sticks them on the wall. (1') 5. The facilitator explains the rule of this activity. (3') <ol style="list-style-type: none"> a. 4 representatives stand together at a point which is quite a long distance from the cards stuck on the wall. b. One at a time, each member of each group must run to the wall, choose 1 card noting an at-risk population group and run back to the standing point. c. Once the first member comes back, the other member behind them can run to the wall and choose another card. d. The time for this activity is only 1 minute. 6. The "Running Game" starts. (1') 7. The facilitator sums up the result of each group and then compares them with Article 5 in Decree 108/2007/ND-CP which establishes the target groups of harm reduction intervention measures in the prevention of HIV transmission. (5') <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ <i>The facilitator should suggest each group to nominate 2 people who can run fast.</i> ☛ <i>The facilitator should focus on explaining Article 5 of the Law on HIV/AIDS Prevention and Control in order to make the list of MARPS clear.</i> ☛ <i>The facilitator should cut and stick-up the sections of Handout 4 before the "Running Game" begins and may use a piece of paper to hide the content of each card until the game begins. The facilitator should stick the cards in different places and not all in one place.</i> ☛ <i>After comparing their answers with Article 5, the facilitator can let the participants discuss whether the established categories of MARPs are reasonable.</i> 	Handout 3, Handout 4, Paper A0	30'	

Harm reduction measures noted in Decree 108	Group discussion, Brieflecture	<ol style="list-style-type: none"> 1. The facilitator divides the participants into 2 groups and gives each group 1 article from Handout 5. (2') 2. The facilitator prepares a table on A0 paper with the following table for each group: (1') <table border="1" style="margin: 10px auto;"> <thead> <tr> <th></th> <th>Means of provision</th> <th>People who get the benefit</th> <th>Rights holders and duty bearers of provider</th> <th>Support from others</th> </tr> </thead> <tbody> <tr> <td>Group 1 (Article 8)</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Group 2 (Article 9)</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> 3. Each group has 10 minutes to read and find the most important information and then fill in the table. (10') 4. The facilitator checks the answers. (5') 5. The facilitator sums up by comparing the 2 articles. Afterwards, the facilitator asks the participants to describe 2 harm reduction measures based on the table. (5') 6. The facilitator gives a brief explanation about Article 10 – Treatment of addiction to opiate substances with substitution drugs. (5') <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ <i>Facilitator should use Q&A method in the short lecture.</i> ☛ <i>To explain the main content of Article 10, the facilitator should use some keywords (in bold).</i> 		Means of provision	People who get the benefit	Rights holders and duty bearers of provider	Support from others	Group 1 (Article 8)					Group 2 (Article 9)					Handout 5, A0 paper	
	Means of provision	People who get the benefit	Rights holders and duty bearers of provider	Support from others															
Group 1 (Article 8)																			
Group 2 (Article 9)																			
Is harm reduction a good idea?	Role-play & discussion	<ol style="list-style-type: none"> 1. The facilitator should select 5 participants to participate in 2 small role plays contained in Handout 6. The remaining participants will be the audience, and they will answer questions after the role plays are finished. (1') 2. The participants in the role plays are given time to prepare and then they are instructed that they will present their play to the other participants. (20') 3. After the role plays have been presented, the facilitator will lead a group discussion and a 'Take A Stand' exercise about needle exchange and providing condoms by asking the following questions: (15') <ol style="list-style-type: none"> a. Should the heroin user be arrested for having or buying syringes and needles? b. Should the street-based sex worker be arrested for having in their possession or buying the condoms? <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ <i>The facilitator should refer to the table under 'Facilitator Tips 1' which lists some basic example arguments for and against harm reduction programs and also refer to facilitator Tips 2 - 'More information about Harm reduction programmes in UNGASS 2010 Factsheet – Prevention.'</i> 	Handout 6, Facilitator Tips 1, Facilitator Tips 2	35'															

Limitations of the Law-Administrative Detention	Lecture, Q&A	<p>1. The facilitator gives a brief lecture on the reality of administrative detention and how this may affect the implementation of harm reduction measures based on section 2.2 of this Chapter. (10')</p> <p>2. The facilitator should explain that despite being in administrative detention, those in custody do not lose all their rights, especially the right to health as enshrined under International Law. The facilitator should refer to section 3 for an explanation of the right to health under International Law which arguably creates an obligation on signatory states to implement harm reduction mechanisms both within the community and in custodial centers, such as administrative detention. In line with international legal obligations, the facilitator should note that Viet Nam has created domestic legislation, namely decision 96/2007/QĐ-TTg which (located in section 2.1 of this chapter) clearly says that people in custodial centers must receive HIV/AIDS related health care and which also states that harm reduction measures should be used in the centers. (10')</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> • The facilitator should encourage participants to share their own experience/ knowledge about administrative detention. 	20'
Mechanisms to protect rights		For lesson on mechanisms to protect rights, please refer to Chapter 12 of this manual	10'
Available social services	Handout	The facilitator should refer to the appendix of this manual for possible handouts for participants.	5'
Evaluation of lesson	Completion of form	The facilitator should give each of the participants a feedback form about this lesson. See evaluation form in Appendix No.5.	5-10' Evaluation form
Total Time  170'			

Facilitator Tips 1: Arguments for and against harm reduction programmes

For	Against
<p>Some people are in favour of harm reduction programmes because they think:</p> <ul style="list-style-type: none"> - Harm reduction programmes protect many injecting drug users who do not stop using drugs from getting HIV. The programmes also protect sex workers who refuse to stop selling sex from getting HIV. This therefore reduces the incidence of HIV amongst the community generally so it benefits everyone. - Needle exchange programs and providing condom programmes are not harmful because many studies have shown that they do not encourage drug users and sex workers to use more drugs or sell more sex than they were already doing. - In countries all around the world, including Viet Nam, it has been proven that the belief that these programmes make drug users want to use drugs by making clean needles easily accessible is wrong. - These programmes also provide additional types of services to drug users, like drug counseling services, and this actually helps people stop using drugs. 	<p>Some people do not like the idea of needle exchange programmes because they think:</p> <ul style="list-style-type: none"> - The best way to stop drug users from getting HIV is to stop them from using drugs. Similarly, the best way to stop sex workers from getting HIV is to stop them from selling sex. - These programmes make drug users want to use drugs by making clean needles easily accessible. They also help it easier for sex workers to sell sex by delivering condom to them.

Handout 1: Three pictures related to harm reduction measures



Handout 2: Some keywords related to three harm reduction measures

CONSISTENT	CLEAN	ON TIME
PROPERLY	ONE TIME	DRINK
DAILY	USE-BY DATE	EXCHANGE

Handout 3

Article 21 - Law on HIV/AIDS Prevention and Control:

1. Harm reduction intervention measures to prevent HIV/AIDS transmission shall be implemented among target groups with risky behaviours through programs and projects suitable to socio-economic conditions.
2. The Government shall provide for the organization of implementation of harm reduction intervention measures to prevent HIV transmission.

Article 3 - Decree No. 108/2007/ND-CP. This article sets out prohibited behaviours:

1. Hindering the implementation of programs and projects to deploy harm reduction intervention measures in the prevention of HIV transmission.
2. To take advantage of harm reduction intervention measures in the prevention of HIV transmission to abet or organize prostitution and drug trafficking activities.
3. To sell syringes, condoms, drugs administered in replacement of opiate substances and HIV medicines which are prescribed to be supplied free of charge.

Handout 4: Cards

PLHIV	LGBT (Lesbians, gays, bisexuals and trans-genders)	CLHIV (Children living with HIV)	Migrant workers
Sex workers	Drug users	Sex workers' customers	Partners of IDUs
MSM (Men who have sex with men)	IDUs (Injecting drug users)	Mobile population groups	Prisoners



Handout 5: Article 8 and 9 (Decree No.108)

Article 8. Provision of condoms and guidance on condom use

1. Condoms are provided free of charge or sold at subsidized price under programs or projects to those stated in Article 5 of this decree by outreach workers holding cards or through the network of condom distribution points stated in Clause 3 of this article.
2. Condoms provided free of charge as stipulated in Clause 1 of this article must have the phrase "For free distribution only, not for sale" on their packings or supplementary labels.
3. Managers of programs or projects may:
 - (a) Expand the network of free-of-charge condom distribution points, install condom vending machines and arrange condom retail points in entertainment centres, railway or bus stations, hotels, guest houses, restaurants and other accommodation service facilities;
 - (b) Promote the free-of-charge provision of condoms and the sale of condoms at subsidized price to users.
4. Managers of programs and projects shall:
 - (a) Provide guidance on proper condom use;
 - (b) Notify the commune-level People's Committee and police before providing condoms and guidance on condom use.
5. Owners of entertainment centres, railway and bus stations, hotels, guest houses, inns, restaurants and accommodation service facilities are responsible for collaborating with programs and projects in providing condoms free of charge or installing condom vending machines within their establishments.
6. The People's Committees at all levels and police offices at the same level are responsible for creating favorable conditions for programs and projects to operate and develop the network of condom distribution points in their localities.

Article 9. Provision and guidance for use of clean needles and syringes

1. Clean needles and syringes are provided free of charge under programs and projects to injecting drug users by outreach workers holding cards or through the network of clean needles and syringes distribution points stated in Clause 5 of this article.
2. Needles and syringes stated in Clause 1 of this article must have the phrase "For free distribution only, not for sale" on their packaging or supplementary labels.
3. When distributing clean needles and syringes to injecting drug users, outreach workers shall:
 - (a) Instruct the safe use of needles and syringes;
 - (b) Distribute correct quantities of clean needles and syringes provided by the program or project, and collect all used ones in safe hard-shell containers and carry them to prescribed places for destruction in accordance with the law on waste disposal;
4. Injecting drug users shall collect used needles and syringes and hand them to outreach workers according to Point b, Clause 3 of this article.
5. Programs and projects may expand their fixed or mobile networks of providing clean needles and syringes at HIV/AIDS prevention and control centres, provincial- and district-level preventive medicine centres, drug stores, voluntary counselling and testing centres and other appropriate sites.
6. People's Committees at all levels and polices of the same level are responsible for creating favourable conditions for programs and projects to operate and develop clean needle and syringe distribution points in their localities.



Handout 6

Role Play Scenario #1

2 Roles: (Police Officer, Heroin User)

A heroin user is walking down the street. He is stopped by a police officer and the police officer looks at his arm and sees that he has needle marks on his arm. The police officer begins to search the heroin user and finds syringe needles in his pocket, but he does not find any drugs. The heroin user tells the police officer that he uses the syringes and needles for heroin use. By having his own syringe and needles the heroin user makes sure that he does not get HIV/AIDS from sharing a needle with another drug user who may already have HIV/AIDS.

Role Play Scenario #2

2 Roles: (police officer, a street-based sex worker)

A street-based sex worker is standing on the sidewalk at night. A police officer is walking the street and sees her. He sees the way she is dressed and asks to see her identification card. When she opens her purse, the police officer sees three condoms inside and asks her why she has them. She tells him that these condoms will be used to protect herself from HIV transmission. The police officer arrests her.

CHAPTER 11

Legal obligations of people living with HIV in Viet Nam

OUTCOMES

After this lesson, participants will be able to:



- Knowledge**
- (1) Know the legal obligations of PLHIV in Viet Nam
 - (2) Know the difficulties in enforcing obligations on PLHIV in Viet Nam



- Skills**
- (1) Identify the legal obligations of PLHIV in Viet Nam
 - (2) Differentiate and explain the essential difference between 'intentionally transmitting HIV to other persons' and 'transmitting HIV to other persons.'
 - (3) Discuss and explain to others the current HIV laws in Viet Nam related to the legal obligations of PLHIV



- Values**
- (1) Understand and appreciate how knowledge of both their legal rights and obligations empowers PLHIV
 - (2) Understand the importance of knowing the legal obligations of PLHIV
 - (3) Recognize the social conflict induced by criminally punishing PLHIV for transmitting HIV to others

1. Introduction

People living with HIV (PLHIV) have obligations under the law, just like other people. In particular, PLHIV have the obligation to not purposefully transmit HIV to other people. The Ministry of Health estimates that every day there are more than 100 new HIV infections in Viet Nam.⁵² HIV can be transmitted intentionally or unintentionally. Therefore it is very important to understand how not to transmit HIV and to understand what may happen if a PLHIV transmits HIV either intentionally or unintentionally.

2. Current law in Viet Nam

Law on HIV/AIDS Prevention and Control (No. 64/2006/QH11)

The Law on HIV/AIDS Prevention and Control gives many rights to PLHIV and also has a number of obligations that PLHIV must follow:

- ⚡ **Article 4(2)** is a part of the law that focuses on preventing transmission of HIV from one person to another. This clause says that PLHIV must:
 - ▶ Apply measures to prevent the transmission of HIV to other people
 - ▶ Inform their spouse or fiancé (fiancée) of the results of their HIV positive status
 - ▶ Follow instructions on treatment with antiretrovirals (ARVs)
 - ▶ Follow other obligations as provided by this Law and other related laws.
- ⚡ **Article 8** specifically states what PLHIV are prohibited from doing by this law. This is very important because this can lead to criminal penalties if a person violates these obligations. These obligations include:
 1. Purposefully transmitting or causing the transmission of HIV to another person;
 2. Threatening to transmit HIV to another person.

2.1. How PLHIV can fulfil the obligations placed on them by the Law on HIV/AIDS Prevention and Control

Since the Law on HIV/AIDS Prevention and Control places specific obligations on PLHIV, it is very important for PLHIV to know how to be in compliance with this law. The following are some of the ways PLHIV should do this.

52 <http://www.5giay.vn/showthread.php?t=831373>

2.1.1. Take measures to prevent HIV transmission to others

The HIV virus is easily transmitted through unprotected sex, using non-sterile injecting equipment, and by transmission from an HIV-positive mother to child. In each case, PLHIV should take measures to prevent the transmission of HIV to others. Specific measures that may be taken are as follows:

- ▶ PLHIV should use a condom when having sex.
- ▶ Injecting drug users who have HIV should not share injecting equipment.
- ▶ Couples are encouraged to undertake voluntary HIV testing before getting married, as are pregnant women (Article 13(2)).
- ▶ Pregnant women who are living with HIV should consult and follow the advice of doctors who can help them to prevent the transmission of HIV to their child. (See ARVs, 2.1.3).

☞ For more information please refer to Chapter 1.

2.1.2. Inform your partner (husband/wife/fiancé/fiancée) of your test results

It is the obligation of a PLHIV to inform his/her partner/husband/wife/fiancé/fiancée that he/she is HIV-positive.

The law does not require a PLHIV to inform casual sex partners or sex workers. However, if HIV is transmitted purposefully, the person may be charged with a violation of the Viet Nam penal code, which is discussed later in this chapter.

Case study: Legal obligations of a PLHIV to inform his/her partner/husband/wife/fiancé/fiancée that he/she is HIV-positive

One year before my husband died, I learned that he was HIV-positive. We had fallen in love long before, but he did not tell me his status. I got HIV from him. His parents did not tell me the truth either, because they thought that our child would not be HIV-positive.⁵³

2.1.3. Implementing the treatment guidelines with ARV drugs

Antiretroviral drugs (ARVs) are medicines for the treatment of retroviruses, including HIV. Although not a cure, ARVs are one of the best measures we have to prolong life and improve health for PLHIV. The drugs prevent the multiplication of HIV in the body and restore the functioning of the immune system, which in turn greatly reduces HIV-related diseases (opportunistic illnesses such as pneumonia, tuberculosis and HIV-related cancers) and mortality, and improves overall health. ARVs also reduce the risk of HIV transmission by reducing the viral load (the amount of HIV infection) in a person's body. They can also be used to prevent HIV transmission from mother to child during pregnancy and while breastfeeding.

53 <http://www.trangtinvietnam.com/VN/Tam-tinh/Se-chia-tam-su/8368/s>

ARVs are only effective when the treatment guidelines are followed closely. In addition, the ARV drugs are expensive, so when prescribed, PLHIV must follow the instructions of their doctors. Non-compliance can result in severe, ARV-resistant illness.



2.2. Prohibited acts under the Viet Nam Penal Code

1999 Viet Nam Penal Code (as amended in 2009)

The Viet Nam Penal Code punishes the intentional transmission of HIV to other people:

- ⌘ **Article 117** specifically prohibits PLHIV from intentionally transmitting HIV to other people via their own bodies.
 1. Those who know they are HIV positive and intentionally transmit HIV to another person can be imprisoned from between one to three years.
 2. The minimum sentence can be increased to seven years in cases which are considered more serious, namely where the crime is committed:
 - (a) against more than one person
 - (b) against juveniles
 - (c) against the doctors or medical workers who directly give medical treatment to them
 - (d) against persons performing their official duties or for reasons of the victims' official duties.
- ⌘ **Article 118** applies to both PLHIV and non-PLHIV and provides even stronger penalties than Article 117.
 1. People can be imprisoned from three to ten years for intentionally transmitting HIV in situations other than those described in Article 117, that is, by intentionally transmitting HIV from sources other than their own bodies.

2. A higher sentence of ten years to life is implemented for situations which are considered extremely serious, namely where the crime is committed in any of the following situations:
 - (a) in an organized manner
 - (b) against more than one person
 - (c) against juveniles
 - (d) against persons performing their official duties or for reasons of the victims' official duties
 - (e) abusing their professions.
3. Offenders may be additionally banned from holding certain posts, practicing certain occupations or doing certain jobs for one to five years.

Comparison of Article 117 "Transmitting HIV to other persons" and Article 118 "Intentionally transmitting HIV to other persons"

Similarities

Offenders under Article 117 and 118 both commit the crime by way of engaging in 'transmission behavior', that is behavior that includes the risk of transmitting HIV to other persons. The transmission behavior must occur.

Offenders under Article 117 and 118 must have an intention to commit the crime: that is, they must intend that as a result of their act, they will transmit HIV to another person.

Differences

Criteria of distinction	Article 117 - "Transmitting HIV to other persons"	Article 118 - "Intentionally transmitting HIV to other persons"
Source of HIV (the most important difference between the sections)	Offenders transmit HIV from their own bodies to other persons.	Offenders transmit HIV from sources other than their own bodies to other persons.
People who commit the crime	PLHIV who know about their HIV-positive status. If they do not know about this, they are innocent.	PLHIV and non-PLHIV.
Prosecution	Where the victim is HIV-positive after testing, offenders must be prosecuted. However, in practice, in some cases under Article 117, Clause 1 where the intended victim is not HIV-positive after testing, offenders may not be prosecuted. ⁶⁰	In all cases, even if the intended victim is not HIV-positive after testing, offenders must be prosecuted.

3. Prohibited acts under the penal codes of other countries⁵⁵

While there is no international law on the issue of whether PLHIV should be prosecuted and punished for transmitting HIV to other people, there is much debate on the issue. Some people argue that criminal charges should never be brought for transmitting HIV, no matter what the circumstances. Others consider it a threat to public health to allow individual PLHIVs who wish to do harm to be immune from prosecution.

Most agree that PLHIV should only be criminally punished if they intentionally transmit HIV in circumstances where they know that they have HIV. They believe that in cases where PLHIV recklessly or accidentally transmit HIV, education and counseling is a more effective prevention method than criminal sanctions.

Below is a short summary of some of the arguments for the criminalization of HIV transmission, and the counter-arguments against such legislation:

FOR CRIMINALIZATION	AGAINST CRIMINALIZATION
If you are HIV positive, failing to implement protective measures to prevent transmission is morally wrong because it is harmful, and people who do wrong should be brought to justice through the law regardless of their health status or background.	Criminalizing PLHIV does not address the complexities involved in disclosure in relation to stigma and discrimination. Disclosure may increase HIV stigma, particularly when PLHIV being brought to trial are demonized by the press. Stigma can lead to familial rejection, loss of employment and violence.
	HIV is no longer a death sentence, and with modern anti-retroviral drugs, HIV-positive people can live a healthy life for many years.
If you are HIV positive, it is your duty to use protection. The idea of 'shared responsibility' is based on ideals that came about when HIV was still considered an illness which existed only amongst homosexual men. With heterosexual relationships, shared responsibility is not always a practical reality. Many women, even in the West, do not necessarily have the power to force their partners to wear a condom.	The more cases that come to court, the more people will believe that the responsibility for having safe sex should lie solely with PLHIV. This could in turn lead to more incidents of unprotected intercourse, with people believing it to be a legal responsibility for their partner to disclose any infection. Safe sex should always be a shared concern.
	Analysis of all the issues surrounding criminalization reveals that it does not reduce new infections or reduce vulnerability. Rather it may harm vulnerable groups such as women, infringe upon human rights and negatively impact on public health campaigns. It can lead to injustice and ineffective public health measures.

⁵⁵ The following is based upon on information contained on the Averting HIV and Aids (AVERT) website located at <http://www.avert.org/criminal-transmission.htm> (as of September 19, 2010)

Criminalizing transmission, including for reckless transmission, will act as a deterrent and will make HIV-positive people think twice before having unprotected sex.	The law has little effect on people's sexual behaviour, as is clear from the number of teens who have illegal underage sex. Criminalization of transmission does however enable lovers to use the law as a way of exacting revenge. In such cases, the original HIV-positive partner would always be at a natural disadvantage.
To ensure that people don't believe they are immune from prosecution just because they haven't taken an HIV test, it should be possible to call an HIV-positive person 'reckless' even if they have never actually had an HIV test - knowledge that they have put themselves at risk in the past should be enough to make them aware of their HIV risk and thus legally obliged to use a condom in the future.	Prosecuting HIV-positive people for reckless transmission could well leave many afraid to be tested, believing that if they do find out their status, they could be liable to all sorts of criminal charges. Avoiding this problem by telling people they should be 'aware' of their risk even if they haven't tested for HIV is entirely unfair. It is impossible to assess or judge how 'aware' of past risk of infection any one person is or should have been. Furthermore, prosecution for reckless transmission may criminalize people simply by virtue of their membership of a HIV high risk group thereby leading to discrimination.
Putting people in prison will stop them from transmitting HIV and endangering the community.	Imprisonment does nothing to help people come to terms with their HIV and take a safer attitude towards sex. Education and psychological counseling would be a more appropriate course of action in many cases and priority and resources should be accorded to these measures. Also, the sharing of needles for injecting drugs and the high incidence of male rape and sex between men in prisons puts people at particular risk of HIV transmission there.
	Criminal cases give police license to investigate the background of anyone they suspect of having passed on HIV. This can represent a serious invasion of privacy as well as a potential breach of confidentiality and anonymity, and it may well be entirely unjustified.
Laws on the transmission of diseases do not necessarily apply just to HIV. Many laws relating to HIV could potentially be used to prevent people transmitting many other fatal illnesses.	No other illnesses are treated with the same hysteria as HIV, and few people are ever criminalized for transmitting them. For example, it is unlikely that anyone would think to prosecute an employee of a residential care home for coming into work with the flu and giving it to the residents, even if several of those residents subsequently died. HIV is only singled out in criminal cases because of its association with stigmatized groups and promiscuity.
HIV-positive people can be divided into two legal categories comprising the "guilty" of HIV transmission (the one who recklessly give it to others) and the "innocent" (victims who were infected through no fault of their own, and who would never put anyone else at risk).	The categorization between 'perpetrator' and 'victim' is far from clear cut, and most PLHIV have at some point in their lives belonged to both. After all, everyone who transmits HIV was once a 'victim' of someone else with the virus.
Vulnerable women who do not have control over their sexual relations will find protection in laws that would prosecute reckless male partners.	Women will face a greater risk of prosecution as they more often know their status through attending health clinics more frequently. An HIV-positive man may accuse his female partner of infecting him because she was diagnosed first, even if he infected her and was not diagnosed until much later.

4. What to do if PLHIV fail to follow their obligations?

It can be difficult to know what to do if PLHIV fail to follow the obligations required by law. There is no legal remedy when a PLHIV fails to inform a spouse or fiancée about his/her positive HIV status. However, in cases where a person intentionally transmits HIV to another, Viet Nam's legal system does allow this person to be prosecuted under Article 117 and 118 of the Penal Code (see above).



LESSON PLAN

Content	Methods	Activity instruction	Materials	Time
Introduction	'Desert Island' Game	<ol style="list-style-type: none"> 1. The facilitator prepares some pieces of paper as follows: <ul style="list-style-type: none"> ▶ One side of the paper has a table to fill in with the questions from point 3 below ▶ On the other side of each piece of paper, the facilitator marks one of the following signs at random: +, -, @, \$, #, %, *, . 2. The facilitator gives each participant a piece of paper and a pen. (1') 3. The facilitator asks participants to imagine that they have been shipwrecked on a desert island as a group. The island is undiscovered. It is not on any shipping or plane routes so the likelihood that they will be rescued is very small and the group is likely to be stuck on the island for a very long time. To survive on the island, the facilitator asks the participants to think about the following questions for 2 minutes: <ul style="list-style-type: none"> ▶ What they as individuals have to do ▶ What other people have to do ▶ What they are entitled to enjoy 4. The participants then have 2 minutes to fill in the piece of paper. (2') 5. The facilitator collects all the pieces of paper and reads aloud a selection of them. (2') 6. The facilitator asks participants about the meaning of this game. The facilitator should use some of the following questions: (5') <ul style="list-style-type: none"> ▶ Do you think that there are some similarities between what you have to do and what other people have to do? ▶ Do you think that there are some similarities between what you are entitled to enjoy and what the other people are entitled to enjoy? ▶ What do you think would be the result if all people do their tasks well? ▶ What do you think of people who don't want to do any tasks? Will these people survive for a long time on the island? 7. The facilitator concludes by explaining the meaning of the game. (2') 	Paper, Pens (enough for every participant)	15'

The limitations of the law	Role-play, Brainstorming, Discussion, Debate	<p>1. The facilitator asks for 2 volunteer participants or chooses 2 participants to do a role-play (Handout 4). (1')</p> <p>2. The participants perform the role-play. (3')</p> <p>3. The facilitator conducts a brainstorming session to debrief the role-play and asks the following questions: (5')</p> <ol style="list-style-type: none"> Does the girl have the right to ask the boy to take an HIV test? Does a cohabitant have the right to know about the HIV status of his/her partner? Would the situation be different if they were married? Do sexually active partners have the right to ask for an HIV test regardless of their living situation or the legal status of their relationship? The facilitator asks the participants what they think would happen if one of the parties was a sex worker? Would their answers be different? <p>4. The facilitator divides the participants into 3 groups and explains that the first two groups are going to have a debate. Group 1 should come up with arguments supporting the that "We should not criminalize HIV transmission". Group 2 should come up with arguments supporting the opposite idea that "We should criminalize HIV transmission". (1')</p> <p>5. Group 3 will be the judges and decide which side wins the debate. (1')</p> <p>6. Each group then presents for 2 minutes per group and supports their arguments. (5-10')</p> <p>The judging participants then vote individually as to which side they believe presented the best arguments.</p> <p>7. The facilitator divides the participants into 3 groups again but not randomly. Group 1 will include all people who agree with the idea that "we should not criminalize HIV transmission"; Group 2 will include all people who agree with the idea "We should criminalize HIV transmission", and Group 3 will include all people who agree with the idea that "Sometimes we should criminalize HIV transmission." Each group discusses reasons why they belong in the group and prepare to "Take A Stand". (1')</p> <p>8. The three groups will then take turns taking a stand: they will explain why they believe the way they do. (10')</p> <p>9. When a spokesperson for each of the three groups has spoken, the facilitator should ask the participants if any of them want to switch groups based on what they heard from the other groups; those who change must explain why they've changed sides. (5')</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> If participants are not comfortable acting out the role play, the facilitator can ask them to read out the situation and not act it out. Suggested answers: <ul style="list-style-type: none"> Question 1: <i>The law does not require people to have a test before they have sex. But to reduce health worries, it is a good idea for couples to know their HIV status and negotiate condom use before they have sex.</i> Question 2: <i>There is no law which requires this if the cohabitants are not married or engaged. Article 4(c) Law on HIV/AIDS Prevention and Control 2006 only requires spouses or fiancés to disclose their status. However, couples should be honest with their partners about their status and negotiate condom use before they have sex.</i> 	Ball, Handout 4	30'
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Debrief	Question & Answer	<ul style="list-style-type: none"> Question 3: <i>Yes, an HIV-positive person must disclose their status to a fiancé or spouse. Article 4(c) Law on HIV/AIDS Prevention and Control 2006</i> Question 4: <i>Repeat answer to question 1: There is no law that requires an HIV test before partners have sex. However, couples should be honest with each other about their status and negotiate condom use before they have sex.</i> <p>If in all the above situations, the facilitator should remind the participants that while there may not be a legal obligation for PLHIV to disclose their status to a person they are not married or engaged to, there can be criminal penalties if they have sex with that person and they get HIV. This would also apply to PLHIV who have sex with sex workers.</p> <p>1. The facilitator explains that the group is going to talk about what they've learned and that the person the Facilitator throws the ball to must answer. (2')</p> <p>2. Facilitator then asks the Participants :</p> <ol style="list-style-type: none"> What was the meaning of the 'Desert Island' game? What are the legal obligations of PLHIV? What is the essential difference between "intentionally transmitting HIV to other persons" and "Transmitting HIV to other persons"? <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> Facilitator should rely on the information in the chapter and Lesson Plan to ensure that the participants answer the questions correctly. Facilitator can offer this rule: <i>If participant who has the ball cannot answer, they can ask help by throwing ball to someone else. Each participant can ask for help three times - if they ask for help after that, they will have to sing a song!</i> 	Ball	10"
Mechanisms to protect rights		For lessons on mechanisms to protect rights, please refer to Chapter 12 of this manual.		15'
Available social services	Handout	The facilitator should refer to the appendix of this manual for possible handouts for participants.		5'
Evaluation of lesson	Completion of form	Facilitator should give each of the participants a feedback form about this lesson. See evaluation form in Appendix No.5.	Evaluation form	5 - 10'
 Total Time 130'				



Handout 1

Team ♥

Must follow medical advice during treatment with ARV drugs

Team ♠

To inform their partner, spouse or fiancé (fiancée) of any HIV positive test results

Team ♣

HIV positive pregnant women should go to a medical or counselling centre for medical advice about how to reduce the risk of HIV transmission to the foetus.

Team ♦

PLHIV should use a condom whenever they have sex and should never share syringes or any means of injection with other people



Handout 2

1999 Viet Nam Penal Code (as amended in 2009)

The Vietnamese Penal Code punishes the intentional transmission of HIV to other people:

- ⌘ **Article 117** specifically prohibits PLHIV from intentionally transmitting HIV to other people (that is via their own bodies).
 1. Those who know they are HIV positive and intentionally transmit HIV to another person can be imprisoned from between one to three years.
 2. The minimum sentence can be increased up to seven years in cases which are considered more serious, namely where the crime is committed:
 - (a) against more than one person
 - (b) against juveniles
 - (c) against the doctors or medical workers who directly give medical treatment to them
 - (d) against persons performing their official duties or for reasons of the victims' official duties.
- ⌘ **Article 118** applies to both PLHIV and non-PLHIV and provides even stronger penalties than Article 117.
 1. People can be imprisoned from three to ten years for intentionally transmitting in situations other than those described in Article 117, that is, by intentionally transmitting HIV from sources other than their own bodies.

2. A higher sentence of ten years to life is implemented for situations which are considered extremely serious, namely where the crime is committed in any of the following situations:
 - (a) in an organized manner
 - (b) against more than one person
 - (c) against juveniles
 - (d) against persons performing their official duties or for reasons of the victims' official duties
 - (e) abusing their professions.
3. Offenders may be additionally banned from holding certain posts, practicing certain occupations or doing certain jobs for one to five years.



Handout 3: Situation

Mr. A is a Director of a big company. He has had a very successful career. After a party celebrating the signing of a new contract, he has sex with a sex worker. 6 months later, he goes to hospital for an HIV test. The test result is positive for HIV. Mr A becomes depressed and feels hopeless. He believes life has not been fair to him. To make himself feel better, he has sex with many girls and transmits HIV to them. When these girls have an HIV test, they discovered that they have HIV. Mr A is charged with transmitting HIV to other persons.



Handout 4

Script for role play

A couple is walking in the park. The boy wants the girl to have sex with him. The girl agrees, but she wants them both to have an HIV test before starting a sexual relationship. In response, the boy says: "Trust me, we do not need a HIV test. We're strong and healthy!"

CHAPTER 12

Mechanisms to address rights violations of people living with HIV

OUTCOMES

After this lesson, participants will be able to:



- Knowledge**
- (1) Know about different mechanisms that people living with PLHIV in Viet Nam may use to protect their rights and seek redress when their rights are violated
 - (2) Understand some of the benefits and difficulties for PLHIV in Viet Nam when following the different mechanisms available for seeking redress
 - (3) Understand what a lawyer is, how lawyers work to help clients and some of the rules that exist to make sure lawyers help their clients seek remedies



- Skills**
- (1) Learn how to identify and explain to others some of the more appropriate mechanisms that PLHIV can use to protect their rights
 - (2) Learn some of the skills to apply the mechanisms available successfully
 - (3) Learn how to identify a good lawyer to hire to help seek and achieve successful remedies



- Values**
- (1) Understand and appreciate that when PLHIV's rights are violated, there are different mechanisms to protect their rights and seek redress.
 - (2) Understand that lawyers have an obligation and duty to work for their clients

1. Introduction

Simply knowing the law or the existence of rights for PLHIV is not enough. They must also know what to do when these rights are violated. In Viet Nam there are a range of processes that a person when they have been violated can pursue to both protect his/her rights and obtain redress.

The types of processes are:

- ▶ informal sharing of information and negotiation;
- ▶ mediation;
- ▶ administrative law processes ;
- ▶ judicial (civil and criminal) processes.

Which process is the most appropriate very much depends on many factors such as the type of rights violation, the relevant law, the kind of result that a PLHIV wants, the needs and nature of the people involved, etc.

Often these processes are difficult, and seeking the advice and/or assistance of a lawyer may be considered.

☞ For further information, see section 3 below on working with lawyers and Appendix No.4 for a list of legal aid service providers.

2. Current processes to seek redress in Viet Nam

2.1. Informal sharing of information and negotiation

Very often the most simple process PLHIV can follow when their rights are violated is to provide information to those violating their rights about how and why their actions are wrong and against the law. Many people in Viet Nam are still not fully aware of the rights that protect PLHIV and therefore act in ways that violate their rights. They may not do this with bad intent, and when they are shown that their actions are wrong they often try to fix them.

For these reasons it is very important for PLHIV to know their rights under the law. It is important to remember that there are a number of different laws that can protect PLHIV, not just the Law on HIV/AIDS Prevention and Control. There are special laws that protect women, children, workers, and others. These various laws have been discussed in the other chapters in this manual.

Useful tip

☞ It is helpful for a PLHIV to make a copy of the laws that have been violated and show the information to the offender. The PLHIV can print it on internet, or at the local cultural house or ask a lawyer to print a copy for him/her.

Providing information is the easiest step to follow and it should be tried first if a PLHIV's rights are violated. If this is unsuccessful, negotiations between the two parties, which involve a more active dialogue and sharing positions, can lead to a mutual agreement. Some points to consider for a PLHIV when negotiating are:

- ▶ Be willing to compromise on some things but never compromise on your rights.
- ▶ Think in advance about the result you want to achieve and communicate it clearly to the other party:
 - ◆ For instance, when a PLHIV is illegally dismissed from the workplace due to his/her HIV status the result he/she may be seeking is getting his/her job back. In a similar case another PLHIV may only seek monetary damages because he/she realizes that getting his/her job back will not restore his rights due to the discrimination and hostile work environment he would suffer if he was returned to work.
- ▶ Try to establish clear communication between yourself and those who are violating your rights: be polite, explain what you want to say clearly and make sure the other party understands your message. Try to listen first and speak second.
- ▶ Do not lie or be dishonest, even if you do not trust the other party. This does not mean you have to tell the other party everything, but do not say anything that is not true.
- ▶ Discuss the possible range of options if more than one exists that will protect your interests. Think about creative options that protect your interests. For example, if your physical condition deteriorates you may be interested in changing your job rather than getting your previous job back.
- ▶ Remember to make your argument stronger by using the law.
- ▶ Keep a written record of the agreement. If you do not trust the other party to keep its promises, make them write down their commitments and ask a neutral person to witness.

Case Study: Providing information

Quan was living with his parents when he became HIV-positive. When his parents learned of his status, they felt ashamed and forbade him to enter the house. Not understanding HIV transmission, they were also afraid that Quan would give HIV to other members of the family. His parents built Quan a small one-room house and made him live there alone. His mother brought him food every day but Quan felt lonely and isolated. He wished his parents would understand him and accept him back into the family, but it seemed impossible. Quan's thoughts ran repeatedly to suicide. One day, Quan told a fellow PLHIV about his situation and she advised him to go to the Center for Consulting on Legal and Policy on Health and HIV/AIDS (CCLPHH) to ask for help. They provided him with an understanding of HIV and his rights and responsibilities regarding HIV. He asked that a lawyer accompany him to his family's house and support him to demand that his family respect his rights. Also present was a peer counsellor and four officers from the commune People's Committee. The team explained basic HIV prevention and transmission to Quan's parents and talked to them about the Law on HIV/AIDS Prevention and Control and the rights and responsibilities that it stipulates for PLHIV. Finally, the peer counsellor talked to Quan's parents about her own situation, the way that she had overcome her difficulties and the work she was then doing at the Centre. After listening to what the lawyer and peer counsellor said, Quan's parents understood what they had done to their son and accepted him back into the house.

2.2. Mediation



Mediation is an effective process available to seek redress for PLHIV in Viet Nam when their rights are violated. Mediation is a form of dispute resolution between two or more parties involves a neutral third party mediator who assists the parties to discuss and negotiate their settlement. In Viet Nam at the community level, groups of non-professional mediators are set up to carry out this mediation.

There are times when mediation is appropriate and other times when it is not. Mediation is especially recommended when:

- ▶ The parties wish to settle promptly and to minimise costs.
- ▶ The parties have the capacity to represent their own best interests.
- ▶ The parties wish to settle voluntarily.
- ▶ The parties have difficulty negotiating.
- ▶ The parties assess the facts and/or law differently.
- ▶ The parties have a continuing relationship.

In mediation it is important to understand that:

- ▶ Mediators are third parties who control the process but have no stake in the outcome.
- ▶ Mediators make suggestions - they do not give legal advice or tell the parties what to do.
- ▶ Mediators have no authority - they cannot force the parties to adopt an agreement nor enforce the agreement.
- ▶ Mediation is about finding a solution and does not aim to find blame, guilt or punishment.
- ▶ Mediation is voluntary - the parties can walk away at any time.
- ▶ All information disclosed at a mediation should be private and confidential - it cannot be used in subsequent court proceedings.

2.2.1. Steps in a mediation process

If a PLHIV takes part in mediation, these are the steps that will usually take place:

Step 1: Introduction - The mediator should explain his/her role in the mediation and state the reason for and rules of the mediation.

Step 2: Telling the story - Each party tells what happened from their own point of view. The person bringing the complaint tells his or her side of the story first. No interruptions are allowed. Then the other party explains his or her version of the facts.

Step 3: Identifying the facts and issues - The mediator attempts to identify the facts and issues agreed upon by the parties. This is done by listening to each side, summarizing each party's views, and asking if these are the facts and issues as each party understands them.

Step 4: Identifying alternative solutions - Everyone thinks of possible solutions to the problem. The mediator makes a list and asks each party to explain his or her feelings about each solution.

Step 5: Revising and discussing solutions - Based on the expressed feelings of the parties, the mediator revises possible solutions and helps the parties identify a solution to which both parties can agree.

Step 6: Reaching agreement - The mediator helps the parties reach an agreement. The parties should also discuss what will happen if either of them breaks the agreement.

Step 7: Signing the agreement - If the two parties agree with the terms of the agreement reached in Step 6, they sign the mediating agreement minutes. After signing, both parties have to respect and follow the agreement. In the case that the parties do not agree with the terms of the agreement reached in Step 6, they still have to sign the mediation minutes, but they record that they did not agree.

2.3. Administrative mechanisms and sanctions for acts violating rights of PLHIV

Administrative mechanisms are available means of enforcing the rights of PLHIV in Viet Nam. The government prescribes that certain acts that violate other people's rights are against the law and are defined as being 'administrative violations (such as expulsion from school or work of a PLHIV because of his/her HIV status). These violations are subject to administrative mechanisms and sanctions which are imposed and enforced by certain state agencies. This is compared to acts which violate other people's rights which are against the law but defined as being criminal and are subject to criminal law mechanisms and penalties

☞ For further information please refer to section 2.4 of this chapter.

In addition to this general framework, Viet Nam has developed multiple legal documents to regulate the administrative violations on specific fields. In the area of HIV, Decree 69 (No.69/2011/ND-CP) on the handling of administrative violations of preventive medicine, health environment and control and prevention on HIV/AIDS has been recently issued and replaces the sanctions stipulated in Decree No. 45/2005/ND-CP. The HIV-related administrative violations and subsequent sanctions are specified in Section 3 of Decree 69 (articles 18-23), which include violations in a broad range of issues; information, education and communication information on HIV; care and treatment for PLHIV; harm reduction interventions or discrimination against people living with HIV.

The sanctions for administrative violations under Decree 69 include:

- ▶ Fines - The type of fine and amount are depended on the type of administrative violation, for example:
 - ◆ A fine of between 2,000,000VND and 5,000,000VND for one of the following acts:
 - (a) Request to take an HIV test or to show HIV test results from job candidates, except for cases stipulated in Article 20 of Decree No.108/2007/ND-CP dated June 26th, 2007 of the Government stipulating in details the handling of some articles in Law on

HIV/AIDS Prevention and Control;

(b) Request an HIV test or HIV test results from pupils, students or learners.

- ◆ A fine of between 15,000,000VND to 20,000,000VND for one of the following acts:
 - (a) Threaten to transmit HIV to other people;
 - (b) Use HIV/AIDS prevention programs to gain profits or to commit acts against the law.

The person whose rights had been violated does not receive the money from the fine. It goes to the State budget. Fines are therefore a deterrent remedy; they do not assist PLHIV directly but they help educate those individuals or organisations who violated the right.

- ▶ Optional injunctive measures, for example:
 - ◆ Compelling to issue a public apology and correction on mass media continuously for 3 days, except for cases when the person living with HIV refuses the public apology and correction about his/her HIV-positive status.
 - ◆ Withdrawing professional license for a duration of 6 months for violation acts
 - ◆ Compelling to restore the original position
 - ◆ Compelling to directly apologize to the discriminated

Administrative remedies are imposed and enforced by prescribed government authorities. In the case of breaches of rights of PLHIV, these authorities are:

- ◆ the People's Committees; and/or
- ◆ State Sector Management Agencies in relevant fields such as education and health, for example the Education and Training Department and The Healthcare Department.

The new Decree stipulates more clearly on the administrative violations and have more suitable fines for the administrative violator, which help PLHIV protects their rights themselves better.

2.3.1. Process to follow when seeking administrative sanctions

If a PLHIV decides to seek administrative sanctions, it is recommended that a lawyer be consulted. These are the steps that will usually take place according to the Ordinance on the Handling of Administrative Violations:

Step 1: Making a claim - PLHIV may initially make a claim to the above authorities (starting at the local district level) by informing them that there has been a violation of their rights. The process involves writing a claim and presenting evidence to the

agency. When contacting the relevant administrative authorities, PLHIV should provide as much information as they can, including factual information, documents and the contact information of persons who may be able to support the claim that there was a rights violation.

Be aware that there is a one year time limitation for applying for administrative sanctions from the date that the act violating the right of a PLHIV occurred. That means if the person waits too long after the violation occurs, he/she may be too late.

Useful tips

☛ *What to include in a claim to a government agency:*

1. Name, address of complainant and of the people, officials, institutions, agencies or company who are involved in the dispute.
2. Date of letter of complaint.
3. A brief explanation of the dispute.
4. References to and/or copies of the law, if you know a particular law has been or will be violated.
5. Copies of any documentation that supports your claims.
6. It is good practice to be sure to only give copies (not originals) of all documents and evidence relevant to your complaint. The officer who takes the form should make copies of all documents and return the originals. People should make a record of when and where you filed your complaint, and who they submitted the complaint to.
7. Any commitments or promises made by officials to help resolve the problem, if any.
8. Descriptions of actions already taken by the authorities, if any.
9. A brief list of all the other things you have done to try to solve the dispute, if any.
10. Signature.

☛ *Other actions to strengthen your claim: When notifying the relevant government agency that a right has been violated, PLHIV may also want to consider:*

- ▶ Writing letters to other people who may be able to help;
- ▶ Arranging meetings with officials;
- ▶ Contacting the media

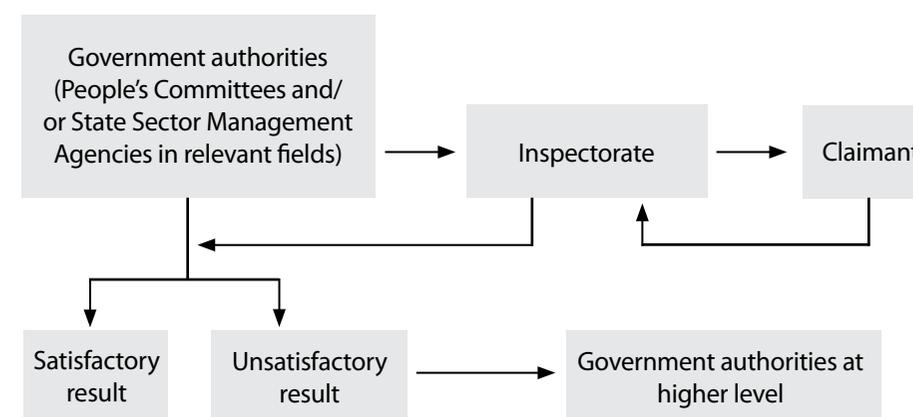
Step 2: Investigation - The agencies are then responsible for considering and investigating the facts of the case and for making an administrative decision to resolve the case. They are also subject to governmental policies and internal guidelines which mandate them to implement laws protecting the rights of PLHIV.

Step 3: Issuing a sanction - If the investigation finds that a violation occurred, the person, institution or organization that violation the right to privacy of the PLHIV will have a sanction issued against them. The form of the sanctioning decision will name the violator, describe the violating act, the section of law to be applied and the

sanction and the time frame for applying the sanction. According to Article 56 of the Ordinance, the standard time frame for deciding whether a violation occurred and imposing a sanction is usually 10 days. This period can be extended to maximum of 60 days in complicated circumstances.

If the claim is not resolved satisfactorily (i.e District People's Committee), it can be referred to higher level (i.e. Provincial People's Committee).

The administrative redress mechanism can be viewed in the following diagram:



Case Study: PLHIV and Administrative Mechanisms⁶⁵

Ly and her partner were married. She only found that her husband was HIV-positive after he got full-blown AIDS and passed away. After burying her husband, Ly brought her daughter to a clinic and they were both tested for HIV. Ly was positive; her daughter was not. Her husband's family made her move back into her own parents' house and leave her daughter behind. Not only did her mother-in-law refuse to let her visit, she forbade Ly from taking care of, or even touching, her daughter. She tried to find a way to get her daughter back and learned, from peer educators, that the Centre for Consulting on Legal and Policy on Health and HIV/AIDS (CCLPHH) provided free legal aid to people living with HIV. She went to CCLPHH and found, in addition to legal counsel, support from people whose situations were similar to her own. Ly's legal team helped her understand her legally guaranteed rights, particularly her right to look after her child.

Law on Child Protection, Care and Education (No. 38/2005/QH11) - "Children have the right to live with their parents. No one has the right to force them to live separately from their parents" - (Article 7);

Law on Marriage and Family (No. 22/2000/QH10) - "Parents have the right and responsibility to love, look after, care and protect the legal rights and benefits of their children" - (Article 34 (1));

Law on HIV/AIDS Prevention and Control (No. 64/2006/QH11), "Other rights as provided for by this Law and other related laws" (Article 4 (1)(f))

In addition to helping her understand her rights and responsibilities, the legal team helped Ly write to the relevant State agencies and branches and local unions for help. They then accompanied Ly to her mother-in-law's house and explained to the family that keeping Ly from her daughter was a violation of the Law. The local administration and relevant state branches decided in her favour and ordered her husband's family to allow her to visit more frequently and take care of the baby. Her mother-in-law complied and since then Ly has been welcome to visit.

2.3.2. Process for seeking sanctions against violations by state executive administrative agencies

In the case that violation of PLHIV's rights is committed by a state executive agency, the Vietnamese legal framework enables citizens to complain against it and ask for redress. According to the Law on Complaints and Denunciations (No. 09/1998/QH10), "Citizens, agencies and organizations are entitled to complain about administrative decisions and/or administrative acts of State administrative bodies and/or competent persons therein when having grounds to believe that such decisions and/or acts have contravened laws and infringed upon their legitimate rights and interests".

State executive administrative agencies are those governmental bodies which are responsible for running the functions of the State, managing the bureaucracy and law enforcement. This includes government ministries, agencies of ministries and provincial, district and communal People's Committees.

An administrative decision is a written decision issued by a State administrative agency or competent person therein. An administrative act is an act of a State administrative agency or competent person therein during the performance of tasks and public duties.

57 Case adapted from page 54 'Legal Aid: Happiness and People Living with HIV'. Names have been changed.

According to this law, a PLHIV can go to the Local Administrative Agency (local People's Committee) or to the State Sector Management Agency in the relevant field of either health or education (for example the Education and Training Department at the provincial level if the breach relates to the right to education) to address an administrative breach specifically involving the State.

After making a complaint to the authorized agency (as explained above), if the complainant does not agree with the result, he/she can take the case to the administrative court or take his/her complaint to a superior agency.

2.4. Judicial processes and mechanisms protecting the rights of PLHIV

In addition to administrative law processes and remedies, judicial processes are available under Vietnamese law that PLHIV can choose to pursue to protect their rights and resolve disputes. Judicial processes refer to the system of legal processes involving courts and judges. The judges make decisions after considering the law and evidence about the claimed violation.

There are different areas of law that deal with different types of violations. With respect to PLHIV, the main areas of law are civil law and criminal. The nature of the rights violation will determine whether the complaint is civil or criminal. This is prescribed by law:

- ▶ There are some violations which are so serious that they are considered wrongs against the whole of society and as such they are defined as criminal. A criminal complaint therefore means that a person is claiming that somebody has committed an offence which is regulated as committed an unviolated criminal law under, such as the Penal Code (No. 15/1999/QH10, amended and supplemented in 2009). For example, if someone uses violent force against a PLHIV they have committed a crime. Individuals do not institute criminal proceedings against people who have violated their rights. It is the role of the State and its agencies, namely the procuracy to do so. If a PLHIV is victim of a crime, he/she must make a report to an investigating body which will decide whether to institute court proceedings.
- ▶ Most violations with respect to the rights of PLHIV are civil in nature. A civil complaint means that a PLHIV is claiming that someone has violated a law, such as the Law on HIV/AIDS Prevention and Control PLHIV's his/her rights and legal interests and has personally caused personal mental or physical harm to him/her. However, that violation is not a criminal under the Penal Code. The Civil Procedure Code (No. 24/33/2004/QH11) is the piece of legislation that establishes general civil liability and sets out what citizens can do when their rights have been infringed. According to the Article 1 of the Civil Procedure Code, cases of civil, marriage and family, business, trade and labor disputes (referred

collectively to as civil cases) and matters regarding civil, marriage and family, business, trade or labor requirements (referred collectively to as civil matters) are under the Civil court's jurisdiction.

☞ For examples and an explanation of criminal acts related to breaches of the rights of PLHIV and the obligations of PLHIV, please refer to Chapter 11.

An advantage associated with choosing to bring a case to court is that compensation for mental and physical damages can be awarded and the person who has had their rights violated can personally receive money. This is different from an administrative complaint where any fine paid by a person violating another person's rights goes to the national budget and not to the person whose rights have been violated.

Unfortunately judicial remedies are often the most difficult, slowest and most expensive type of remedy to seek. Very often they require the help of a lawyer, or someone very well trained in law. For these reasons, usually these types of remedies are avoided. However, in some situations there are no other options than to try to seek them, and in those situations PLHIV should do so.

It must be noted that there is a statutory limitation to applying the law. In other words, if the person waits too long to ask for help after the violating act has occurred, it could be too late for the court to be able to hear the matter and order a remedy.

2.4.1. Process to follow when seeking judicial remedies

If a PLHIV takes part in civil court proceedings, these are the steps that will usually take place:

Step 1: Filing a claim - A PLHIV or their representatives (in cases where they are a minor, or have lost the capacity to act on their own behalf) may file a written claim (petition) and submit basic evidence in order to support the claim against individuals or organizations who violate their rights. Evidence may be obtained from different sources such as involved parties' testimonies or audio or visual materials.

If compensation for damages is requested, the claimant must specify in the claim each item on which the actual damage has occurred, showing vouchers or receipts to prove validity for such expenses. The request must be based on reasonable expenses, meaning necessary actual expenses suitable to the nature and extent of damage, and the average prices in each locality at the time of paying the expenses. For instance, in the case of health costs, these reasonable expenses may include: treatment, nursing and rehabilitation of health and/or lost or impaired functions of the victim, the loss or reduction of the victim's actual income or reasonable expenses and loss of actual income of the persons who take care of the victim.

This claim must be filed at the District People's Court where the person sued (the rights violator) resides or is employed (if the defendant is an individual) or has a head office (if the defendant is an organization). As stipulated in Article 159 of the Viet

Nam Civil Procedure Code 2004, the time period for requesting a court hearing is two years from the date that the rights and interests were affected.

Before making a decision to file a claim, a PLHIV should consider the following points:

- ▶ Litigation is a very complex and stressful process. It is strongly advised that you seek legal advice prior to initiating proceedings.
- ▶ Litigation can be a long and expensive process and it may not produce the best outcome. It is advisable that you first also consider alternative solutions as in some circumstances they can provide you with the assistance and remedy you need.
- ▶ Many people file cases in courts, and there are not enough judges to deal quickly with all of these cases. This means that it can take a very long time before the court will hear a case and make a decision. Because of this, it is a very good idea to do other things, even after a case is filed in court, like writing letters and arranging meetings with officials. If you take actions like writing letters or contacting the media after filing your court case, you can include information about the court case to make your letter(s) and meeting(s) with officials stronger.

Step 2: Acceptance of the claim - After receiving the petition and accompanying documents and/evidence, the Court either grants the application or notifies the petitioner to amend and/or supplement the petition. Afterwards, the Court will estimate the court fees and request the litigator to pay the fees in advance (in some cases, the litigators are exempt from court fees). Within three working days as from the date of receiving the case, the court must send written notice to defendants, individuals, agencies and organizations with rights and obligations related to the settlement of the cases and to the procuracies at the same level.

Step 3: Trial preparation - The time limit for the trial preparation depends on the nature of the civil case (family law, labor, commercial, etc.).

During the period of preparation for the first-instance trial of cases, the courts must carry out conciliations for the involved parties to try to reach a resolution. The court needs to summon all people who are involved in the case to appear at a conciliation hearing. If someone who is involved in the case is absent from the conciliation hearing, the Judge will delay the hearing and set another date that all parties can attend.

There is a seven-day period after a successful conciliation, during which parties can change their opinion on agreement. If no one disagrees, the Judge will issue a decision recognizing the agreement of the involved parties. The decision to recognize the involved parties' agreements shall take effect immediately after it is issued and cannot be appealed.

Furthermore, in the course of settling civil cases, the involved parties have the right to terminate or change their requests or voluntarily reach an agreement with one another that is not contrary to law or social ethics.

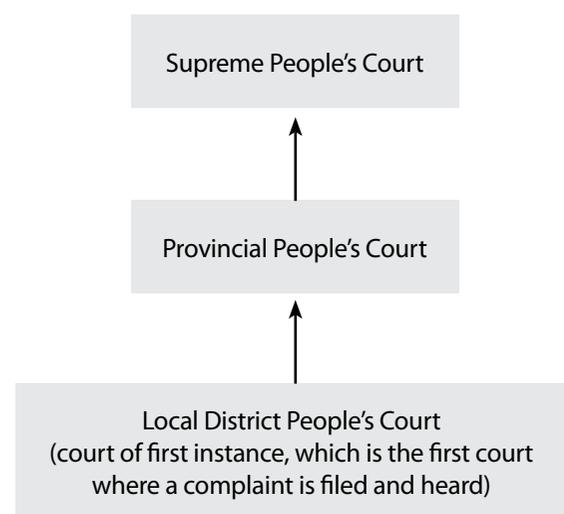
Step 4: Trial resolution - The civil court may request the violator to:

- ▶ Order the termination of the act of violation;
- ▶ Order a public apology and/or rectification;
- ▶ Order the performance of civil obligations;
- ▶ Order compensation for damages.

If any of the court orders are not complied with, the following instruments of compulsory enforcement are available to the court:

- ▶ the confiscation of property of the debtor; and
- ▶ the confiscation of salary, retirement pension, education benefit and other types of incomes of the debtor.

Finally, according to the Civil Procedure Code (No. 24/2004/QH11), a party to a civil dispute (either the person who claims they have had their rights violated or the alleged violator) can appeal or complain about court judgements or decisions. This means if a PLHIV takes a case to court and the case is not successful, there still may be a chance to win the case if the PLHIV appeals the case to a higher court and shows that court made a mistake in its decision. The appeal application must be filed with the first-instance court, which rendered the first-instance judgment or decision being appealed. The appeal application must be accompanied by additional documents and/or evidence, if any, to prove that the appeal is well-grounded and lawful.



3. Available services to help PLHIV seek redress when their rights have been violated

3.1. Legal aid services to help PLHIV seek redress

In Viet Nam there are a number of legal services existing throughout the country that can help PLHIV seek redress when their rights have been violated.

According to the Viet Nam Law on Legal Aid, Decree No.07/2007/ND-CP, people living with HIV are entitled to free legal aid services. Legal aid services help people who cannot afford lawyers, by giving legal assistance at a reduced rate, or for free. It is important to confirm whether there are any costs before agreeing to work with a legal service provider.

In Viet Nam legal aid services are provided by many different means including:

- ✂ *Legal Consultation Centres of the Ministry of Justice in 63 provinces throughout Viet Nam*
- ✂ *The Viet Nam Lawyers Association*
- ✂ *University Legal Clinics*
- ✂ *Private, social and mass organizations*
- ✂ *Private law firms (it is important to find out if the services are free or if there is some charge)*

Many of these legal aid services provide general legal assistance and some of them specialize in working with PLHIV.

☞ For a list of legal service providers, please refer to Appendix No.4.

There are a number of things that legal aid services can provide to PLHIV including:

- ▶ **Legal information:** information about laws affecting PLHIV and court processes.
- ▶ **Legal advice:** information about how the law applies to a PLHIV's specific legal problem and advice on what is the best action to take.
- ▶ **Legal representation:** where a lawyer takes a PLHIV's case and does things like write letters, helps to file claims in court and make arguments to secure the outcome that the PLHIV wants.

Some points that a PLVHIV should consider when choosing and working with a legal service provider and a lawyer are:

- ▶ Consider the most appropriate lawyer for your needs. Choosing the correct lawyer to represent you is very important. Lawyers sometimes specialize in certain areas of law and it is important to know the type

of law the lawyer works on and whether they have knowledge and experience in the area of law that affects PLHIV. When speaking to a potential lawyer you should make sure you ask the lawyer what sort of experience he or she has, before agreeing that he or she will act for you.

- ▶ Ask whether or not there is anything at all that you will have to pay for. If there are costs, you should ask how those costs will be charged, for example by the case or by time. You should also ask about any court fees, including any costs that may be associated with losing a court case.
- ▶ Your lawyer works for you and should put your best interests first. If you have any questions, you should feel free to ask your lawyer and if your lawyer does not know the answer, he or she should try to find the answer.
- ▶ Work in cooperation with your lawyer. Being open and honest with a lawyer about the facts of a case will help him or her provide the best representation. Remember that the lawyer is obliged by law to keep the information you showed him/her confidential. It's also important to give the lawyer as many documents as possible which support your case. A lawyer has to keep what they have been told by a client strictly confidential.
- ▶ Your lawyer should not order you to do anything; they should only advise you about what they think is legally the best thing for you to do. You should obtain regular updates from your lawyer about the progress of your case and confirmation about what they lawyer has done for you. If you have any concerns about the work, you should ask for a clear explanation of what has been done.
- ▶ Due to discrimination and stigma, not all legal service providers work with PLHIV in the same way or are as effective. It is suggested that if you are not receiving reasonable service from your legal service provider because you feel you are being discriminated against or stigmatized due to your HIV status, you may want to contact legal service providers who specialize in working with PLHIV.
- ▶ If you do not feel that the lawyer you have chosen will work with your best interests in mind you are free to hire a different lawyer.

LESSON PLAN 1

Content	Methods	Activity instruction	Materials	Time
Introduce the mechanisms to address rights violations in Viet Nam	Ice-breaker	<p>1. The facilitator divides the participants into 3 groups (each groups has 7 - 10 people). (2')</p> <p>2. The facilitator sticks some pictures on the board (sun cream, umbrella, helmet, shoes, medicine, lawyer, the People's Committee, the court, negotiation - see Handout 1). (1')</p> <p>3. Each group is given a box with some pieces of paper inside which have various words on them representing things we need to be protected from (for example virus, sunshine, rain, accident, muddy road, violation of rights - Handout 2). (1')</p> <p>4. Each group stands in a line. (1')</p> <p>5. Each member will take one piece of paper out of the box and run to the board to stick it on to the associated picture on the board (for example the word sunshine is attached to sun cream). The group which finishes the activity first and has the most right answers will be the winner. (5')</p> <p>6. The facilitator asks the participants what the legal meaning of the game is. (1')</p> <p>Facilitator tips/ suggested answers:</p> <ul style="list-style-type: none"> ☛ There are various ways that people can protect themselves from things that may harm them. ☛ There are often different mechanisms that people can use to protect their legal rights and to seek redress for rights violations. For example, the participants can stick the piece of paper with the words "violations of rights" on the pictures depicting the lawyer, the People's Committee and the court. In many cases there are many legal options that a person can pursue when their rights are violated. ☛ The facilitator should ask the participants to explain their choices. ☛ The facilitator should give an overview of the mechanisms of legal redress, using the information from Part 1 - Introduction. The facilitator should be sure to fully explain the process of giving information and negotiation. 	Handout 1, Handout 2, Board, Paper, Boxes	15'
Mediation as a mechanism to seek redress when the rights of PLHIV are violated	Lecture, Puzzle game, Group discussion, Ranking, Q & A	<p>1. The facilitator provides a brief lecture on what mediation is and the benefits of mediation (10')</p> <p>2. The facilitator divides the participants into groups and gives each one a piece of paper with one step of the mediation process written on it. (3')</p> <p>3. Each group reads one step in the mediation process and tries to explain what it means. The facilitator or other participants should help if they are not sure. (10')</p> <p>4. The participants then try to put all the steps in mediation in the right order and put them on the white board. (5')</p> <p>5. The facilitator leads a group discussion on the benefits and disadvantages of mediation and has 2 participants write down the advantages and disadvantages. (10')</p>	Tape, Markers, Steps in mediation, White-board, Tape/blutack®	40'

Administrative mechanisms and sanctions for acts violating rights of PLHIV	Lecture, Group discussion	<p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ The steps in the mediation process are listed in section 2.2 of this chapter. ☛ The advantages and disadvantages of mediation are also listed in section 2.2. ☛ The facilitator may wish to encourage participants to give personal experiences that they may have had in being involved in mediation. ☛ The facilitator may wish to encourage participants to discuss some of the benefits of mediation over judicial and administrative remedies and what types of cases they think would be most appropriate for each. <p>1. The facilitator explains via a lecture what administrative law processes and remedies are and introduces the Ordinance on the Handling of Administrative Violations (No. 44/2002/PL-UBTVQH10) and Decree No. 69/2011/ND-CP on punishing administrative violations in the medical field. (2')</p> <p>2. The facilitator divides participants into 2 groups. (1')</p> <p>3. The facilitator gives each group 6 cards, each with an act that violates the rights of PLHIV. The facilitator then gives each group 3 minutes to discuss and sort the cards into one of the two columns on the board: Column 1: pay a fine from 2 to 5 million VND, Column 2: pay a fine from 5 to 10 million VND. (4')</p> <p>4. The facilitator concludes the activity by commenting on the groups' choices and discusses the additional punishment measures. (3')</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ The facilitator uses the information in part 2.3 of this chapter to describe administrative law processes and procedures. The facilitator should prepare large copies of the diagrams depicting the administrative processes. ☛ The facilitator uses the information in part 2.3 of this chapter to check the result of each group. 	Handout 3, Board, Tape, Large pre-prepared copies of the diagrams depicting administrative processes	10'	
Judicial processes and mechanisms to protect rights of PLHIV	Role-play, Q&A, Lecture	<p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ The facilitator should pre-prepare a large copy of the diagram depicting the judicial process. <p>1. The facilitator selects 2 volunteers from the group and gives them a card which has the content of a short role play. The facilitator gives them 2 minutes to discuss and perform the role play based on the card.</p> <p>2. After the role play is presented, the facilitator uses a ball to select participants and ask questions relating to the role play:</p> <ol style="list-style-type: none"> a. Which of An's rights have been violated? b. What kind of violating act was committed by the newspaper? c. If An wants to sue the newspaper, how does she go about it? d. What documents will she have to submit? <p>3. After a Q&A, the facilitator talks about the right to commence a civil action in court, the process for doing so, the remedies that the court can grant and basic points which are necessary when filing a lawsuit.</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ The facilitator should pre-prepare a large copy of the diagram depicting the judicial process. 	Handout 4, Large pre-prepared copy of the diagram depicting the judicial process, Ball, Tape	20'	

Advantages and disadvantages of administrative mechanisms and judicial law processes	Small group discussion, Presentation	<p>1. The facilitator divides the participants into small groups of 3-5 participants. (5')</p> <p>2. Each group discusses the advantages and disadvantages of judicial and administrative remedies. (5')</p> <p>3. After the small group discussion, each group presents their ideas to the rest of the class for 2 minutes. Groups should not repeat what other groups have already said but only offer new suggestions. The facilitator chooses 2 participants to record what is said on a piece of paper on the wall. One writes the advantages and the other writes the disadvantages. (10')</p> <p>Facilitator tips/suggested answers:</p> <ul style="list-style-type: none"> ☛ The advantages and disadvantages of these processes and results that can be obtained by pursuing them are contained in section 2.2 and 2.3 of this chapter. ☛ The facilitator should encourage participants to tell the group about any personal experiences they may have had of applying for administrative or judicial remedies. ☛ When presenting this activity, the facilitator should assist the learners by making clear the differences between administrative and judicial remedies: <ul style="list-style-type: none"> ▶ Administrative remedies: administrative fines aim to punish violators through administrative sanctions rather than by providing compensation for the injured party's losses. Administrative injunctions are aimed at stopping the violating act but do not compensate for losses. These remedies are imposed by a designated agency, or example the People's Committee or a sector management agency, such as the Department of Health. ▶ Judicial remedies: aim to recover losses for the injured party and are granted by a court. 	A0 paper, Markers	20'
Skills when using mechanisms to address rights violations	Lecture, Role-play, Group work, Group discussion	<p>1. The facilitator asks participants what kinds of skill they think they will need when using mechanisms to address rights violations. (5')</p> <p>2. The facilitator lectures for a short period and explains some of the basic skills that may be needed during these different processes. (10')</p> <p>3. The facilitator chooses 2 participants to list some of the different skills that can be used during the processes and tips that will help in this process. (5')</p> <p>4. The facilitator divides participants into 3-5 groups and asks them to come up with their own case scenario/role play of a PLHIV trying to get one of the types of results available when rights are violated. Participants are free to choose any type of scenario they like. (10')</p> <p>5. The facilitator chooses 2-3 of the participant groups to demonstrate their role play and apply the skills and tips that can be used to assist a PLHIV in the processes. Each demonstration should be no more than 8-10 minutes (25')</p> <p>6. After the participant groups present, the facilitator and rest of the participants evaluate and give feedback on how well the skills and tips were used. (10')</p>		65'



LESSON PLAN 2

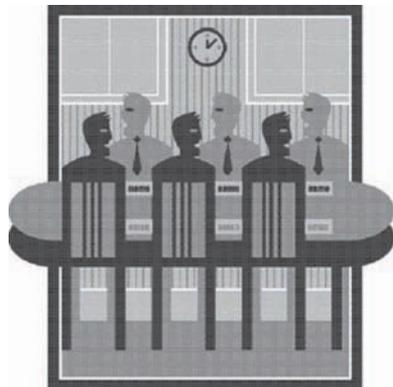
Please note that this lesson plan is to be used to support other chapters contained in this manual which cover specific topics. Each of these chapters have lesson plans that refer to Chapter 12 and the remedies section. If a facilitator is teaching those chapters then he/she should use the following lesson plan below and insert it into the lesson plan of those chapters where indicated. An example of this is demonstrated below:

Content	Methods	Activities Instruction	Materials	Time
Mechanisms to protect rights		For lessons on mechanisms to protect rights, please refer to Chapter 12 of this manual.		15'
Mechanisms of redress	Case scenario	<ol style="list-style-type: none"> The facilitator presents a previously prepared 1-2 minute case scenario, which involves the violation of a PLHIV rights that would apply to the particular chapter the facilitator is teaching. (2') The facilitator hands out four large signs of paper to the participants, each with one type of redress mechanism on them (a. Giving of information, b. Mediation, c. Administrative mechanisms, d. Judicial processes) and asks the participants to post these signs if they can put them on the white board or wall. (1') The facilitator asks the participants what each of the redress mechanisms are and what benefits there are to each. If the participants do not know the facilitator will then explain in a lecture. (5') The participants are divided into four groups and are given A0 paper and coloured markers. Each group is assigned to be one type of redress mechanisms previously discussed and is asked to make a drawing of a picture about how that remedy would apply to the case scenario presented by the facilitator. (5') 5. The participants put drawings on the white board or wall, if available. (2') 6. Optional- If there is extra time then there can be a group discussion and sharing of ideas on the different drawings. <p>Facilitation tips/suggested answers:</p> <ul style="list-style-type: none"> The facilitator should prepare a very short case scenario from the chapter he/she is teaching from to be used for this section. Facilitator may want to have this scenario available on pieces of paper for the participants to read The facilitator should try to have participants provide the answer to the question of what types of redress mechanisms there are and their benefits before lecturing the participants. The facilitator should review each specific chapter to see if there are special, specific remedies contained in that chapter 	Pre-developed short case scenario, Signs with types of remedies, Sticky tape, A0 paper, Coloured markers	15'



Handout 1





Handout 2

Muddy road
Virus
Rain
Sunshine
Accident
Violations of rights

Handout 3

Disclosing testing secrets, notifying HIV test results of tested persons to other persons without permission
Publishing in mass media names, ages, addresses, images of HIV-infected persons without the consent of such persons or their relatives in cases where such persons have died or lost their civil capacity to act
Refusing to give treatment to a PLHIV
Notifying people other than a tested person of a positive HIV test result
Acts violating the right to employment (employers can also be made to hire back employees who have been dismissed)
Acts violating the regulations on blood transfusions and other regulations related to the professional handling of HIV cases

Handout 4

Do a role play in 3 minutes on the following:
 An has HIV. In one of its articles, the newspaper includes her name, age and picture and states that she has HIV. Her dignity and reputation suffers greatly. The newspaper has been forced to pay a fine of 5 million VND by a competent authority. However, An is not satisfied and wants the newspaper to pay her damages. She talks to her closest friend who is a lawyer about this and is told that she should sue the newspaper.

Handout 5

- QUESTIONS TO ASK YOUR LAWYER BEFORE HIRING**
1. Do you charge to represent me or do you provide free legal aid?
 2. If you do provide free legal aid is there anything I will have to pay for?
 3. If you do charge clients do you charge a fee for the first meeting?
 4. Have you handled cases like mine before?
 5. How much will you charge for carrying out this work?
 6. If I do not win the case, who pays the fee?
 7. What will you do in my case?

Appendix 1:

List of difficult terms

Administrative remedies/ sanctions: Are non-criminal penalties, often in the form of a fine or order. This is made by the government against a person or organization.

Administrative violation: A non-criminal action which is against the law.

AIDS: stands for Acquired Immune Deficiency Syndrome. The term AIDS applies to the most advanced stages of HIV. The immune system of a person who has functions very little if at all. The patient is susceptible to all infections and usually contracts one or more, which is why AIDS is characterized by certain otherwise rare infections.

Alienation: means feeling isolated or separated from everyone else

Antibody: Antibodies are made by the body's immune system to help fight diseases and infection (caused by viruses or bacteria). Usually antibodies are specific to a specific disease (or virus such as influenza, HIV or malaria), which means we can test whether a person has a particular disease (or virus) by checking for the presence or absence of that specific antibody in the person's blood.

Appeal: Taking a case or claim to a higher court or administrative agency. This can often only be done if a judge or an administrative office made an error in deciding a legal matter or complaint, or if there are new circumstances that were not known at the time of the original judicial trial or hearing.

Arbitrary: means for no particular reason, randomly

ART / ARV: stands for Anti-retroviral Therapy (or Treatment). This is the main type of treatment for HIV or AIDS. It is not a cure, but it can stop people from becoming ill for many years. The treatment consists of drugs that usual have to be taken every day for the rest of a PLHIV life. The aim of antiretroviral treatment is to keep the amount of HIV in the body at a low level. This stops any weakening of the immune system and allows it to recover from any damage that HIV might have caused already.

Asylum: protection that a government gives to people who have left their own country, usually because they were in danger for political reasons. This can mean allowing someone who is escaping political unrest or war to live temporarily or permanently in a safer country.

Basic Rights: Rights which are considered the 'base' - the most necessary minimal protections guaranteed by law (life, liberty...)

Blood transfusion: When a doctor takes small amounts of blood from one person who does not need it and puts it into the body of another person who needs blood.

Breach: is the legal term for not following what you are supposed to; to break a law

Caesarean: means when the mother gives birth to a child through a surgical cut made by a doctor into her abdomen (stomach).

Civil act capacity/civil capacity: means ability to act as an adult before the law. Someone may lose their civil act capacity if they have a mental illness or are so sick they can no longer take care of their own affairs.

Civil action/civil suit: A legal case brought to a court of law that is a non-criminal matter.

Civil: Non-criminal

Claimant: The person who brings a case to the court.

Cohabitant: someone you live with, such as a girlfriend/boyfriend.

Compensation: A type of remedy, often money, usually paid by a person who has committed a wrong to another person

Compulsory: means someone has to do it; the opposite of voluntary

Confidential: means private or secret, something that no-one else will know

Confidentiality: Keeping something private such as your personal health information. Ensure consistent with other chapters. For more information about confidentiality in the medical field refer to Chapter 10 of this manual. For more information about confidentiality when getting a HIV test refer to Chapter 7.

Conflicting: means not in agreement. If two laws are conflicting it may mean that the requirements under each of the laws may disagree.

Consent: means permission or agreement; for instance a person living with HIV may agree (give their consent) to have their medical information given to another doctor or hospital

Constitution: A document which lists the rights that persons in a certain country have. It is the highest law of a country and no laws of that country may disagree with it.

Convalescence: means gradual recovery of health and strength after illness.

Convention: An agreement between two or more countries in which governments promise to do something or not to do something. A convention is another name for treaty, which is one kind of international law.

Counseling: is a service where people can talk about their feelings and how to solve their personal problems. Counselors are people who are specially trained to listen to people and provide advice or assistance.

Covenant: An agreement between two or more countries where governments promise to do something or not to do something. A covenant is another name for a treaty, which is one kind of international law.

Damages: money for a wrong against you paid by the person who committed the wrong. For more information about damages and other remedies please refer to Chapter 12 of this manual.

Damages: Usually money or some other financial payment given by a person for committing a wrong against another person.

Defendant: A person who is accused of some type of wrong doing, either criminal or civil, and responds to a case in court.

Deter: An action to encourage a person or persons not to do something

Disclosure/disclose: means to make something known to others. For instance a doctor is required NOT to make known to others (disclose) a person's private medical information

Discrimination/discriminative: When a person is treated differently from other persons because of other people's attitudes towards a trait or status they have, such as their gender, race, religion, disease or disability, political preference, social status, or some other status. For more information about discrimination and PLHIV, please refer to Chapter 3 of this manual.

Elimination: to remove entirely or get rid of. Eliminating all forms of discrimination against women would mean that all women throughout the world would be treated the same as men.

Enforcement: Ensuring that people follow the law and imposing consequences if they don't.

Evidence: Types of proof used to try and prove facts or claims usually in a legal or administrative matter. An example of evidence is a statement from someone who witnessed an event.

Exposure to HIV: this means that a person might be at risk of getting HIV because of contact with the HIV virus, such as through blood or other body fluid. Please see Chapter 1 for more information about HIV transmission

Family planning: includes educating people about decisions/choices they make about whether to have a baby or start a family.

Freedom of movement: means the citizen of a country have the liberty (freedom) to travel, live in, and/or work in any part of the state they choose -- within the limits of respect for the liberty and rights of others -- and to leave that state and return at any time.

Gender equality: means men and women are treated the same and given the same opportunity to access jobs, health care and other services

Gender stereotypes: a pre-existing idea about what a person can or cannot do based on their gender

Guardian: a person who by law takes care of another (ward) because they are not able to take care of themselves, for instance if they are under 18, mentally ill or very sick

Higher risk of exposure to HIV: refers to behaviours such as sex without a condom or injecting drugs with an unclean needle. It is important to remember that it is risky behaviours such as these which put someone at higher risk of exposure to HIV, rather than membership of a particular group, occupation or sexual preference. Clause 6 of Article 2 of the 2006 Law on HIV/AIDS Prevention and Control defines 'high risk behaviours' as behaviours that easily cause HIV transmission such as penetrative (vaginal or anal) or oral sex without a condom and water based lubricant. Sharing needles/syringes and other behaviours that easily cause HIV transmission

HIV negative (HIV -): is the result of a test of blood. If a person is HIV negative it may mean that they do not have HIV. It may also mean that they got a HIV test too soon after exposure to HIV as it takes time for the virus to develop in a person's body and antibodies against the virus to show up in a blood test. A person can take a follow up HIV blood test 3 months after possible exposure to HIV to be sure they do not have HIV.

HIV positive (HIV+): means the result of a test of blood or bio-fluid samples of a human body. If a person is HIV positive that means they have HIV.

HIV test: A blood test to test the presence or absence of the HIV virus in a person. For more information about HIV testing please refer to Chapter 7

HIV transmission: means when HIV passes from one person to another. HIV may be passed from person to person in only a limited number of ways including: having sex without a condom, from mother to child during pregnancy, childbirth or breastfeeding, using contaminated needles or sharp instruments which contain HIV, from a blood transfusion. For more information about transmission of HIV please refer to Part 4 of Chapter 1.

HIV: stands for Human Immuno-deficiency Virus. HIV is a virus that weakens cells of the human immune system. It damages the immune system of the body and makes

the body unable to fight other infections and diseases. People living with HIV are more susceptible to a wide range of infections because of this immune deficiency.

Implementation: Putting into practice what the law says

Informed consent: means that a person firstly has been given enough information to agree or disagree with something and secondly that they have agreed to it. Informed consent for an HIV test means a person should be told that the test is optional (they can agree to have it or not), receive information about the test, what being HIV positive means, what services are available for a person who has HIV, before agreeing to have the test.

Infringe: When something, like a person's right, is violated or not protected

Infringement: means an offence in which someone's rights are violated or not protected

Injunctive/injunction: An order requiring someone to do something or requiring someone to stop from doing something, such as an order by the court stopping a school from dismissing a student living with HIV.

Integrate: means included and being part of, such as being included in activities in a school

International Convention, Covenant and Treaties: In International Law, these are referred to as the agreements made by two or more nations where governments promise agree to do something or not to do something.

International human rights law: Every country has its own law. There are some laws which not created by one country but many countries or international organization, these are called international law. International human rights laws protect rights that all people have..

International law: Every country has its own law. There are some laws which not created by one country but many countries or international organization, these are called international law. For more information about international law please refer to Chapter 2 of this manual.

Intravenous drug use: The injection of drugs into the bloodstream.

Judicial remedies: Help for a problem that is decided in a court of law based on a decision given by a judge.

Labor Reconciliation Council: is a department that is established in a institution/ company that has union executive committee. Labour Reconciliation Council has responsibility for reconciling the conflict between Employer and Employee.

Lawyer: A person who has received special training in the law, understands the legal system and has a license to appear in cases requiring judicial remedies.

Legal aid: Organizations that help people who cannot afford lawyers, by giving legal assistance at a reduced rate, or for free.

Lymphatic diseases: The lymph system is made up of a network of channels that carry a clear fluid called lymph used to fight infection and disease in a person's body. The lymphatic system includes the tonsils, spleen and thyroid gland as well as this network of channels. Lymphatic diseases are illnesses which affect these parts of a person's body

Maltreatment: means not being treated well or treated properly such as not receiving proper medical treatment

Mediation: A non-judicial or administrative form of resolving disagreements between two or more parties where a third party is used to help the parties come to an agreement.

Methadone: A medication (a synthetic narcotic pain reliever) that is widely used around the world for the treatment of narcotic (for example heroin) withdrawal and dependence. It reduces withdrawal symptoms without creating the 'high' experienced by taking illicit narcotic drugs.

Negotiate: means to talk about and try to come to an agreed solution.

Obligation: means a duty or requirement to do something.

Oil-based products: Oil based products include Vaseline, petroleum jelly and massage oil and personal care products such as body lotion, baby oil that contain mineral oil base as an ingredient. Mineral oil will interact with latex condom by producing heat that causes condom breakage.

Opiate: a drug containing opium.

Opportunistic infections: Opportunistic infections are defined in Article 2, clause 3 of the Law on the Prevention and Control of HIV/AIDS 2006 as the infections that happen to a body due to the deficiency of the body's immunity caused by HIV infection. Opportunistic infections do not usually cause disease in a person with a healthy immune system but can easily affect people who have a poorly working immune system such as a person living with AIDS.

Perpetrator: Someone who commits a crime.

PLHIV : a person (or people) living with HIV.

Post-test: after a person has an HIV test

Prescription: A period of validity of a legal document, an administrative decision, a verdict or a contract, etc

Pre-test: before a person has a HIV test

Privacy: A person's right and ability to keep personal information to themselves and not have other people know the information. For example, persons have the right to keep information about their HIV/AIDS status private.

Prohibited: means not allowed

Promiscuity: means having a lot of sexual partners

Prosecute: means for someone to be taken to a criminal court for a wrong they have done.

Rape: When one person forces another person to have sex with them. The person forcing someone to have sex is a rapist and may use violence or threats to make the other person have sex with them.

Ratified: agreed to and signed by a particular country. An international law such as a treaty is ratified when a country agrees to follow the international law and a representative of the country signs the agreement.

Rectification: To correct a situation or put someone in the same position they were in before a wrong was done against them.

Sanction: means a penalty. For more information about penalties please refer to Chapter 12.

Social exclusion: means being left out of the community. For example a person who is excluded from society may not be invited to public events (or may feel that they cannot attend because of the way people treat them).

Socio-psychological services: means services that help with a person's mental health such as talking to professionals (counselors) about their feelings and how to solve personal problems.

Spouse: is only defined as married partner of the opposite sex. It would not include a partner of the same sex or someone you are living with but not married to.

Stigma/Stigmatisation: Stigma means severe social disapproval of personal characteristics or beliefs that are perceived to be against what is considered normal in a culture. Stigmatization against a person with HIV is defined in the 2006 Law on HIV/AIDS Prevention and Control as an attitude of contempt or disrespect towards another person because of the awareness or suspicion that such person has HIV or has close relationship with a PLHIV or suspected PLHIV. For more information about

stigma please refer to Chapter 3 of this manual.

Stress: physical stress means the body is tired or under pressure. Psychological stress means that a person feels worried, upset or depressed. Social stress can mean problems with work or family.

Subsidized: means that the government or another group helps to pay for a medicine. Medicine available at a subsidized price is cheaper.

Treaty: an agreement between two or more countries where governments promise to do something or not to do something. A treaty is one kind of international law.

VCT: means voluntary counseling and testing. That means that a person has agreed to have a HIV test and may choose to be given advice by a specially trained professional.

Vigilantism: people taking the law into their own hands, without using lawful procedures.

Voluntary/'voluntariness': means a person has agreed to do something they do not have to do; the opposite of compulsory.

Ward: is a person who by law is taken care of by another (guardian) because they are not able to take care of themselves, for instance if they are under 18, mentally ill or very sick

Water based lubricants: a substance that help sexual penetration (to the vagina or anus) to be smoother and reduce pain while having sexual intercourse. Water based lubricants contain water as ingredient base that will not interact with the condom. It is recommended that water based lubricant is used with a condom each and every time you have sex.

Welfare: refers to the general well-being of people and also to public money that governments use to support people in difficulty, including PLHIV

WLHIV: Women living with HIV

Appendix 2: Counselling and testing, medical examination and treatment centers

The information given here was valid at publication; before going to a center, please check that the information has not changed. (from website: <http://forum.hiv.com.vn>)

No.	NAME	ADDRESS	CONTACT	SERVICE
Bac Ninh				
1	Center for HIV / AIDS	No 215 Ngo Gia Tu, Suoi Hoa, Bac Ninh City	0241.822.445	Free and anonymous HIV testing
2	Public Health Consultation Center	Vu Ninh Ward - Bắc Ninh City	0241.870.237	Health Counseling, HIV/AIDS COUNSELING, Free and anonymous HIV testing
3	Outpatient Polyclinic	3rd floor - Faculty Hospital Infectious	0241.853.294	Testing and examining for PLHIV, prophylactic treatment and some other opportunistic infections. ARV treatment
4	Preventive Medicine Center Luong Tai District	Faculty of Infectious - Luong Tai Hospital	0241.867.075 0903.282.156	HIV/AIDS COUNSELING, Free and anonymous HIV testing, Providing TB medicine
5	Medical Center Tu Son District	Faculty of Infectious - Tu Son Hospital	0241.835.232 0915.666.437	HIV/AIDS COUNSELING, Free and anonymous HIV testing, Providing TB medicine
6	Medical Center Tien Du District	Faculty of Infectious - Tien Du Hospital	0241.710.417 0912.761.686	HIV/AIDS COUNSELING, Free and anonymous HIV testing, Providing TB medicine
7	Preventive Medicine Center Que Vo District	Faculty of Infectious - Que Vo Hospital	0241.614.014 0912.793.785	HIV/AIDS COUNSELING, Free and anonymous HIV testing, Providing TB medicine
8	Preventive Medicine Center Yen Phong District	Faculty of Infectious Diseases - Yen Phong Hospital	0241.881.432	HIV/AIDS COUNSELING, Free and anonymous HIV testing, Providing TB medicine
9	preventive medicine Center Gia Binh District	Faculty of Infectious - Gia Binh Hospital	0241.677.274 0915.622.580	HIV/AIDS COUNSELING, Free and anonymous HIV testing, Providing TB medicine

10	preventive medicine Center Thuan Thanh District	Faculty of Infectious - Thuan Thanh Hospital	0241.865.460 0904.330.440	HIV/AIDS COUNSELING, Free and anonymous HIV testing, Providing TB medicine
Dong Nai				
1	Preventive Medicine Center of Dong Nai	No 1 Dong Khoi Street, Bien Hoa		HIV Test
2	HIV AIDS Center in Dong Nai	57 Nguyen Hien Vuong, Bien Hoa	0613943444	Free and anonymous HIV testing, HIV counseling, ARV outpatient examine
3	Preventive Medicine Center, Long Thanh District	Hai Phuoc, Long Thanh	0613526257	Free and anonymous HIV testing, HIV counseling
4	Preventive Medicine Center of Long Khanh Town	Cach mang thang 8 St. Long Khanh Town	0613783866	Free and anonymous HIV testing, HIV counseling
5	Preventive Medicine Center, Trang Bom District	Highway No 1, Trang Bom	0613676399	Free and anonymous HIV testing, HIV counseling
6	Preventive Medicine Center, Nhon Trach District	Commune Xom Ho, Phu Hoi, Nhon Trach	0613521159	Free and anonymous HIV testing, HIV counseling
7	Preventive Medicine Center, Xuan Loc District	Suoi Cat, Xuan Loc District	0613742320	HIV counseling
8	Preventive Medicine Center, Bien Hoa City	Tan Mai, Bien Hoa	0613813266	HIV counseling
9	Preventive Medicine Center, Dinh Quan District	Hiep Quyet, Dinh Quan	0613852157	HIV counseling
10	Preventive Medicine Center, Vinh Cuu District	Quarter 3, Vinh An, Vinh Cuu	0613860042	HIV counseling
11	Preventive Medicine Center, Tan Phu District	127 Zone 10, Tan Phu	0613856949	HIV counseling
12	Preventive Medicine Center, Thong Nhat District	QL. 20 Quang Trung, Thong Nhat District	0613776435	HIV counseling
13	Preventive Medicine Center, Cam My District	Commune Nhan Nghia, Cam My	0613898565	HIV counseling
14	Faculty of AIDS, Dermatology Hospital of Dong Nai	Dong Khoi street, Bien Hoa	Dr: Hoàng 0918217699	Inpatient treatment
15	Children's Outpatient Clinic, Children's Hospital of Dong Nai	Block 4, Tan Tien Ward, Bien Hoa	0613943277 0613943444	ARV treatment for CLHIV
16	Tan Hiep health clinic	Tan Hiep	0613823917	Examining and treating STD
17	Thong Nhat health clinic	Thong Nhat	0613947983	Examining and treating STD
18	Long Binh health clinic	Long Binh	0613892815	Examining and treating STD
19	Trang Dai health clinic	Trang Dai	0613890327	Examining and treating STD
20	Faculty of Health Care	30 / 4 Street, Thanh Binh	0613822552	Examining and treating STD

21	Maternity hospital	Bien Hoa	0613813399	Examining and treating STD
22	An Binh health clinic	An Binh	0613830409	Examining and treating STD
23	Center for Reproductive Health Care	Bien Hoa	0613847576 0613846782	Examining and treating STD
24	An Hoa health clinic	An Hoa	0613833916	Examining and treating STD
25	Phuoc Tan health clinic	Phuoc Tan	0909506835	Examining and treating STD
26	An Phuoc ward health clinic	An Phuoc	0907133350	Examining and treating STD
27	Long Thanh health clinic	Long Thanh	0918853334	Examining and treating STD
28	Phuoc Hai health clinic	Phuoc Hai ward	0613542135	Examining and treating STD
29	Suoi Cat health clinic	Suoi Cat ward	0613871299	Examining and treating STD

Ha Noi

1	Maternity Hospital	De La Thanh Street, Ha Noi	37.754.749	VTC- prophylactic treatment from mother to child
2	Faculty Outpatient Clinics - Duc Giang General Hospital	Truong Lam, Long Bien, Ha Noi	36.524.620	VTC, Ois examine, providing free ARV. Referral introduction
3	Center for Voluntary Counseling and Testing - Long Bien Medical Center	485 Ngo Gia Tu Street, Duc Giang	38.779.171	VTC - ARV treatment
4	Preventive Medicine Center of Gia Lam District	No 1 Ngo Xuan Quang, Chau Quy, Gia Lam	36.760.268	VTC - ARV treatment
5	Center for Voluntary Counselling and Testing - Hai Ba Trung Medical Center	16B Pham Dinh Ho (2nd floor)	39.713.565	VTC
6	Center for Voluntary Counselling and Testing - Dong Da Medical Center	24, lane 34, Ngo Si Lien		VTC - ARV treatment
7	Center for Voluntary Counselling and Testing - Dong Anh Medical Center	Uy No, Dong Anh District	38.839.345 38.835.560	VTC - ARV treatment
8	Center for Voluntary Counselling and Testing - Tu Liem Medical Center	Cau Dien	38.352.283	VTC - ARV treatment
9	Center for Voluntary Counselling and Testing - Thanh Xuan Medical Center	Room 1, 1st floor, Lane 282 Khuong Dinh Street	35.581.582	VTC
10	Center for Voluntary Counselling and Testing	50C Hang Bai Street	39.434.738	VTC
11	Center for Voluntary Counselling and Testing	No 2 Truc Bach Street	37.763.952	VTC
12	Center for Voluntary Counselling and Testing	Ba Dinh District	37.521.310	VTC
13	Dong Da Hospital	Lane 180 Nguyen Luong Bang, Dong Da	35.118.752	VTC - ARV treatment

14	Bach Mai Hospital VCT 408 medical examination room Room 104 Science examination Institute for Clinical Tropical Diseases	78 Giai Phong Street	35.762.904 35.762.409	VTC - ARV treatment
15	103 Hospital	Ha Dong, Ha Tay	37.151.376	VTC - ARV treatment
16	Day Care Center	Yen Phu Commune Health Clinic, 48 Yen Phu	36.410.461	VTC - ARV treatment
17	Outpatient clinics Hoang Mai	Bac Linh Dam Urban Area, Hoang Mai District	36.410.462	VTC - ARV treatment
18	Institute of Infectious Diseases and Tropical Country	78 Giai Phong Street	Tel: 045764402 Fax: 045764319 nhuha.niitd@yahoo.com	HIV testing
19	Children's Hospital Central	18, Lane 879, La Thanh	Tel: 04.38343176 Fax: 04.37754448 thunam@yahoo.com.vn	HIV testing
20	Institute of Hygiene and Epidemiology	No. 1 Yersin St	Tel: 048211501 Fax: 048210541 labHIVNIHE@yahoo.com	HIV testing
21	Central Institute of Dermatology	15 A Phuong Mai, Dong Da	Tel: 04821 1501 Fax: 045761649 cqhtram@yahoo.com	HIV testing
22	Dong Da Hospital	192 Nguyen Luong Bang, Dong Da	Tel: 04 513 0344 Fax: 04 8512119 hoangailien@yahoo.com	HIV testing
23	Center for HIV / AIDS in Hanoi	50 C Hang Bai, Hoan Kiem	Tel: 049439525 Fax: 049434738 huy29qtkkhn@yahoo.com.vn	HIV testing
24	Treatment Center 09	Km 3, 70 New North Road, Thanh Tri	Tel: 046855449 Fax: 04 6880512 hongnhung777@yahoo.com	HIV testing
25	Faculty of Infectious Diseases - Children's Hospital Central	Lane 480 De La Thanh street		ARV treatment for OVC

Ho Chi Minh city

1	Community Counselling Center District 1	48/52 Ma Lo, Tan Dinh Ward, District 1	08.38206147	Ois treatment, testing and counseling, ARV, STIs
2	Community Counselling Center District 2	06 Trinh Khac Lap, Thanh My Loi Ward, District 2	08.37423701 08.37423702	Ois treatment, testing and counseling, ARV

3	Community Counselling Center District 3	368 Cach Mang Thang 8, Ward 10, District 3	08.39316300 08.35264006	Ols treatment, testing and counseling, ARV
4	Community Counselling Center District 4	396/27 Nguyen Tat Thanh, Ward 18, District 4	08.39412263 08.39412213	Ols treatment, testing and counseling, ARV, Methadone treatment
5	Community Counselling Center District 5	136 G, Nguyen Tri Phuong, Ward 9, District 5	08.38354458	Ols treatment, testing and counseling
6	Community Counselling Center District 6	958/24K, Lo Gom, District 6	08.38545285 08.39673161	Ols treatment, testing and counseling, ARV, Methadone treatment
7	Community Counselling Center District 7	101 Nguyen Thi Thap, Tan Phu Ward, District 7	08.54335383	HIV testing and counseling, ARV treatment
8	Community Counselling Center District 8	314 Ouyang Lin, Ward 3, District 8	08.38518038	Ols treatment, testing and counseling, ARV
9	Community Counselling Center District 9	Road grip, P. Phu Huu Ward, District 9	08.22477774	Ols treatment, testing and counseling, ARV home care & OVC
10	Community Counselling Center District 10	475A, Cach Mang Thang 8, Ward 13, District 10	08.38620198	Ols treatment, testing and counseling, ARV
11	Community Counselling Center, Thu Duc District	2 Nguyen Van Lich, Linh Tay Ward, Thu Duc District	08.62822470	Ols treatment, testing and counseling, ARV
12	Community Counselling Center, Go Vap District	2 / 3 Thong Nhat Ward 11	08.35897420	Ols treatment, testing and counseling
13	Community Counselling Center, Binh Chanh District	E9 / 5 Nguyen Huu Tri, Tan Truc	08.37602993	Ols treatment, testing and counseling
14	Community Counselling Center, Binh Thanh District	8 / 104 Dinh Bo Linh, Ward 24, Binh Thanh District	08.35107155 08.35510725	Ols treatment, testing and counseling, ARV
15	Community Counselling Center, Phu Nhuan District	72 / 6 Huynh Van Banh, Phu Nhuan	08.38443779	Ols treatment, testing and counseling, ARV
16	Community Counselling Center, Tan Binh District	254 / 86 Au Co Street, Ward 9, Tan Binh District	08.39752091	Ols treatment, testing and counseling
17	Community Counselling Center, Binh Tan District	635 KP2, Tinh Lo 10, Binh Tri Dong B	08.37624322 08.37542070	Ols treatment, testing and counseling, ARV
18	Community Counselling Center, Hoc Mon District	65/2B Ba Trieu, Hoc Mon Town	08.22484573 08.37106482	Ols treatment, testing and counseling, ARV
19	VCT Tu Du Hospital	284 Cong Quynh, District 1	08.38392722 08.38395117	HIV free testing and counseling, prophylactic treatment from mother to child
20	VCT Center Hospital Dermatology	2 Nguyen Thong, Ward 6, District 3	08.39304424	HIV free testing and counseling
21	VCT Hung Vuong Hospital	128 Hung Vuong, Ward 12, District 5	08.38558532 08.38550585	HIV free testing and counseling, prophylactic treatment from mother to child

22	Anh Duong Center	71 Vo Thi Sau St., Ward 6, District 3	08.38208470	HIV free testing and counseling, STD treatment
23	Pham Ngoc Thach Hospital	120 Hung Vuong, Ward 12, District 5	08.38550207 08.38551746	Ols treatment, testing and counseling, ARV
24	Tropical Disease Hospital HCM City	190 Ben Ham Tu, Ward 1, Ward 5	Tel: 089235804 Fax: 089238904 dinhthibichty@yahoo.com	HIV testing
25	Pasteur Institute, Ho Chi Minh City	167 Pasteur St	Tel : 088222883 Fax: 088243335 buihimai2003@yahoo.com	HIV testing
26	Tuberculosis and Lung Hospital Pham Ngoc Thach	120 Hùng Vương	Tel: 088550207 Fax: 088574264 lechithanh309@yahoo.com	HIV testing
27	Cho Ray Hospital	201 B Nguyen Chi Thanh, Ward 12, District 5, Ho Chi Minh city	Tel: 08554137 Caothithucuc151@yahoo.com	HIV testing
Hue				
1	Center for HIV / AIDS	Xuan Thuy Street - Vi Da South planning area	054.3830578	Health counseling, free HIV testing and counseling
2	Outpatient Clinic - Department of Dermatology. Center for Disease Control and Prevention	234 Chi Lang, Hue	054.3522387	Health counseling, free examine and treatment Ois. ARV examination and treatment
3	Center for Reproductive Health Care, Maternity Faculty - Hue Central Hospital	30 Ly Thuong Kiet, Hue	054.3832977	Reproductive health and family planning counseling
4	Child transmission prevention - Children's Department Hue Central Hospital	20 Le Loi, Hue	054.3822325	Free prophylactic treatment from mother to child
5	Hue Central Hospital	20 Le Loi, Hue	054.3822325	Free, outpatient ARV examine and treat for children. Free, inpatient Ols examination and treatment for children
6	General Hospital in Hue	16 Le Loi, Hue City	Tel: 054829927 Fax: 054824758	HIV testing
7	Prevention of HIV, Infectious Diseases - Hue Central Hospital	04 Ngo Quyen Street, Hue	054.3849463	Free outpatient examining, treating ARV, Ols

Ninh Binh				
1	Center for HIV / AIDS Province	Hai Thuong Lan Ong St., Phuc Thanh Ward	030.3872288	HIV testing and counseling, free treatment for ARV, OIs prophylactic examination and treatment
2	Center for Prevention of Social Diseases	Hai Thuong Lan Ong St., Phuc Thanh Ward	030.3871894	Examining, Treating TB, HIV testing, B, C hepatitis. Examining, Treating STI, skins diseases.
3	Faculty of Infectious Diseases, Provincial Hospital	Hai Thuong Lan Ong St., Phuc Thanh Ward	030.3871030	Examining, Treating OIs
4	Tuberculosis treatment, Hoa Lu Hospital	Ninh My Commune, Hoa Lu District	030.3622442	Examining, Treating TB, providing free ARV
5	Faculty of Infectious Diseases, Kim Son Hospital	Phat Diem Town, Kim Son District	030.3862014	Examining, Treating OIs
Phu Tho				
1	Center for HIV / AIDS	Tran Phu Street, Gia Cam Ward, Viet Tri	0210.220629 0210.845330	HIV/AIDS COUNSELING, Free and anonymous HIV testing, ARV treatment
2	Preventive Medicine Center Viet Tri City	Long Chau Sa Street, Tho Son Ward, Viet Tri	0210.911892	Free, anonymous and voluntary HIV testing and counseling
3	Medical Center of Phu Tho	Phu Tho	0210.711172	Free, anonymous and voluntary HIV testing and counseling
4	Medical Center of Cam Khe	Cam Khe District	0210.843669	Free, anonymous and voluntary HIV testing and counseling
5	Medical Center of Doan Hung District	Doan Hung District	0210.641448	Free, anonymous and voluntary HIV testing and counseling
Quang Ninh				
1	VCT - Global Fund, Center for Preventive Medicine Quang Ninh Province	Tue Tinh Streets, Bach Dang Ward, Ha Long City	033.3620943	Voluntary HIV testing and counseling
2	VCT - Global Fund, Health Center Uong Bi	Uong Bi	033.3664720	Voluntary HIV testing and counseling
3	Lun - HIV VCT Room, Tuberculosis and Lung Diseases Hospital	Cao Xanh Streets, Ha Long City	033.3657170	HIV testing and counseling for TB patient
4	VCT - Global Fund, Dong Trieu District Health Center	Hung Dao commune, Dong Trieu town	033.3672788	Voluntary HIV testing and counseling. TB examination and treatment
5	VCT - Global Fund, Yen Hung District Health Center	Hung Yen	033.3683244	Voluntary HIV testing and counseling

6	Community Health and Counselling Center - Gap	809 Nguyễn Văn Cừ, Hồng Hải, Hạ Long	033.3837734	Voluntary HIV testing and counseling
7	Outpatient Clinic Hospital Dong Trieu	Hung Dao Commune, Dong Trieu town	033.3670295	Free, anonymous HIV testing ARV treatment
8	Hospitals in Vietnam - Sweden Uong Bi	Ward Thanh Son, Uong Bi, Quang Ninh	Tel: 033661800 Fax: 033854300 ngthituyetmaiub@gmail.com	HIV testing
9	General Hospital in Quang Ninh province	Tue Tinh - Bach Dang, Ha Long, Quang Ninh	Tel: 033 825479 Fax: 033 625256	HIV testing
10	CDC clinic, Provincial Hospital	Tue Tinh streets, Bach Dang Ward, Ha Long city	033.3620853	Examining, providing free ARV
11	FHI Clinic, Health Center of Cam Pha	Tran Phu streets, Cam Thanh, Cam Pha	033.3726340	Examining, providing free ARV
12	FHI Clinic, Health Center of Van Don	Cai Rong Town, Van Don	033.3796492	Examining, providing free ARV
13	Global Fund Clinic, Health Center Halong	Tran Hung Dao streets, Ha Long city	033.3822433	Examining, providing free ARV
14	Faculty of Infectious Diseases, VN - TD Hospital	Tue Tinh streets, Block 2, Thanh Son, Uong Bi	033.3854300 (ext 251,187)	Treatment for AIDS patient
15	Children's Outpatient Clinics	Provincial Hospital, Tue Tinh, Bach Dang, Ha Long	033.3655175	Examining, providing free ARV for CLHIV
16	Children's Outpatient Clinics	Hospital Vietnam-Sweden, Tue Tinh Road, Block 2 Thanh Son, Uong Bi	033.3854300 (ext 151)	Examining, providing free ARV for CLHIV
Thai Nguyen				
1	Counseling Center for HIV	Mo Bach Junction, Thai Nguyen City	Dr An, Dr Ha Phone: 0280.3651776	VTC, treatment for skin diseases
2	Central Province Preventive Medicine	Mo Bach Junction, Thai Nguyen City	Dr Phạm Thế Vũ Phone: 0917 707 555	VTC
3	Thai Nguyen City Medical Center	Phan Dinh Phung Ward Thai Nguyen City	Dr Trần Quang Tuấn Phone: 0912452331 Dr Trương Bế Thiện Phone: 0912860835	VTC, ARV treatment, OIs, TB
4	Phu Luong District Medical Center	Phu Luong District, Thai Nguyen Province	Dr Mai Khánh Kiểm Phone: 0915444261	VTC, detectable examination for TB and lung diseases, ARV, TB treatment
5	Dai Tu District Medical Center	Dai Tu District, Thai Nguyen Province	Dr Nguyễn Thị Mên Phone: 0982724983	VTC, detectable examination for TB and lung diseases; ARV, OIs and TB treatment
6	Pho Yen District Medical Center	Pho Yen District, Thai Nguyen Province	Dr Đức Vượng Tel: 0280.3864524	VTC, detectable examination for TB and lung diseases; ARV, OIs and TB treatment
7	Center for Voluntary Counselling and Testing Dong Hy District	Dong Bam, Dong Hy District, Thai Nguyen province	Dr Tuấn Phone: 0912664764	VTC, free ARV, OIs and TB treatment,

8	Clinic, Consultants C Hospital	Co Street Junction, Thai Nguyen City	Dr Nguyễn Thị Hiền Phone: 0915835333	Free HIV testing and counseling, prophylactic counseling HIV transmission from mother to child
9	Central Hospital, Thai Nguyen	479 Luong Ngoc Quyen Thai Nguyen city	Tel: 0280855840 Fax: 0280851348	HIV testing

Thanh Hoa

1	Preventive Medicine and Public Health Counselling	470 Hai Thuong Lan Ong, Thanh Hoa City	037.3952136 037.3952137	HIV/AIDS COUNSELING, Free and anonymous HIV testing
2	Preventive Medicine Center - Thanh Hoa City	40 Truong Thi, Thanh Hoa City	037.3714465 037.371322	HIV counseling/AIDS Free, anonymous HIV testing, providing treatment for ARV, TB, STD
3	Faculty of Infectious Diseases, Provincial Hospital	181 Hai Thuong Lan Ong, Thanh Hoa City	037.3952213	HIV counseling/AIDS Free, anonymous HIV testing, providing treatment and medicine, health care service for PLHIV
4	Maternity Hospital Thanh Hoa	183 Hai Thuong Lan Ong, Thanh Hoa	037.3952494	HIV counseling/AIDS, Free, anonymous HIV testing, prophylactic treatment HIV transmission from mother to child, providing milk for children from 0 to 6 months-old whose mothers are PLHIV
5	Outpatient Clinic: Center for Preventive Medicine Tho Xuan District	Tho Xuan	037.3531152	Tests and examinations for people with HIV, free, anonymous, for ARV Treatment, TB medicine development, the STD
6	TTPC Da Liễu Thanh Hoá	195 Hai Thuong Lan Ong, Thanh Hoa	037.3951065	Treatment for sexually transmitted diseases
7	Tuberculosis and Lung Disease Hospital Thanh Hoa	Quang Thinh, Quang Xuong, Thanh Hoa	037.3863207 037.3863584	Tests, radiography, occupational therapy and other lung diseases for people living with HIV
8	Social Services Department - Drug Addiction Counselling	74 To Vinh Dien, Dien Bien Ward, Thanh Hoa	037.3753142	Rehabilitation program
9	Center for HIV / AIDS in Thanh Hoa	474 Hai Thuong Lan Ong, Thanh Hoa City	Tel: 0373953329 Fax: 037952136	HIV testing
10	Outpatient Clinic: Center for Preventive Medicine Ngoc Lac District	Le Lai Street, Ngoc Lac	037.3750590	
11	Outpatient Clinic: Center for Preventive Medicine Bim Son District	Dam Neck, Lam Son Ward, Bim Son, Thanh Hoa	037.3766136	

Nghe An

1	Adult Outpatient Clinic - Department of Infectious Diseases, Friendship Hospital	15 Nguyen Phong Sac, Vinh	038.3520653	Completely free testing and counseling, as CD4, scan, ultrasound and treatment of opportunistic infections, ARV distribution ...
2	VTC Clinics, Friendship Provincial Hospital	15 Nguyen Phong Sac, Vinh	038.3520831	Named or anonymous testing and counseling, re-examination appointment, transfer results to the Health Center reserves
3	Outpatient Clinic Children - Department of Infectious Diseases, Children's Hospital	19 Ton That Tung, Vinh	038.3520172	Examination, testing, treatment for opportunistic infections, providing ARV. Nutritional Support
4	VTC clinics TB / HIV - Tuberculosis and Lung Hospital	Xã Nghi Vạn, Nghi Loc District	038.3618320	Counseling, testing, screening for HIV, TB, TB, opportunistic infections
5	Maternity Department Friendship Hospital	15 Nguyen Phong Sac, Vinh	038.3524027	Test, examination, DP supplying medicine during pregnancy, childbirth services
6	Test, examination, medicine during pregnancy and childbirth	130 Le Hong Phong, Vinh	038.3591002	Free testing and counseling
7	Skin Diseases Center- Dermatology	142 Le Hong Phong, Vinh City	038.3591015	HIV testing, free skin disease examination and treatment, STI, referral treatment
8	VTC Clinic - STI / HIV at the Center for Skin Diseases - Dermatology	142 Le Hong Phong, Vinh City	038.3591015	Free HIV, STI testing and counseling, referral treatment
9	Center for Public Health - Center for HIV / AIDS	149 Ha Huy Tap, Vinh City	038.3585003	Free HIV testing and counseling, referral treatment
10	Center for Public Health - Center for Preventive Medicine	140 Le Hong Phong, Vinh City	038.3590650	Counseling and testing, referral treatment
11	Outpatient Clinics, Hospitals Dien Chau District	Xom 7, Duong7, Dien Phuc, Dien Chau	038.3624072	Opportunistic infections testing and counseling, treatment, cấp phát thuốc ARV
12	VTC Clinics, Center for Preventive Medicine, Dien Chau District	Xom 7, Duong7, Dien Phuc, Dien Chau	038.3625689	

13	VTC Clinics, Center for Preventive Medicine, Vinh City	178 Tran Phu, Vinh City	038.3583533	Opportunistic infections testing and counseling, treatment, providing ARV treatment
14	VTC Clinics, Center for Preventive Medicine, Hung Yen District	Block 13, town of Hung Nguyen, Hung Nguyen District	038.3763097	Testing and counseling, referral treatment
15	VTC Clinic - TB / HIV Center for Preventive Medicine, Do Luong District	Commune 12, Da Son, Luong, Do Luong District	038.3714821	Testing and counseling, referral treatment
16	VTC Clinic - TB / HIV Center for Preventive Medicine, Nghia Dan District	Commune Quang Trung, Nghia Quang, Nghia Dan District	038.3814111	Testing and counseling, referral treatment
17	VTC Clinic - TB / HIV Center for Preventive Medicine, Nghi Loc District	Commune 8, Nghi Thinh commune, Nghi Loc District	038.3615037	Testing and counseling, referral treatment
18	Friendship Hospital of Nghe An	No. 15 Nguyen Phong Sac, Vinh City - Nghe An	038.3520653	
Vung Tau				
1	Media Center Health Education	31 Le Loi Street, Ward 4, Vung Tau	06.43541399 06.43540740	HIV counseling
2	Counseling Center community health	223 Le Hong Phong, Ward 8, Vung Tau	064.581995	HIV counseling and testing
3	Center for Preventive Medicine 3	27 / 4 Road, Quarter 4, Phuoc Hung Ward, Ba Ria Town	064.731993 064.731994	HIV counseling and testing
4	Center for Disease Control and Prevention Social	Sugar 27 / 4, Quarter 4, Phuoc Hung Ward, Ba Ria Town	064.731858	HIV counseling
5	Centre to Protect the Health of Mothers and Children / Family Planning	22 Le Loi Street, Ward 4, Vung Tau	064.837690	HIV counsel and treatment
6	Social Services Department, counselling	84 Hung Khuong An Ward 3, Vung Tau	064.854326	HIV counseling
7	Red Cross	68 Le Loi Street, Ward 4, Vung Tau	064.832538	HIV counseling
8	VCT Life - GAP	223 Le Hong Phong, Vung Tau	Dr. Nhu/Dr.Thu: 064.581995	HIV counseling and testing
9	VCT Centers at Center for Disease Control, Preventive Medicine	Phuoc Hung Road, Ba Ria	Head of VCT - Tu 064.829926	HIV counseling and testing

10	Hospital outpatient clinics Le Loi	25 Le Loi Street, Ward 1, Vung Tau		HIV treatment
11	Social Services Department - Counselling available	84 Hung Khuong An Ward 3, Vung Tau	064.854326	HIV counseling
12	Red Cross	68 Le Loi Street, Ward 4, Vung Tau	064.832538	HIV counseling
An Giang				
1	General Hospital in An Giang		Tel: 076852989 Fax: 076953499	HIV testing
Binh Dinh				
1	Center for HIV/AIDS in Binh Dinh	419 Tran Hung Dao Quy Nhon - Binh Dinh	Tel: 056820235 Fax: 056829829	HIV testing
Can Tho				
1	General Hospital in Can Tho	106 Cach mang thang Tam, Ninh Kieu	Tel: 0710820683 Fax: 0710761130	HIV testing
Cao Bang				
1	Center for HIV / AIDS in Cao Bang	039 Old Street, Hop Giang Cao Bang	Tel: 026950438 Fax: 026850144	HIV testing
Dak Lac				
1	Institute of Hygiene and Epidemiology Tay Nguyen	59 Hai Ba Trung Street, Buon Ma Thuot City	Tel: 050858455	HIV testing
Hai Duong				
1	Center for HIV / AIDS	Km 3, Nguyen Luong Bang, Hai Duong City	Tel: 03203894570 Fax: 0320857781	HIV testing
Hai Phong				
1	Viet Tiep Hospital	No. 1 Home Business Le Chan District, Hai Phong	Tel: 0313951251 Fax: 031700482	HIV testing
Khanh Hoa				
1	Center for HIV / AIDS in Khanh Hoa	31 Le Thanh Phuoc, Nha Trang	Tel: 058562742 Fax: 058562755	HIV testing
2	Khanh Hoa Hospital Dermatology	165 Nguyen Khuyen, Vinh Hai City Nha Trang	Tel: 058831017	HIV testing
Kien Giang				
1	Center for HIV / AIDS in Kien Giang	No. 120 Tran Phu, Vinh, Thanh Van, Rach Gia	Tel: 077962056 Fax: 0773872354	HIV testing
Lang Son				
1	Provincial Center for HIV / AIDS	50 Tran Hung Dao, Ward Chi Lang, Lang Son City	Tel: 025870039 Fax: 025811882	HIV testing
Nam Dinh				
1	Center for HIV / AIDS in Nam Dinh	No. 1 Tran Quoc Toan, Nam Dinh City	Tel: 03503867650 Fax: 03503831622	HIV testing

Son La				
1	Center for HIV / AIDS in Son La	48 Lo Van Gia	Tel: 022751086 Fax: 022751098	HIV testing
Thai Binh				
1	General Hospital in Thai Binh province	Lý Bôn, Thái Bình city	Tel: 036841812 Fax: 036841735	HIV testing
Tien Giang				
1	Center for HIV / AIDS in Tien Giang	149 Nguyen Tri Phuong, F7, My Tho, Tien Giang	Tel: 073875256 Fax: 073875256	HIV testing

Appendix 3: Self-help groups

The information given here was valid at publication; before going to a location, please check that the information has not changed.
(From website: <http://forum.hiv.com.vn>)

NO	NAME	ADDRESS	E-MAIL
An Giang			
1	Hy vong	TYT Can Dang Commune, Chau Thanh District, An Giang Province - Tel: 0988 059 422	tranvan1969@yahoo.com.vn
2	Bong dien dien	Clinics, Group 16B, Hung Chanh, Binh Long Commune, Chau Phu, An Giang Province - Tel: 0939 300 321	bongdiendienangiang67@yahoo.com.vn
Bac Kan			
1	Hy vong Bac Kan Club	Team 9B Duc Xuan Ward, Bac Kan, Bac Kan - Tel: 0915 008 100	hyvongbk@gmail.com
Bac Ninh			
1	Vi ngay mai tuoi sang Network - Bac Ninh 1	30 Cong O, Ninh Commune, Bac Ninh - Tel: 0241.821579 - 0982891669	
2	Vi ngay mai tuoi sang Network - Bac Ninh 2	657 Ngo Gia Tu street, Ninh Commune, Bac Ninh - Tel: 0241.826199 - 0982259200	
3	Vi ngay mai tuoi sang Network - Bac Ninh 3	Thai Tri Hamlet, Lam Thao commune, Luong Tai District, Bac Ninh - Tel: 0979.247.597	
Ca Mau			
1	Niem tin dat mui	Tran Minh Khai - Article 87 Hamlet Ly Van Lam Ba Dist. Ca Mau - Tel: 0918.360.625	tranminhkhai.ntdm@yahoo.com.vn
Can Tho			
1	Dong xanh Club	17 Ho Xuan Huong Thoi Binh, Ninh Kieu District - Tel: 0710. 3833589	phvtam@gmail.com
2	Dong Tam Club	116/27A August Revolution, P. Bui Huu Nghia Street, District Binh Thuy, Can Tho City - Tel: 0710. 3766619	iducantho@zing.vn

3	Woman Health Club	State Parks C Luu Huu Phuoc, An Phu Ward - Ninh Kieu - Can Tho Tel: 0710.3834807	skpnclub@yahoo.com.vn
4	Dong Hanh	Home for the Elderly and Children, 153 Tran Quang Dieu, An Thoi, Binh Thuy - Tel: 0939 294 296	nhomdonghanh@gmail.com
Dong Nai			
1	Ban va Toi	HIV TV room, Health Center, Bien Hoa, 98 / 487 Highway 51, Tan Mai, Bien Hoa, Dong Nai Province - Tel: 0918 055 778	tulucvat@yahoo.com
Ha Nam			
1	Vi Ngay Mai Tui Sang Network - Ha Nam	21 neighbors, Ly Xa, Ly Nhan District, Ha Nam - Tel: 0946 225 098	vnmts_hanam@yahoo.com.vn
Ha Noi			
1	VNMTS Hà Nội	352 Ngoc Thuy, P. Ngoc Thuy Ward, Long Bien, Ha Noi - Tel: 04.38724148 - Fax: 04.38727927	
2	Uoc mo xanh	Group 20, Yen ward, Hoang Mai District - Tel: 0904055631	uocmoxanh.hanoi@yahoo.com.vn
3	Hoa Sua	Salary History B 46, Quoc Tu Giam, Dong Da District, Ha Noi - Tel: 04.37322472	hoasuagroups@yahoo.com
4	CLB Hoa Huong Duong	Red Cross St. Da, No. 5, Lane 180 Nguyen Luong Bang St., Dong Da, Hanoi - Tel: 04.35118755	
5	CLB Cho Ban Cho Toi	Red Cross St. Da, No. 5, Lane 180 Nguyen Luong Bang St., Dong Da, Hanoi - Tel: 0912093870	chobanvachotoi10_6@yahoo.com.vn
6	CLB Hoa Xuong Rong	Red Cross St. Da, No. 5, Lane 180 Nguyen Luong Bang St., Dong Da, Hanoi - Tel: 04.38513683	ctd_dongda@yahoo.com.vn
7	Bo Cau	Lane 443/116 58 of the 22 clusters of 5 Ha Dinh, Thanh Xuan, Hanoi - Tel: 04.5525957	bocautrangclub@yahoo.com.vn
8	CLB Ban Mai	Hai Anh Mai - Mai Lam Commune, Dong Anh - Tel: 04.39615418	banmaidonganh@yahoo.com

9	Thong Xanh	28 Hang Be, Hoan Kiem, Hanoi	thongxanhdung@gmail.com
10	Bang lang tim	Gach neighborhood, Phu My, My Dinh, Hanoi - Tel: 0977113942	vuthimaiba@yahoo.com
Ha Tinh			
1	VNMTS Ha Tinh	House 25, Lane 11 Hai Thuong Lan Ong St., Dist. Ha Tinh - Tel: 0949.996.379	
Hai Duong			
1	Vi Ngay Mai Tui Sang Network - Hai Duong	Team 10, Tong Thuong Village, Quang Trung Commune, Kinh Mon District, Hai Duong - Tel: 0989734364	
Hai Phong			
1	Vi Ngay Mai Tui Sang Network - Kien Thuy - Hai Phong	Hamlet 5, rural populations Section, Dai Co, Kien Thuy, Hai Phong - Tel: 0936 688 210	
2	Hoa Phuong Do, Hai Phong	68 Xia Li, Hong Bang District, Haiphong City - Tel: 0313.842747	datmoqh@gmail.com
3	Tinh Bien	1B, 59th Street Tien Duc, banana ward, Haiphong City - Tel: 0313.599059	hoanang.nghean@gmail.com
4	Song Bien	111, neighbor Son Hai Son District, Haiphong City - Tel: 0313.863978 - 0916 140 724	datmoqh@gmail.com
5	Truong Son xanh	Camp Hill neighborhood, village Ang Xuan, Truong Son Commune, An Lao District, Hai Phong - Tel: 0313.891226	
6	Hoa Sen	An Lu commune clinics, Thuy Nguyen, Hai Phong - Tel: 0313.774572 - 090974839	
7	Phu nu tu luc	No. 35 Le Dai Hanh, Hai Phong City - Tel: 0313.810109	
8	Hoa Hai Duong Club	35 Le Dai Hanh, Hai Phong City - Tel: 0313.823541	haiphongt4g@gmail.com
9	Huong lua Club	Vu Thi Nhieu - Vinh Bao District, Hai Phong - Tel: 0313.236436	
10	Khat vong song Club	Tran Duc Lap - Tu Ba Dong, Phu Lien ward, Kien An District, Hai Phong - Tel: 0917657526	tranlapkhatvongsongkhp@yahoo.com
11	Dat cang Club	Vu Thi Le Thuy - 27 Lane 18, Ly Thuong Ward, Hong Bang District, Hai Phong - Tel: 0915948308	datcanghp07@yahoo.com.vn

Ho Chi Minh			
1	Mai Khoi Clinic	44 Tu Xuong, District 3, Ho Chi Minh City - 43 /5 Pham Van Chieu, Go Vap District, HCMC - Tel: 08.39322637	maikhoi.clinic@yahoo.com
2	Mai Tam	29/84/17 Doan Thi Diem, Ward 1, Phu Nhuan District, HCMC - Tel: 08.39900063	peterkhai2005@yahoo.com
3	Ky Quang II Pagoda	Le Hoang Phai 154/4A, Ward 17, Go Vap District, HCMC - Tel: 0903005442	kyquangpagoda@yahoo.com.vn
4	Dieu Giac Pagoda	6 / 10 Chen Lao, Binh An Ward, District 2, HCMC - Tel: 08.37400530	ptvdieugiac@yahoo.com
5	Xuan Vinh	007, Thong Nhat apartment, Thong Nhat St, Tan Thanh Ward, Tan Phu District, HCMC - Tel: 08.54089060	xuanvinh0901@yahoo.com.vn
6	Tieng Vong	204/19 Cach Mang Thang 8, Ward 5, Tan Binh District, HCMC - Tel: 0908325899	echovinh@yahoo.com
7	YMCA	70-72 Road No. 8, Hiep Binh Chanh residential, P. Avoid Hiep Binh, Thu Duc - Tel: 0913843132	huytranhcm@gmail.com
8	Thao Dan	451 / 1 Hai Ba Trung Street, Ward 8, District 3, HCMC - Tel: 08.38482033	csxhthaodan@vnn.vn
9	AIDS Program	54 / 3 Le Quang Dinh, Go Vap District - Tel: 08.38416158	thaodan.thuy@gmail.com
10	Bau Troi Xanh Club (MSM)	53 Vu Tung (Level 3), Ward 2, Binh Thanh District - Tel: 08.38412185	aidsprogram@hcm.vnn.vn
11	Mau Xanh	727/746 Tran Hung Dao, Ward 1, District 5 - Tel: 0988 532 368	blue_group_vietnam@yahoo.com.vn
12	Khat Vong	679/24d Nguyen Van Cong, Ward 03, Go Vap District, HCM City - Tel: 0913 714 688	trungnguyen772003@yahoo.com
13	Vuon Len	62D Hung Vuong, Ward 1, District 10 - Tel: 0938 572 694	tuanvuonlen@yahoo.com.vn
14	Niem Tin	430 / 8 Doan Van Bo, Ward 18, District 4 - Tel: 0909 621 918	br.phung@yahoo.com.vn
15	Nu Cuoi	4 / 4 Quang Trung, Ward 10, Go Vap - Tel: 0903 719 185	chieu.huynhlien@yahoo.com.vn
16	Nang Mai	209 National Highway 1A, Block 4, Binh Chieu Ward, Thu Duc, Ho Chi Minh City - Tel: 0909851392	nangmai_hcm@yahoo.com.vn

17	Vi Ngay Moi	2 Nguyen Van Lich, Linh Tay Ward, Thu Duc - Tel: 0908 333 420	ngocquyenvnm@yahoo.com.vn
18	Nang Mai II	42 Dinh Phong Phu, P.Tang Nhon Phu B Ward, 9, HCM City - Tel: 08.39680252 - 01687.837532	nangmai_hcm@yahoo.com.vn
19	Tinh Ban Group Network	71 Vo Thi Sau, Ward 6, District 3, HCMC - Tel: 08.9205529	ufnplus@yahoo.com
20	Tinh Ban 1	71 Vo Thi Sau St., Ward 6, District 3 - Tel: 0984 592 399	TUTINHBAN1@yahoo.com
21	Tinh Ban 2	89 Hoang Dieu Street, Binh Tho Ward, Thu Duc - Tel: 0958 217 932	memory_vt@yahoo.com
22	Tinh Ban 3	264, Pham Van Bach, Ward 12, Go Vap District - Tel: 0937 045 123	TUANTINHBAN3@yahoo.com
23	Tinh Ban 4	164 Tan Xuan, Hoc Mon District - Tel: 0902 620 704	HOANGTINHBAN4@yahoo.com
24	Tinh Ban 5	Culture House ward 14, District 8 - Tel: 0908 173 825	
Khanh Hoa			
1	Muon Sac Mau	75 Phu Dong, Nha Trang, Khanh Hoa - Tel: 058.3878155	muonsacmau@yahoo.com
2	Nha Trang xanh	Phan Thi Thu Nguyet - 85 Hong Bang, Nha Trang, Khanh Hoa - Tel: 0935 140 749	nhatrangxanh040106@yahoo.com.vn
Long An			
1	Hy Vong - Long An	Road No. 6, No. 27, Quarter Nhon Hoa 2, Ward 5, Tan An Town, Long An	vnthanhcong@gmail.com
Nam Dinh			
1	Vi Ngay Mai Tui Sang Network - Nam Dinh	163 roads in Hung Yen, Quang Trung, Nam Dinh City - Tel: 0350.834958 - 0943 070 785	
2	Hy vong Nam Dinh Club	Thon Dong Hung, Yen Tho, Y Yen District, Nam Dinh Province - Tel: 01696289248	
Nghe An			
1	Vi Ngay Mai Tui Sang Network - Nghe An	95 Nguyen Xuan Linh, Vinh Yen bloc, Dong Vinh Ward, Dist. Vinh, Nghe An - Tel: 0943.909.559	
2	Vi Ngay Mai Tui Sang Network - VNMTS Quy Hop	Quietly, Quang Chau, Quy Hop District, Nghe An Province - Tel: 0982.251.949 - 0982.420.489	

3	Hoa Nang Woman health Club	209 Phan Chu Trinh Str. Vinh, Nghe An Province - Tel: 038.3586826	hoanang.nghean@gmail.com
4	Access Community Club	8 Hai Thuong Lan Ong St., Dist. Vinh, Nghe An Province - Tel: 038.3586826	
5	Song Lam Xanh	138, Nguyen Phong Sac Str. Vinh, Nghe An - Tel: 0983.186.769	songlamxanh08@gmail.com
Ninh Binh			
1	Vi Ngay Mai Tuoi Sang Network - Ninh Binh 1	Truong Thinh Hamlet, Truong Yen Commune, Hoa Lu District, Ninh Binh Province - Tel: 0915524512	
2	Vi Ngay Mai Tuoi Sang Network - Ninh Binh 2	6 / 103 political, Phat Diem Town, Ninh Binh - Tel: 0987434166	
3	Vi Ngay Mai Tuoi Sang Network - Ninh Binh 3	5 / 1 Cat Linh Street - Phuc Tan Street - Tan Thanh Dist. Ninh Binh - Tel: 01234.151.255	
Phu Tho			
1	Vi Ngay Mai Tuoi Sang Network - Phu Tho	144 Zone 4, Van Co Ward, Dist. Vietnam Tri, Phu Tho Province - Tel: 0210.955217 - 0979619442	
2	Hoa Sim Tim Club	Tien Luong Commune, Cam Khe District, Phu Tho Province - Tel: 0988.342.249	
Quang Nam			
1	Ban Mai Group	Nguyen Thi Trang - Departments Anti - CSR, 11 Nguyen Chi Thanh, Tam Ky, Quang Nam	
Quang Ninh			
1	Vi Ngay Mai Tuoi Sang Network - Quan Lan	Dong Nam Neighborhood, Quan Lan, Van Don, Quang Ninh - Tel: 033.877206 - 0987384616	
2	Vi Ngay Mai Tuoi Sang Network - Hon Gai	Level 5, Lot 6, stair 1, Tran Hung Dao, Ha Long, Quang Ninh - Tel: 033.656158 - 0913023996	
3	Vi Ngay Mai Tuoi Sang Network - Van Don	15 village, Commune of Ha Long, TT Cai Rong, Van Don, Quang Ninh - Tel: 0987400921	
4	Vi Ngay Mai Tuoi Sang Network - Dong Trieu	6/658 of the Quang Trung, town Mao Khe, Dong Trieu, Quang Ninh - Tel: 0936394136	
5	Hoa Bat Tu	Group 2 area 8 Cai Rong Town, Van Don, Quang Ninh - Tel: 0912926727 - 0912507836	hoabattu_vandon@yahoo.com.vn

6	Ha Long Tuoi Dep	Group 47, Zone 3B, Yet Kieu Ward, Ha Long city, Quang Ninh	
7	Tinh Ban	No. 8, the two areas, 5B, Ha Lam ward, Ha Long, Quang Ninh	
8	Binh Minh Ha Long	Group 4, Zone 1, Tran Hung Dao Ward, Ha Long, Quang Ninh	
9	Vi Ngay Mai Uong Bi	Uong Bi Women's Union - Tel: 0973883181	nguyentan@yahoo.com
10	Phu nu tre Cam Pha	Le Thi My Le, Cam Pha Commune Women's Union - Tel: 0914667871	phunutrecampha@gmail.com
11	Hoa Thuy Tien - Tien Yen	93, Hoa Binh, Tien Yen town, Tien Yen District - Tel: 0946393718	hoathuytienc4tienyen@gmail.com.vn
12	Uoc Mo Xanh Quan Lan	Quan Lan commune, Van Don District, Quang Ninh - Tel: 033.3877214	
13	Hoa Xuong Rong Quang Ninh Club	No. 1, Hai Ha, Hong Hai Ward, Ha Long, Quang Ninh - Tel: 033.3832641	
14	Hoa Huong Duong Quang Ninh Club	No. 41 Tran Hung Dao, Tran Hung Dao Ward, Ha Long, Quang Ninh - Tel: 0913369265	
15	Dat mo Quang Hanh	Ngan Pham Thi Dan, Group 51, Zone 6A, Ha Phong Ward, Dist. Ha Long - Tel: 0979358203	datmoqh@gmail.com
Soc Trang			
1	Tinh Ban 6	32 Phu Loi, Ward 2, Soc Trang City - Tel: 0972 653 211	
Thai Binh			
1	Vi Ngay Mai Tuoi Sang Network - Thai Binh	Hamlet 2, Vu Tay, Kien Xuong, Thai Binh - Tel: 0902030126	vnmtstbclub@yahoo.com
2	Hy vong	West Village Lei Feng, Dong Hop, Dong Hung, Thai Binh - Tel: 036.3551162	
3	Huong lua	Team 29 Tran Lam, wards. Thai Binh	
4	Chuong ban mai	Luong Dien village, Dong Co, Tien Hai District, Thai Binh - Tel: 036.3824401 - 0935278972	
5	Thap sang niem tin	Zone 2 Quynh Hung, Quynh Phu, Thai Binh - Tel: 0977,598,013	tdba77@gmail.com

6	Tra Ly Xanh	98 Le Dai Hanh (medical wards of three-station), Thai Binh - Tel: 0915 773 577	hongnguyen81_tb@yahoo.com
7	Huong Toi Tuong Lai	Hoang Nguyen, Thai Son Commune, Thai Thuy District, Thai Binh - Tel: 036.3771428	
8	Tu Luc Vu Tay Club	Vu Tay Commune, Kien Xuong District, Thai Binh Province - Tel: 0982.801.598	vnmstbclub@yahoo.com
Thai Nguyen			
1	Vi Ngay Mai Tuoi Sang Network - Thai Nguyen I	No. 485, Phan Dinh Phung Street - Thai Nguyen, Thai Nguyen - Tel: 0915663703	bfthainguyen@gmail.com
2	Vi Ngay Mai Tuoi Sang Network - Thai Nguyen II	29 team, Cam Ward Price, Thai Nguyen City, Thai Nguyen - Tel: 01238 541 888	yenthainguyen81@yahoo.com
3	Hoa Huong Duong, Dai Tu, TN	Dinh Thi Xuan - Cultural Neighbors, Hung Son Commune, H. Dai Tu, Thai Nguyen Tel: 0979173931	
4	Hoa Huong Duong Thai Nguyen	Nguyen Thu Ha - 21 Decision Progress, Trung Vuong ward, Thai Nguyen - Tel: 0280.211484	
5	Suong Mua He	Trung Kien – Duc Long Cultural village, Ky Khoi, Dai Tu, Thai Nguyen - Tel: 0978557759	
6	Ban Giup Ban Pho Yen Club	Nguyen Thi Thom - Hong Tien commune, Pho Yen District, Thai Nguyen - Tel: 0982.756.060	
7	PLHIV Club Thai Nguyen	Nguyen Phuong Quynh - the 19 wards of Huong Son, Thai Nguyen - Tel: 0982879225	
8	Tu Tin	Nguyen Manh Thuong - Trung Thanh ward, Thai Nguyen - Tel: 01239.560.158	
9	Noi Vong Tay Lon	Nguyen Thi Thuy - Ban Dat Commune, Phu Binh District, Thai Nguyen - Tel: 01696.163.117	
10	Ban Giup Ban, Phu Luong	Nguyen Van Hong - Try Me So Commune, Phu Luong District, Thai Nguyen - Tel: 0978.662.046	
11	Hoa Hue Pho Yen	Nguyen Thi Nga - Hong Tien Commune Health Center - Tel: 0280.211.484	
12	Gio Ngan	7 Dinh Bien village commune, Dinh Hoa District - Tel: 0986950441	

Tien Giang			
1	Niem Tin Cai Lay Club	6 / 223 Bo Hoi St - District 05 - Town Cai Lay - Tien Giang - Tel: 073 919 810 - 0986,177,521	phongcaylay@gmail.com
Tuyen Quang			
1	Vi Ngay Mai Tuoi Sang Network - Tuyen Quang	Km 9, Quan Thang Commune, Yen Son District, Tuyen Quang - Tel: 0982,809,144	
Vung Tau			
1	567 Vung Tau Group	115/36 Le Loi Street, Ward 6, Vung Tau City - Tel: 064.560823	nhomvungtau@yahoo.com
Yen Bai			
1	Hoa Ban Trang Club	Nguyen Thai Hoc Str. Yen Bai - Tel: 0979.966.018	thanghoabantrang@yahoo.com

Appendix 4: Legal counselling centers

The information given here was valid at publication; before going to an office, please check that the information has not changed.

NO	NAME	ADDRESS	TEL/FAX	E-MAIL
1	Ministry of Justice, Legal Aid Department	60 Tran Phu, Ba Dinh	Tel: 04.37335.986 ext 577	ctgpl@moj.gov.vn
2	Legal Aid Office for HIV / AIDS in Hanoi	No. 1 Lane 135 Nui Truc, Ba Dinh, HaNoi	Tel: 04.62919.591 Fax: 04.37366.524	phongtgplhivhn@yahoo.com Vttphapluatyte-hiv@netnam.vn
3	Legal Aid Office for HIV / AIDS in Ho Chi Minh	No. 111 Le Thanh Ton, District 1, Ho Chi Minh city	Tel: 08.3822.3028 Fax: 08.38230.054	vptrogiupphaply_hiv@yahoo. com
4	Legal Aid Office for HIV / AIDS in An Giang	18/5B Tran Hung Dao, My Quy, Long Xuyen	Tel: 076.3934.222 Fax: 076.3934.222	Hoiluatgia_angiang@yahoo. com.vn
5	Legal Aid Office for HIV / AIDS in Hai Phong	No. 58 Dien Bien Phu, Minh Khai, Hong Bang, Hai Phong	Tel: 0313.746.182 Fax: 0313.746.737	Trungtamtvpl.hghp@gmail. com
6	Legal Aid Office for HIV / AIDS in Quang Ninh	No. 12 Nguyen Van Cu, Hong Hai, Quang Ninh	SĐT: 033.382.0014 Fax: 033.382.0027	Tttvpl.qn@gmail.com
7	Vietnam Lawyers Association help line for PLHIV, telephone counselling service	No 1 Lane 135 Nui Truc, Ba Dinh, Hanoi	Hotline: 18001521 Tel: 04.37368.043	
8	Law Society of Hanoi (Hanoi Lawyers Association)	35 Nguyen Chi Thanh, Hanoi No2 Quang Trung, Ha Dong, Hanoi	04 3771 1382 04 3382 8725	trungtamtuvanphapluat. hanoi@yahoo.com.vn
9	Legal Consultation Center No 9	279A Hau Giang, Ward 5, District 6 Ho Chi Minh city	Tel: 08 22421595	Tttvpls9@yahoo.com.vn
10	An Giang free Legal Clinic for HIV/AIDS	32 Chu Van An, My Long, Long Xuyen	Tel: 076.3949234	Hoiluatgiaangiang2@gmail.com

Appendix 5: Evaluation form

1. What are the most important issues you have learned during this workshop?

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2. Did the workshop help you to develop skills that will be useful for you? If yes, please explain which skills you learned.

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3. Which activities did you find most interesting and why?

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4. How can we improve these workshops?

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Please select the right answer (s):

1. Which are the mechanisms available for PLHIV to protect their rights when they are violated?

- Negotiation
- Denounce the violations through the mass media (newspaper, TV).
- Write a complaint to a state agency
- Ask for support from the legal aid offices
- Bring the case to the court

2. The obligations of the employer are:

- Arrange a suitable work for those employees living with HIV
- Isolate PLHIV to prevent HIV transmission among employees
- Organize awareness raising activities to to decrease the stigma and discrimination against PLHIV
- Request the employee to take an HIV test

3. The rights of PLHIV are:

- Work in a state agency
- Study a Masters' degree
- Reject being tested for HIV during an aircrew recruitment process
- Disclosure the HIV status of other PLHIV

Appendix 6: Authors and collaborators

PLD

Dr. Hoang Ngoc Giao: Director, Researcher
Professor Nguyen Dang Dung: Science Board Chairman, Researcher
Associate Professor Le Thi Hoai Thu: Project Manager
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