


KNOW IT: THE RIGHTS FRAMEWORK

Know It | Prove It | Change It
A Rights Curriculum for Grassroots Groups



MANUAL

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A Rights Curriculum for Grassroots Groups



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KNOW IT:
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ABOUT Know It, Prove It, Change It: A Rights Curriculum for Grassroots Groups

The Know It, Prove It, Change It! A Rights Curriculum for Grassroots Groups series is created specifically to help grassroots organizations in communities affected by HIV/AIDS to understand their basic rights, document rights abuses, and design and implement advocacy campaigns. The series has three parts:

- *Know It: The Rights Framework introduces human rights and links international human rights law to injustices faced by people living with and at high risk for HIV/AIDS*
- *Prove It: Basics of Rights Documentation explains how to plan and conduct rights research.*
- *Change It: Ending Rights Abuses shows how to plan and conduct local, national, and international advocacy based on the research.*

Each book includes a manual, which describes the steps to take; and a trainer's supplement, which contains lesson plans, sample exercises, and templates that correspond to the manual content, to be used in a training workshop.

*The Know It, Prove It, Change It series is created by three organizations with extensive experience in rights training. **Thai AIDS Treatment Action Group (TTAG)** from Bangkok, Thailand, works to achieve equal access to HIV treatment for all and advocates on behalf of people living with HIV/AIDS (PLWHA) and highly marginalized groups including people who use drugs and people in prison. The mission of the **Dongjen Center for Human Rights Education and Action** in Beijing, China, is to defend the rights of people living with HIV/AIDS and to advance the development of Chinese law to protect the rights of people with AIDS. **Asia Catalyst** is a nongovernmental organization (NGO) based in New York, United States. It is a resource for grassroots NGOs in Asia, and offers long-term coaching and short-term technical assistance to new NGOs. All three organizations regularly offer training on rights documentation and advocacy, and conduct local and global advocacy.*

In order to create a curricula that would be useful in different contexts and grounded in local realities, we held multiple focus group meetings in China and Thailand, with representatives from grassroots AIDS and harm reduction groups from both countries. We piloted our draft curricula in workshops with Chinese and Thai community representatives for additional input, and also solicited feedback from local experts working with marginalized populations in the region.

Please email us with your questions or suggestions for how we can improve the series:
info@asiacatalyst.org.

This volume: KNOW IT: THE RIGHTS FRAMEWORK

Our organizations believe the best way to fight rights abuses is to:

1. Understand your basic rights,
2. Do research to document how these rights are being violated, and
3. Plan and conduct an advocacy campaign in your community to end the rights abuses.

This book gives an overview to international human rights law and explains how you can use these laws to understand some of the problems faced by people vulnerable to or living with HIV/AIDS. It also explains some of the limitations of the human rights system. The HIV/AIDS and human rights field is a new one and it is growing and changing rapidly.

To write this book, we asked grassroots groups we know in China and Thailand to share some of the frequently asked questions they deal with about HIV/AIDS and legal rights. The book is organized around the answers to their questions.

We haven't answered every question you may have about HIV/AIDS and human rights. To learn more, please study the human rights treaties and standards themselves. Your opinion of what they say may differ from ours. That's because human rights is an evolving field, and even legal experts who have studied rights law for years can reasonably disagree about how to interpret it. By reading this manual and learning about your rights, you are taking the first step to becoming part of this growing international movement.

CHAPTER ONE

HIV/AIDS: THE RIGHTS FRAMEWORK

What are human rights?

Human rights are a set of rights that grow out of the basic equality and human dignity shared by all human beings. Our human rights are defined in a collection of laws that set out the obligations governments have to their citizens and to the international community to respect, protect and fulfill those rights. At the individual level, we also are required to respect the human rights of others.

What is the relationship between HIV/AIDS and human rights?

Human rights and HIV/AIDS are closely connected. First, having HIV/AIDS often leads to the violation of human rights. People living with HIV/AIDS often face stigma and discrimination that can lead to abuses by healthcare providers, employers, landlords, schools and others. Children whose parents are living with HIV/AIDS are sometimes abused and exploited. Prisoners with HIV are denied treatment in some places, and HIV-positive women sometimes undergo forced sterilization. These are all abuses that happen to people because they have HIV/AIDS.

At the same time, violations of human rights can fuel the spread of HIV/AIDS to more people. Fear of discrimination makes many people afraid to get tested for HIV. People who survive sexual violence sometimes contract HIV/AIDS. Marginalized communities are also especially vulnerable to human rights abuses, and as a result to transmission of HIV/AIDS. The criminalized status of people who inject drugs (PWID), sex workers (SW), and men who have sex with men (MSM) in many countries makes them less likely to come forward and participate in government-run HIV prevention programs.

International experience shows that it is important to have public education and advocacy that help reduce the stigma and discrimination surrounding HIV/AIDS. It is also necessary to ensure the protection of basic legal rights as part of a national response to the epidemic.

About the international human rights system

Following World War II, many nations came together to promote global peace and security. They were spurred to work together because they shared the overarching goal of preventing genocide and other atrocities (such as the Holocaust) from ever happening again. The United Nations was established and the Universal Declaration of Human Rights (UDHR), the first global statement on the inherent rights of human beings, was written then.

Later, to clarify and expand on the principles in the UDHR, experts at the UN created the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). Together, these 3 documents form the International Bill of Rights.

Marginalized communities – The English-speaking HIV/AIDS world has a lot of special terms, including Most-at-risk-populations (MARPs) and Key Affected Populations (KAPs). In this manual, use the term “marginalized communities” or “marginalized groups” to describe people who are especially vulnerable to HIV/AIDS. This includes PWID (people who inject drugs); sex workers; lesbian, gay, bisexual and transgender people (LGBT); men who have sex with men (MSM); ethnic minorities; migrants and refugees; disabled people; and people in prison.

Over the years, the UN has worked together to produce many additional important legally-binding covenants and treaties, such as:

- the Covenant to Eliminate Discrimination Against Women (CEDAW),
- the Covenant Against Torture (CAT),
- the Covenant on the Rights of the Child (CRC),
- the Convention on the Rights of Persons with Disabilities (CRPD),
- and many more.

Know It mostly focuses on the UDHR, ICCPR and ICESCR. We encourage you to learn more about the treaties and covenants that your country signed on to, and to educate your community and hold your government accountable to their promises.

What is the history of human rights in the global fight against HIV/AIDS?

When the AIDS epidemic first appeared in the U.S. in the 1980s, the stigma around the epidemic was tremendous. Newspapers referred to it as the “gay plague.” Doctors were afraid to accept people with the mysterious “plague” as patients. Thousands of people died painful deaths in stigma and secrecy. The president of the United States did not even have the courage to say the word “AIDS” in public for many years. There were no HIV/AIDS NGOs, few AIDS doctors, no funding for research, no programs providing care for people with HIV/AIDS. All of the funding for HIV/AIDS, the government programs, the UN agencies and the NGOs that exist today to combat HIV/AIDS were made possible by the grassroots movements that demanded them.

The AIDS Coalition to Unleash Power (ACT-UP), a grassroots coalition in the U.S., was one of the leaders of the movement to demand a response to the epidemic. Led by lesbian, gay, bisexual and transgender (LGBT) people and people living with HIV/AIDS, ACT-UP worked as collectives of volunteers with no grants, staff or offices to mobilize public attention to the epidemic. Their approach was to “turn anger, fear and grief into action.”

ACT-UP partnered with famous artists to create posters, stickers and t-shirts that combined attention-getting images with memorable slogans such as “SILENCE = DEATH,” linking the AIDS epidemic to memories of the Holocaust, when over 6 million people died while the world was silent. They posted these messages in subways and other public places in a “guerilla marketing campaign.” They staged creative and confrontational protests in which they carried coffins and threw the cremated ashes of loved ones who died of AIDS in front of the White House, held open-casket “political funerals” on the streets, and held “die-ins” in symbolic places, such as St. Patrick’s Cathedral in New York, to criticize the Catholic Church’s opposition to the use of condoms. During the “St. Patrick’s Cathedral” action, in which dozens of protesters interrupted church services, activists lay down and played dead to demonstrate the impact of the church’s policy. You can watch a documentary about ACT-UP online at <http://www.actupny.org/video/>.

ACT UP's creative campaigns were successful in creating greater public understanding of the epidemic, as well as government funding, medical research, and programs that addressed the needs of people with HIV/AIDS. At the same time, other NGOs and lawyers used different strategies, such as forming coalitions with government or focusing on changing policies and laws that discriminated against people with HIV/AIDS.

In the 1990s, the movement linking human rights and the fight against HIV/AIDS took several big steps forward. Dr. Jonathan Mann, the first director of the WHO Global Program on AIDS (the agency that eventually became UNAIDS), was the first global leader to explicitly link health and human rights, and to advocate for policies that address discrimination as part of the AIDS response.

In Thailand, one of the first developing countries to have a strong PLWHA network, people living with HIV/AIDS formed powerful coalitions with local HIV NGOs, key international groups like Medecins Sans Frontieres (MSF) and Oxfam, as well as researchers, lawyers and policymakers in the government. They mobilized a grassroots movement to protest the high prices of AIDS drugs and took on some of the biggest multinational pharmaceutical companies, like Abbott, GlaxoSmith Kline (GSK), and Bristol-Myers Squibb (BMS).

The message the Thai Network of People Living with HIV/AIDS (TNP+) used was to call the fight for access to essential medicines as a fight for the human right to life, stating that health is not a commodity to be bought or sold. TNP+ won major victories in the courts against the drug companies. The Thai government began to push back on the pharmaceutical companies' drug patent restrictions by using their right to issue "compulsory licenses." Thailand began producing HIV medications locally through the Government Pharmaceutical Organization (GPO).

Thai PLWHA also campaigned for a universal health care plan, and today, HIV treatment is provided for free across the country under this program. Thailand is a major global success story in terms of civil society action using a rights-based approach to expand access to life-saving HIV/AIDS treatment.

South Africa, with one of the world's worst HIV epidemics, is another extraordinary case in which PLWHA used human rights principles to win better rights for their community. The Treatment Action Campaign (TAC), a broad-based movement of PLWHA and their allies, including the AIDS Law Project, sued the South African government for not providing mother-to-child-transmission (MTCT) prevention to pregnant mothers, citing the human right to health and the South African constitution, and won.

Other groups that use international human rights standards and their own legal system to create policy changes include the Lawyers Collective in India, which successfully overturned Indian laws that criminalize sodomy, and the Canadian HIV/AIDS Legal Network (CHALN) which won a major Supreme Court case that led to keeping Vancouver's Safer Injecting Facility, Insite, open.

In July 2010, thousands of AIDS advocates, government officials and UN officials joined together to demand a rights-based approach to HIV/AIDS at the International AIDS Conference in Vienna. They marched under a banner of "Rights Here, Rights Now." Today there is much more open discussion about the importance of addressing rights in the AIDS response than there was 30 years ago. But real change is slower to come. That is why it is so important that community-led groups get involved in understanding their rights, documenting what happens when they are not protected, and partnering with government, UN and international donors to end rights abuses.

Is a rights-based approach appropriate for every country and culture?

HIV/AIDS does not respect national boundaries. Similarly, the international standards and treaties that define human rights do apply equally to all countries and to all people. Every nation has an international obligation to protect, respect, and promote human rights within its own borders.

While each country has its own traditions, styles of communication, and ways of managing politics (something that is especially important to keep in mind when planning advocacy), our three organizations—one Thai, one Chinese, and one American—find that our colleagues in marginalized communities all share similar experiences when it comes to the violation of their rights. Whether they are sex workers in Beijing, people who use drugs in New York, or transgender people in Chiang Mai, the people we work with face discrimination, lack of privacy rights, lack of access to information, and police abuse—as well as other rights abuses that increase their vulnerability to HIV/AIDS.

The movement for human rights as part of the AIDS response is a global movement, and we learn from approaches tried in each country. But obviously, it is up to each group to determine the best tactics for their unique context. Advocacy can take many forms, from meetings, to court challenges, to direct action and civil disobedience, which groups like ACT-UP and TAC have used. Your community may come up with innovative and successful approaches that can inspire other AIDS activists in other parts of the world. Planning advocacy is discussed in more detail in our third volume, *Change It: Ending Rights Abuses* (forthcoming 2012).

How can knowing my human rights help me?

Not only are human rights inspirational, they are also practical and can empower us to help ourselves and our community. Knowing your human rights enables you to better answer the question "Is this right?" when you believe you have been treated unfairly. When you know your rights, you can distinguish between treatment that is just bad luck, and treatment that is a violation of national or international laws.

International rights standards exist because many people around the world, including activists, legal experts, judges, scholars, and community leaders like you, have identified the same injustices and have agreed that these should be addressed. You can use the international human rights standards that have attained the status of international law as tools to advocate for better implementation of good policies that already exist, for the elimination of bad laws or policies that need to be reformed, and for the creation of better policies and laws.

What are these international standards?

International human rights standards and norms refer to the human rights principles that have achieved the status of international law. The United Nations Office of the High Commissioner for Human Rights (UNOHCHR) is the central agency responsible for identifying these standards, making them available to the public, and monitoring their implementation.

These standards include:

1. *Declarations or guidelines*, which are documents listing standards and principles. A good example is the Universal Declaration of Human Rights (UDHR). These documents may not themselves be legally binding, but they often contain important principles of human rights law.
2. *Conventions, treaties, or charters*, which are legally binding agreements between states or international organizations. The International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social, and Cultural Rights (ICESCR) are human rights treaties.
3. *Norms of Customary International Law*, such as the laws of war, which are principles that through widespread practice have come to attain the status of binding international law.

The main difference among these kinds of authoritative texts is the extent to which they may be legally binding. “Legally binding” means that those nations are legally required to uphold the principles set out in those treaties.

As a “declaration,” the UDHR is not itself legally binding. However, many of the basic principles set out in the UDHR are legally binding for a variety of reasons. We have included a copy of the UDHR in the trainer’s supplement. The UDHR is the most widely-translated document in the world, and you can find other language translations here on the official website of the UDHR:
<http://www.ohchr.org/en/udhr/pages/introduction.aspx>.

As treaties, both the ICESCR and ICCPR are legally binding on those countries that have ratified them. Both treaties have what are called “monitoring mechanisms” or committees of international human rights experts who require governments to report on whether they are following the treaties. As of 2011, every country in the world has ratified at least one of the core human rights treaties.

With a few exceptions, norms of customary international law are binding on all nations.

Where does HIV/AIDS fit into the human rights system

Although none of the international treaties explicitly mentions HIV/AIDS, they do identify many human rights that are relevant in the context of HIV/AIDS. These include the right to health, to non-discrimination, to privacy, to personal liberty and security, to freedom of expression and assembly, among others.

International treaty bodies also sometimes issue General Comments (also called General Recommendations by some treaty bodies), which are their expert interpretations of specific articles in human rights laws. In 2000, the Committee on Economic, Social, and Cultural Rights (CESCR) issued General Comment 14 on the Right to the Highest Attainable Standard of Health, which explicitly addresses HIV/AIDS.

Other important resources are international guidelines, such as the International Guidelines on HIV/AIDS and Human Rights. Government officials, activists, people living with HIV/AIDS, and UN representatives developed these guidelines together, and they give useful guidance on how governments should develop HIV/AIDS policies that include human rights protections.

Lastly, there are also declarations and resolutions made by the UN, which demonstrate the intent and thinking of the international community. For example, the UN Commission on Human Rights passed resolutions in 2001, 2002, and 2003 stating that access to HIV treatment is a fundamental part of the right to health, and asks governments and UN bodies to further this access. Another example is the 2001 Declaration of Commitment on HIV/AIDS, which came out of the UN General Assembly Special Session on HIV/AIDS.

Core Human Rights Standards

Human Rights Instrument	Date	China	Thailand
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	21 Dec 1965	Accession: 29 Dec 1981	Accession: 28 Jan 2003
International Covenant on Civil and Political Rights (ICCPR)	16 Dec 1966	Signature: 5 Oct 1998	Accession: 29 Oct 1966
International Covenant on Economic, Social and Cultural Rights (ICESCR)	16 Dec 1966	Ratification: 27 Mar 2001 Signature: 27 Oct 1997	Accession: 5 Sep 1999
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	18 Dec 1979	Ratification: 4 Nov 1980 Signature: 17 Jul 1980	Accession: 9 Aug 1985
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	10 Dec 1984	Ratification: 4 Oct 1988 Signature: 12 Dec 1986	Not signed
Convention on the Rights of the Child (CRC)	20 Nov 1989	Ratification: 2 Mar 1992 Signature: 29 Aug 1990	Accession: 27 Mar 1992
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)	18 Dec 1990	Not signed	Not signed
Convention on the Rights of Persons with Disabilities (CRPD)	13 Dec 2006	Ratification: 1 Aug 2008 Signature: 30 Mar 2007	Ratification: 29 Jul 2008 Signature: 30 Mar 2007
International Convention for the Protection of All Persons from Enforced Disappearance (CPED)	20 Dec 2006	Not signed	Not signed

Find out here which treaties your country has ratified:

<http://www1.umn.edu/humanrts/research/ratification-index.html>

Who is responsible for upholding my human rights?

A violation of your human rights occurs when actions by government or non-state actors (such as a multinational corporation) abuse, ignore or deny basic human rights. A 'state actor' refers to a person acting on behalf of a government body; a 'non-state actor' refers to an individual or organization not working for the government, such as a non-government organization (NGO), a multinational corporation, the international media, religious groups and armed, violent groups. Generally, your national government is responsible for creating laws and upholding the rule of law, including human rights law.

Governments must uphold your human rights in four ways:

- Governments must *respect* rights by refraining from interfering, directly or indirectly, with the enjoyment of individual rights.
- Governments must *protect* rights by enacting laws that prevent others from interfering with individual rights.
- Governments must *fulfill* rights by establishing institutions and procedures, and allocating funds to make it possible for people to enjoy their rights.
- And, governments *promote* rights by taking steps to make sure that people know what their rights are and how to use them.

How do human rights relate to national laws?

There are several steps a country takes when it commits to upholding an international law.

- First, a country signs a treaty or covenant. This shows that the national government supports the laws in the document and that the government has committed not to act against those laws.
- The next step is to ratify the treaty or covenant, which means that the part of the government in charge of passing laws agrees to ratify this law. Once the country has ratified a law, it agrees officially to uphold the treaty.
- At the same time, countries are also required to reform their national laws, or write new laws, to bring the country's policies up to the standard of the human rights treaty it signed.

At the national level, human rights can often be found in the national constitution, which is usually the highest law in the land. Other countries may pass comprehensive human rights laws. And other countries incorporate human rights into many different laws that manage specific sectors, such as criminal law or health care law.

In an ideal world, each country would have signed and ratified all the human rights treaties, and would have reformed their own laws to guarantee all the rights in those treaties. In this ideal world, a person who experienced a rights abuse could bring their case to court and use the national laws to enforce her rights.

In the real world, things don't always work this way. In some countries, for example, national laws may not guarantee the right to health, even though the government has signed onto the ICESCR, which guarantees the right to health.

Even when the laws of the country do uphold human rights, these laws may not be fairly enforced in that country's courts. Having a law "on the books" does not guarantee that it is translated into practice. We must first understand our own country's laws before we can compare them to how people are being treated in reality; if we also understand the human rights standards, we can push for better laws and better practice.

This is why the international human rights system is important: it can be used as a higher standard that countries are under a legal obligation to meet, and can be used to evaluate and strengthen national laws and national legal systems.

Who at the UN is in charge of making sure countries keep their promises?

Each treaty, convention, and covenant also has a "treaty body," or a committee of independent experts who are responsible for monitoring the progress of countries toward meeting the obligations in that treaty. However, because there are so many countries and so many rights abuses to track, these "treaty bodies" rely a lot on the NGOs of specific countries and on international NGOs to keep the treaty bodies informed of what is really happening on the ground.

Each country that has ratified a specific treaty must submit a government report to the treaty body every three to five years. NGOs often participate in this process by submitting "Shadow Reports" that document human rights violations in that country. The committee reviews these reports along with the government reports, which usually say quite different things. Then the committee holds an inquiry, in which it asks the government questions, and issues its own final report. The committees often based their inquiry on what kinds of things come up in the NGO Shadow Reports.

The final report, usually called Concluding Observations, talks about the progress that the country has made, and also notes places for improvement and makes recommendations.

In addition to the treaty bodies, the UN sometimes appoints an expert, known as a Special Rapporteur, to report on individual rights everywhere in the world. Individuals and organizations may also bring concerns regarding human rights violations to the attention of a relevant Special Rapporteur. One of these is the UN Special Rapporteur on the right to health, who can hear and report on human rights relating to HIV/AIDS. NGOs can also submit private reports to the Special Rapporteur, and ask him or her to take their issues up with the government.

Aren't all serious injustices human rights violations?

Not every injustice is a violation of our human rights. People living with HIV/AIDS face many problems in their day-to-day lives. However, not all of these are human rights violations.

As we learn more about the human rights framework, we will learn about the power of language and the importance of precise language in the development of human rights law. As rights advocates, we may sometimes need to think like a lawyer and analyze situations objectively in relation to the rights laws. However, it is a myth that only lawyers can work on human rights issues; many AIDS activists with no legal background at all have become leading international rights experts!

I have a complaint about a human rights abuse that occurred in my hometown. Can I take it to the UN?

While some human rights are legally binding, that does not necessarily mean that it is easy to get them enforced. There is an International Criminal Court, but at this stage, it only handles situations such as war crimes, crimes against humanity, and genocide. It is not available for smaller cases, such as when a hospital refuses to treat someone with HIV/AIDS.

Since there are so many countries and so many human rights to monitor, the UN does not have the capacity to hear the facts of everyone's individual complaints. To take something up at the UN, it is necessary to first use the legal system in a person's own country to try to get the violation remedied. This is called "exhausting local remedies." This simply refers to the requirement that you tried all possible avenues to obtain justice within your country before taking the case to the international level.

If you do ask a UN representative to pay attention to your case, one of the first questions that person is likely to ask you is whether you have exhausted all remedies available in your country. As we mentioned above, it is the job of the national government to uphold human rights of treaties it has ratified, and provide avenues to redress if a right is violated. Please see our chart to help navigate the UN's "exhaustion requirement." [Appendix 1: Guide to Exhaustion Requirement]

In practical terms, this might include filing a complaint or a lawsuit, or taking a case to a national human rights commission, if one exists in your country. Thailand, for example, established the National Human Rights Commission of Thailand on July 13, 2001, which investigates all kinds of human rights abuses. Thailand's NHRC investigated many of the cases of extra-judicial executions (EJEs), arbitrary arrests, and other violations reported in 2003, during Thailand's violent national crackdown on drugs.

However, we do recommend that you establish contacts at the UN and share information you gather about human rights abuses that affect your community.

More information about how to advocate at the UN will be found in the third book in this series, *Change It; Ending Rights Abuses*.

Once I know what my rights are, what can I do about rights abuses?

Our three groups recommend a three-step approach to addressing rights abuses:

1. *Know It:* Know your rights and analyze the local situation using these rights standards. Understand what is just an injustice and what is a violation of rights laws. Understand whether your local or national laws address this rights violation.
2. *Prove It:* Fully document the abuse, through interviewing victims of the abuse, independently verifying what happened to them, and gathering evidence and powerful first-person testimony about the abuse and how it affected the victims.
3. *Change It:* Using your research and your knowledge of the rights standards, identify what needs to happen to end the rights abuse. Design and plan a strategy that will be effective where you live, and that can include mobilizing your community, filing complaints, and working with NGOs, media, sympathetic government officials and other allies who can help you to bring about real change.

CHAPTER TWO

STIGMA AND DISCRIMINATION

The epidemic of stigma and discrimination against people living with HIV/AIDS affects not only PLWHA, but their families, loved ones, and caregivers too.

Discrimination is a key concept in human rights, as the human rights system is built on the principles of universality, dignity and equality. Freedom from discrimination is a fundamental human right enshrined in international and regional human rights instruments. In this chapter we explore the difference between stigma and discrimination in human rights standards.

What is stigma?

Stigma is a sign of disgrace or shame. It originates from the ancient practice of branding someone who was thought to be “morally flawed” and who therefore ought to be avoided by other members of society. HIV-related stigma often builds upon other prejudices, such as those related to gender, sexuality and race. For example, the stigma associated with HIV is often based upon the association of HIV and AIDS with already marginalized and stigmatized behaviors, such as sex work, drug use and same-sex and transgender sexual practices.

“Double stigma” refers to the experience of people who are branded with more than one stigma, for example people who use drugs or sex workers who are also living with HIV/AIDS. Internal stigma or “self-stigma” can occur when someone feels shame about their HIV and withdraws from social and intimate contact.

Here are some examples of HIV-related stigma:

- A woman’s family refuses to eat with her because she is HIV-positive.
- Hospital staff makes inappropriate comments and stare rudely at an HIV-positive man as he waits for his routine check-up.
- A child whose parents are living with HIV/AIDS is bullied by other children at school.
- People assume a man has HIV/AIDS because he is gay, and gossip about him.

These are all examples of stigma. In each example, an individual is being socially ostracized because of that person’s identity, or the identity other people believe he has.

Together, stigma and discrimination contribute significantly to the failure of people with HIV/AIDS to fulfill their human rights and constitute one of the greatest barriers to dealing effectively with the epidemic.

Here is a case study of HIV-related stigma:

"It's about noon when Wang Bing arrives at Beijing Western Rail Station. The train bound for his rural hometown in Sha'anxi province is scheduled to leave at 7:30 p.m.

But the 26-year-old has come to the station several hours early, because he cannot stand waiting alone in his Beijing dwelling. He's visibly upset. Wang is headed home to discuss the marriage his parents—like many rural dwellers with children working in the city—have arranged for him. But neither they nor the prospective bride know Wang is both gay and HIV-positive.

A year ago, Wang had a cold that just kept getting worse. After the hospital gave him a blood test, Wang's doctor told him the results showed he was HIV-positive. The doctor explained HIV is the virus that causes AIDS, and "positive" means he's infected. "His words startled me like a bee sting, and I stood there totally numb," Wang recalls. "It took a while for it to sink in, and I started to cry like a small boy." Medicine cured his cold, and several counseling sessions with doctors helped him overcome his shock. "I'd thought as long as I didn't think about it, it wouldn't bother me," he says.

He hasn't fallen ill again since but is no longer the outgoing young man he had been. "I used to call my parents every two days. Now, it's every two months," he says. "They're very upset, but I can't help it." Wang now lives in the shadow of guilt and shame that has long cast its pall over homosexuality and HIV/AIDS in China. The young man discovered he was gay soon after arriving in Beijing to work as a clothes maker. He says he still feels ashamed of his sexual orientation. Wang believes he must have contracted HIV from one of his male sexual partners. "What would people think of me if they knew I was gay? How much would it hurt my parents?" he says, fighting back tears. "What am I going to do now that I have HIV? I simply can't marry anyone." (Taken from Lin Shujuan, "Body of Lies," China Daily, January 12, 2009).

Wang is ashamed of his condition because of the stigma associated with HIV/AIDS and being gay in Chinese society. He is especially worried about telling his parents, who live in the countryside, and this anxiety is affecting his relationship with them and with others. Wang is suffering terribly from the deep social stigma surrounding HIV/AIDS and homosexuality.

However, as painful as this is, Wang is NOT a victim of discrimination.

The distinction between individual instances of stigma and of discrimination is important, because the law cannot do anything about stigma. Unfortunately, a judge cannot compel anyone to like anyone else. It is not possible to sue someone because they would rather not eat dinner with another person, or to use law to compel children to play with other children. Nonetheless, the extent to which stigma stands in the way of individuals fulfilling their human rights nations have an obligation to eliminate stigma.

However, a law court can and should protect every citizen's equal right to live and work, to go to school and obtain other public services, regardless of whether or not that citizen is liked or accepted by others – and this leads us to the topic of discrimination.

What is discrimination?

Discrimination occurs when someone treats you unfairly because of a particular characteristic, for example having HIV, being disabled, or being gay. Discrimination is usually the effect of a law or widespread practice that confers or denies privileges to a group of people because of their race, age, sex, nationality, religion, sexual orientation, gender identity, or health status.

In a case of discrimination, a person is unable to exercise her or his basic rights because she or he belongs to a group or class of people. These can include the individual's right to work, patronize businesses, obtain an education, secure housing, or access health care. For example, a woman living with HIV/AIDS wants to travel to another country for a conference and is denied a visa based on her HIV status; or a sex worker is compulsorily tested for HIV without his consent. A transgender person files a complaint of rape at the local police station, but the police refuse to investigate.

The state has a responsibility to protect against discrimination by individuals who represent the state, such as police officers, judges, teachers, and medical workers at state-run hospitals. It also has a responsibility to address and prevent the systematic denial of rights against people who belong to particular social groups.

Here is a case of discrimination:

"A Chinese hospital refused to treat a migrant worker seriously injured in a wage dispute after doctors found out that the woman was HIV-positive. Li Na, 37, was beaten up and sent to [the] hospital in July when she and fellow workers at a construction site in the Inner Mongolia region asked their company for their unpaid wages, said a co-worker, Wu Jibiao.

'She was badly hit five to six time and she was spitting blood, but when doctors did some tests and found out she was HIV-positive, they refused to treat her,' he said. 'They didn't give her a room either and our company said they would not pay us if she didn't leave [the hospital], so she eventually had to go.' Wu said doctors told Li's co-workers that she was HIV-positive. 'Now she doesn't want to live because her co-workers don't want to talk to her, they all look down on her now,' he said." (Taken from David Cozac, "Hospital refuses to treat HIV-positive woman (China)," HIV/AIDS Policy & Law Review 15(1) October 2010: 19).

In this case study, Li Na is the victim of both stigma and discrimination. Her co-workers are stigmatizing her by refusing to talk to her and looking down on her. This is terrible for Li Na, but it is not discrimination, because even though it makes her depressed, the stigma does not deny her the right to work.

However, the doctor's treatment of Li Na was clearly discriminatory. The doctors tested Li Na and refused to uphold her right to medical treatment. This was both discriminatory and a violation of her basic civil rights. Assuming appropriate national laws are in place, had she wanted to sue the hospital, it's possible that Li Na might have had a strong case.

Here are some other examples of discrimination:

- A government provides universal access to antiretroviral therapy (ART) to everyone except injecting drug users (IDU) because they feel that IDU cannot adhere well.
- A school refuses to accept a child whose mother is living with HIV, because other families are afraid that their children will contract the virus.
- After an AIDS activist speaks on television, his landlord forces him to move out because “we don’t want people like you in the building.”
- A patient checks into a hospital for surgery. The hospital tests the patient for HIV without his knowledge or consent, and then refuses to give him treatment.

In each of these examples, the person living with HIV/AIDS has been unable to realize basic rights to work, get an education for her children, have a place to live, or get medical treatment, because of that person’s membership in a certain group.

The concept of non-discrimination is fundamental to international rights law. It appears in every single international human rights treaty, usually near the beginning of the treaty. These international laws prohibit discrimination based on race, color, sex, language, religion, political or other opinion, property, birth, or any other status. Why is non-discrimination so important?

First, non-discrimination is linked to a basic principle of human rights: the principle of equality. All humans are inherently equal and are entitled to the same fundamental rights. All the other human rights flow out of this very basic understanding.

Second, non-discrimination is fundamental because it is linked to another important human rights principle: that power cannot be used in ways that are arbitrary, based on the individual will of power-holders. In other words, people in power must follow rules and standards in the use of power, and the rules must be exercised the same way for everyone. These rules and standards must also be based on facts and evidence.

Discrimination has also been shown to lead to other serious rights abuses, such as the “ethnic cleansing” of minority groups, arbitrary arrest and detention, segregation, and torture.

Is it true that the only solution to stigma and discrimination is to educate people about HIV/AIDS?

No. While public education and advocacy to reduce HIV-related stigma and discrimination is essential to build understanding and create an enabling environment for universal access to prevention, treatment and care for all, we have seen that knowledge is not enough to change behavior. While governments should promote widespread evidence-based information and education about HIV/AIDS, laws must also be aligned to ensure a supportive environment.

Nations have an international obligation to ensure that people living with HIV/AIDS have access to the legal system so that they can sue employers, schools and hospitals that discriminate against them. Human rights violators, such as a government school that expels a child living with HIV because parents in the community don't want their children near that child, should be held accountable under the law. The fear of a court case and the bad publicity that ensues might motivate government and other institutions to educate their own employees about HIV and put policies in place that ensure people living with HIV/AIDS do not experience discrimination.

Can a hospital refuse to treat me for a non-HIV related health condition because I am HIV-positive?

Hospitals may not treat you differently because of your HIV status, or any other status. Article 25(f) of the Convention on Rights of People with Disabilities (CRPD) requires that states "[p]revent discriminatory denial of health care or health services or food and fluids on the basis of disability."

Section 12(b) of General Comment 14 on the Right to the Highest Attainable Standard of Health, issued by the Committee on Economic, Social, and Cultural Rights (CESCR) states that one of the main elements of the right to health is accessibility. Health facilities, goods, and services have to be accessible to everyone without discrimination, and especially to marginalized or vulnerable populations. If you need surgery, you should get it. If you want to discuss a non-HIV related issue with your doctor and have it treated, that is your right.

I use drugs and am HIV-positive. Do I still have a right to my property? My family says I cannot take care of myself, so they took away all my things.

International law assures your right to protection against intrusions and attacks on your privacy, family, home, or correspondence (Article 17, ICCPR). No one has the right to take your property.

National laws sometimes permit the trusteeship or management of your property by some else if the court decides that you are incapable of managing it yourself, but this should only be done through a legal process in which you should have a chance to argue your case and provide evidence showing that you are capable of looking after yourself. Article 12.4 of the CRPD requires that any limitation on your legal capacity be determined in a way that "respects the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body."

If my family kicks me out of the house because I am HIV-positive, is that a violation of my human rights?

Technically, being asked to leave your family home is a terrible experience but not a violation of your rights, unless you are the owner of that home. If you are the owner of that home, you should consult with a lawyer and find out what your legal options for retaining your residence are, but if you are not the owner you cannot force someone else to let you live there.

International human rights law ensures the right of all people, including those living with HIV/AIDS, safe, stable, affordable housing free from intimidation (see Article 25(1) of UDHR; Article 11(1) of the ICESCR). One cannot be forcibly evicted or harassed because of one's HIV status. International law also protects a person's right to rent or purchase a property.

CHAPTER THREE

What is the right to health?

The ICESCR guarantees all people the right to the highest attainable standard of health. This means that wherever you live, you should have the right to the same standard of health care as anyone else in your country. This includes the right to health services and proper sanitation, as well as the right to an environment and other conditions that contribute to good health.

There are four main elements to the right to health:

1. *Availability*, which means that each country should have enough public health facilities, goods, services, and programs, for everyone who needs them. This includes essential drugs listed by the World Health Organization (WHO).
2. *Accessibility*, which means that all people should be able to use them, no matter whether people are disabled, come from marginalized groups, or are poor.
3. *Acceptability*, which means that all goods and services must be respectful of culture and other forms of difference, and also respect the privacy of all individuals.
4. *Quality*, which means that all services, facilities, and goods must be of good quality. Personnel must be skilled, and medicines must be safe and scientifically approved.

There are many rights related to health, such as the right to life, the right to dignity, the right to bodily and psychological integrity, the right to food and water, the right to housing, the rights to information, participation, and privacy—these are all considered health-related rights.

What are some things that are included in the right to health?

In May 2000, the CESCR clarified and expanded on its definition of “right to health” in the ICESCR by developing General Comment 14: The Right to the Highest Attainable Standard of Health, which provides important additional information such as the importance of participation of people in the design, delivery and control of health services and the importance of addressing the underlying determinants of health care. The General Comment explicitly forbids health-related discrimination against PWLHA or on the basis of sexual orientation, and requires countries to create specific national plans that include a gender perspective.

I live in a developing country. Isn't it unreasonable to expect a developing country to provide the same standard of health care as a rich country?

All people are guaranteed access to a core minimum of health services without discrimination, under international law.

In places where the full realization of the right to health is not yet available, Article 2 of the ICESCR sets out the standard of progressive realization. In other words, while not all countries have the economic resources to provide a high standard of health services, all countries should have a plan in place to make progress towards that goal and to back up that plan with enabling laws, guaranteeing all rights without discrimination. Governments cannot, under international law, take backwards steps, such as doing something to make it harder to enjoy access to health. If resources are limited, then the government should at least implement targeted programs for society's most vulnerable people.

Not every bad government service or mistreatment by a healthcare worker is a human rights violation. It is also important to consider whether there are legitimate reasons why the government is unable to meet its obligations on the right to health. Is the government unable or is it *unwilling* to meet its obligations? In Brazil, South Africa, and Thailand, AIDS activists challenged the government's failure to provide ART as a denial of their right to health. If a government is not providing ART to its citizens in poor regions but is building very expensive new facilities that only benefit the wealthy, then it is reasonable to claim that the government is unwilling to fulfill its obligations to uphold the right to health.

If the government is unable to meet its obligations, it must show that it is doing as much as it can, and has a plan in place, to continue increasing availability and accessibility of health care services.

My country does not provide free anti-retroviral treatment (ART) because the government says they are too expensive. My friends cannot afford to buy HIV/AIDS medications and many are dying. Is this a violation of their right to health?

Yes. Access to essential medicines including ART is an established component of the right to health. Ten of the 15 million PLWHA in need of ART today do not have it. Despite a global commitment to universal access to ART for all, millions of poor people are dying of HIV/AIDS simply because of the high cost of treatment. No one should be denied life-saving medication due to high pricing and patent protections.

The World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights (the 'TRIPS Agreement'), which imposes protections on products traded globally, including patent protections for HIV medicines, also includes flexibilities that allow developing countries to override some of these unreasonable protections (like 20-year patents on urgently-needed drugs) in order to address their public health priorities.

Even though WHO has encouraged countries to utilize these “TRIPS flexibilities” (such as compulsory licensing of AIDS drugs, or parallel importing) by adapting national legislation to promote their use, few countries want to risk a backlash from unhappy trading partners like the U.S., which tends to protect the interests of multinational pharmaceutical companies, and thereby fail to utilize the flexibilities to ensure access to affordable treatment for their people.

Key definitions:

Compulsory Licensing (CL): You might want to consider asking your government to issue a compulsory license for an HIV medication if the pharmaceutical company that produces that HIV medication (and holds the patent) refuses to grant you a voluntary license. A voluntary license would allow you to produce a cheaper, generic version of their expensive, patented drug, by paying the patent holder a royalty, or set amount of money in return. By issuing a compulsory license, you could force the patent holder to license production to another generic producer in or outside of your country so that you could buy it cheaper from them.

Parallel Importing: This is like bargain hunting, or bringing in a cheaper version of a medication from another cheaper supplier outside your country, thereby creating competition and helping push down local prices of a drug. It is very common and used with numerous products like cars, computers, music CDs and medicines. You parallel import a cheaper version of a drug available in your country, without the drug company’s permission.

Guideline 6 of the International Guidelines on HIV/AIDS and Human Rights says that all governments should try to do the following, as much as they can:

- Pass laws to regulate HIV-related medicines, goods, services, and information;
- Make sure that everyone can access quality drugs, services, information, care and support;
- Pay special attention to these issues as they relate to vulnerable people.

The Guidelines are not as strong as international laws such as the ICESCR, but they are important advice for governments about how to design good HIV/AIDS policies.

ARVs were added to the World Health Organization’s List of Essential Medicines in 2002. The provision of essential medicines is an integral part of the right to health. The updated 2011 WHO Model List now includes: abacavir, atazanavir, didanosine, efavirenz, emtricitabine, indinavir, lamivudine, lopinavir, nevirapine, oseltamivir, ribavirin, ritonavir, saquinavir, stavudine, tenofovir disoproxil fumarate, zidovudine.

For a short and comprehensive explanation on these issues in English, please see “Using TRIPs Flexibilities to Improve Access to HIV Treatment (UNAIDS/WHO/UNDP, 2011)”:

http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2011/JC2049_PolicyBrief_TRIPS_en.pdf.

I was tested for HIV during a routine medical exam. Can the doctor do that without informing me or getting my approval?

No, it is a violation of your human rights if you are tested without your knowledge or informed consent (International Guidelines on HIV/AIDS and Human Rights, 20B). Informed consent means to give your permission only after you have received all the information that you need to make a decision. This includes: what the choices are, how it will benefit you, and what the negative consequences might be. If you consent to being tested, then you have a right to know the results of your test.

The International Guidelines on HIV/AIDS and Human Rights states a person should be tested for HIV only when s/he has given specific informed consent. The only exceptions to voluntary testing are in cases where judges give special authorization, and only after they consider the impact on the privacy and liberty of the individuals in question.

So for example, in many countries, public health officials are allowed to conduct surveillance testing without informed consent, but only if it is “unlinked testing” (this means that the results are anonymous and not connected to your name or file). They use the results to track an epidemic and find out who is being most affected and where.

In my hospital, patient files are laid out on the front desk and people who pass by can easily see the information. Do hospitals have a responsibility to protect my privacy?

Yes. Doctors and all health care workers should keep patient files in a safe and secure place, such as a locked file cabinet, and not out on their desks or any other place where unauthorized people can find the information.

Paragraph 3 of CESCR General Comment 14 states that the right to health is “closely related to and dependent upon the realization of other human rights,” including the right to privacy. The right to privacy is also protected in Article 17 of the ICCPR. Paragraph 12(b) of the CESCR’s General Comment 14 also states that everyone has the right “to have personal health data treated with confidentiality.” That means that doctors, nurses, and other hospital staff should not share your medical information with anyone except you without your permission.

I am HIV positive. Can the Center for Disease Control (CDC) staff just go in and “sanitize” my house, and tell my family and neighbors that I am a person with HIV?

As mentioned above, your right to privacy is protected under international law. The CDC should not be allowed to enter a private home without a court-issued warrant.

Article 17 of the ICCPR protects your privacy, home and mail from intrusion and you are entitled to legal protection of this right.

The 1948 Universal Declaration of Human Rights states, “No one should be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks on his honor or reputation. Everyone has the right to the protection of the law against such interferences or attacks” (Article 12). This benchmark definition on the right to privacy has also been upheld in international human rights treaties, such as the ICCPR, the UN Convention on Migrant Workers, and the UN Convention on the Rights of the Child.

Similarly, Article 22.1 of the CRPD provides, “No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honor and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.”

As a woman, do I have a right to bear children and refuse sterilization even if I am HIV-positive?

Yes. As a woman, you have the right to decide for yourself whether or not to have children, how many to have, and when to have them. Furthermore your doctor must receive your informed consent before performing a sterilization procedure, and if she does not, she has violated the guidelines of medical ethics. It is the government’s duty to make sure that medical personnel follow ethics regulations and to punish those who violate them.

Article 23(2) of the ICCPR guarantees the right to found a family. Forced or coercive sterilization is an abuse of your human rights. It can also be considered a form of torture or cruel, inhumane and degrading treatment.

The Convention on the Elimination of Discrimination Against Women (CEDAW) affirms a woman’s right to decide whether or not to have children, and to access to health services, including those for family planning, without discrimination. Additionally, the General Comment 14 of the CESCR also states that a government has the responsibility to refrain from “applying coercive medical treatments” (paragraph 34). The CRPD Article 23.1(b) protects the rights of people with disabilities “to decide free and responsibly on the number and spacing of their children,” and protects the right of people with disabilities, “[to] retain their fertility on an equal basis with others.”

In addition, the International Federation of Gynecology and Obstetrics (FIGO) created new guidelines on “Female Contraceptive Sterilization” in 2011. The guidelines state, for example, that only the woman herself can give consent to her own sterilization. This means that family members, doctors, and government officials are not allowed to give consent on her behalf. The guidelines also state that sterilization to prevent pregnancy in the future is never an emergency procedure, so there is no justification for departing from the principles of informed consent. Additionally, it states that sterilization should never be a condition of access to medical care, so that a doctor cannot tell you that you have to be sterilized as a condition for receiving ARV treatment.

Finally, you have the right not to be subjected to forced medical procedures. This is upheld in the conventions on torture and in rights standards on privacy. In the case of sex workers, however, these are ignored by many governments, which encourage coercive testing of sex workers.

I use drugs and am also HIV-positive. Can the hospital require that I become a methadone client, or order me to stop using methadone, before they provide me with ART?

No. Requiring the commencement or termination of methadone in order to be eligible for ART is a violation of your right to health. Your doctor should use your medical status to decide if you are ready for ART, and not discriminatory information such as whether you use drugs or are on methadone.

In fact, international research shows that there is no difference in ART adherence—that is, in a person’s ability to keep taking their ART—between people who use illicit drugs and others. International research does recommend including opiate substitution therapy (OST) such as methadone as part of a comprehensive approach to HIV prevention, treatment and care.

Doctors have a responsibility to provide information on drug-drug interactions. Methadone and some HIV medications such as nevirapine interact in ways that can create side effects, but doses can be easily adjusted and managed.

CESCR General Comment 14 on the Highest Attainable Standard of Health provides for equality in access to health care, noting, “health facilities, goods and services must be accessible to all, especially the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds” (paragraph 12(b)) which include physical or mental disability, health status, and other status that has “the intention or effect of nullifying or impairing the equal enjoyment or exercise of the enjoyment or exercise of the right to health” (paragraph 18).

It also constitutes torture under international law to refuse you medical treatment if you refuse to admit guilt to a crime or refuse to assist with a criminal investigation.

CHAPTER 4 POLICE AND YOUR RIGHTS

What rights do I have when interacting with the police?

The International Covenant on Civil and Political Rights (ICCPR) covers many of the rights people have in relation to the police and the law. According to the ICCPR, you have a number of rights, including the rights:

- To not be arrested unless it is for reasons and in procedures that are set out by the laws of your country,
- To be informed at the time of arrest of the reasons for your arrest and of any charges against you,
- To be brought before a judge for trial in a reasonable amount of time after your arrest,
- To have proceedings before a court that determine whether your detention is legal or not,
- To have access to legal counsel and time to prepare a defense,
- To be presumed innocent until proven guilty,
- To not be forced to confess guilt or to testify against yourself, and
- To receive compensation if you are detained without cause.

These are the standards under international law for the rights you should have in relation to the police.

But as we have discussed in other contexts, there is a lot of variety from one country to the next in the standards that are used locally. If you or the community you work with are at risk of arrest, it's important to become familiar with the local laws and regulations on criminal procedure.

If you think you might be at risk of arrest...

In many countries, sex workers, people who use drugs, men who have sex with men, transgender people and migrants have frequent contact with the police. If you or someone you know is at risk of detention, you should get in touch with someone you trust and keep them posted about where you are at all times, and discuss what you would like them to do if you are detained or if you drop out of contact.

You should also begin carrying the phone numbers of a few trusted emergency contacts. This could be a lawyer, or just someone who has good knowledge of the legal system and who is effective at communicating with the police. Be aware that your cell phone may be taken if you are arrested, so you should also carry the emergency contact information on a piece of paper or a card in your pocket.

If your country also guarantees people who are detained the right to a lawyer, as it should under international law, then you should always exercise that right. The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment states that the authorities must tell you that you have a right to a lawyer, and help you to access one. Some countries uphold this standard and some do not.

Your lawyer or legal advisor will probably tell you not to talk to the police without their presence, so that the lawyer can advise you about what to say or what not to say.

However, in many countries, particularly where police corruption is rampant, people may avoid lawyers and try to negotiate or pay their way out of a situation. This is risky, but common practice, especially where lawyers are not easily accessible, not familiar with the issues, or expensive. Consider a lawyer if you can, but use your best judgment to handle your own case. Take steps to prioritize your own security at all times.

Whether or not you have a lawyer to advocate for you, once you are detained, you should try to keep careful notes about exactly what happens to you and when it happens. Though you will probably be under great emotional stress, try to remember details. You should try to keep track of where you are, what conditions you are kept in, whether you are mistreated in any way, and if you need medical care, whether you have access to it. Try to record names and positions of all the law enforcement staff you come into contact with, and a chronology of events that happened to you, from the moment of your arrest. If you are able to retain your cell phone during the first hours of your detention and if it is safe, try to communicate as much information to a trusted loved one or colleague over the phone, before your phone is confiscated.

This information could be important for people who are working for your release and who will help you to prepare for court.

Do the police have a responsibility to protect my privacy?

Yes. Under international human rights standards, police cannot enter any venue without a court-ordered search warrant, except under rare circumstances. Privacy is a basic human right guaranteed by the ICCPR.

Article 17 of the ICCPR states, "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation."

International law enforcement standards for the police include that everyone has a right to security of person," investigatory activities shall be conducted only lawfully and with due cause," and that "neither arbitrary, nor unduly intrusive investigatory activities shall be permitted."

The police raided the karaoke lounge where I work and they brought reporters to report on the raid. The reporters took photos of me and the other women, and published them in the newspaper, saying that we are prostitutes. Now everyone in my town knows what I do and my family won't talk to me. Is this a human rights abuse?

Yes. Under international rights standards, the police bringing reporters in to photograph you during a raid was a violation of your right to privacy. Reporters also have an ethical obligation as journalism professionals and they should have asked your consent.

However, because laws vary from one country to another, in some countries, the reporters may not have violated national laws by taking photos of you. In some other countries, you may be able to sue the newspaper or the police for violating your privacy.

Whether or not it was against the law for the reporters to photograph you and the other women you work with, you can still complain to the newspaper editor about this behavior. Your organization can call the editor and request a meeting to help them understand what the negative effects were on you and the other women. Often this can lead to mutual understanding and a more positive working relationship in the future.

Can the police enter a needle exchange program (NSP) to arrest someone suspected of drug use?

Unfortunately, yes, if the police have a court-ordered warrant for the arrest of an individual whose name is on that warrant.

Most countries emphasize a law enforcement approach to drug use, rather than recognizing drug use as a health issue. NSP may be illegal in some countries, and clean injecting equipment can be confiscated as illegal material under drug paraphernalia laws.

UNAIDS, WHO and UNODC recognize needle exchange programs as an essential component of a comprehensive HIV prevention, treatment and care package for people who inject drugs. NSP can act as a bridge to other services that support HIV transmission reduction and facilitate uptake of drug and HIV treatment.

International human rights law was generally created before the harm reduction movement came into existence. However, the International Guidelines on HIV/AIDS and Human Rights came later than these laws, and while it is only a set of recommendations and not international laws, it does address harm reduction. It was written by human rights and HIV/AIDS experts, and it gives excellent advice to governments on how to protect human rights as part of the fight against HIV/AIDS.

Section 21 of the Guidelines states, “[C]riminal law should not be an impediment to measures taken by States to reduce the risk of HIV transmission among injecting people who use drugs and to provide HIV-related care and treatment for injecting people who use drugs.” The Guidelines recommend that criminal laws in each country should be revised to eliminate any barriers to treatment access for people using drugs. They recommend that governments allow needle/syringe exchange programs, and repeal laws that criminalize the possession and distribution of needles and syringes.

Police can only implement the laws as they exist in your country, so if the laws in your country encourage police to come into the clinic to arrest people using drugs, then that is what they will do. We will all need to continue to press for stronger international and national laws that uphold the principles of harm reduction recommended in the Guidelines.

I am an MSM and police regularly raid the bars or parks where we gather. Can I refuse to go to the police station?

Under the ICCPR, you have a right not to be arbitrarily detained, which means you have a right not to be detained without cause or an official warrant. If the police do not have a reasonable cause to believe you are violating any law, then this is arbitrary detention. If heterosexual bars and cruising areas are not being raided in the same way as LGBT bars, depending on the specifics of the case, it may also be possible to argue that this is discriminatory treatment by the police.

In practice, we recommend that you do not resist arrest, because this could make matters worse. Once you are taken in, take note of the arresting officers' names, titles and badge numbers, and how you and others were treated during the arrest and in detention, as well as what (if any) charges are made against you or others. It is very important to have accurate and detailed information. Once you are out, you can get legal advice about whether or not the police are engaging in arbitrary or discriminatory behavior, and consider your options. The important thing is to be safe and smart.

I am a person who uses drugs. Can the police find me on the street or in a hotel and force me to do a urine test?

No; but unfortunately, in most places in the world, they do. Mandatory testing such as urinalysis to determine if you have used drugs is an example of punishment due to your "status" as a drug user.

According to the International Guidelines on HIV/AIDS and Human Rights (20B), you must give informed consent for any kind of medical testing. This is part of your right to privacy, which is guaranteed by Article 17 of the ICCPR.

However, some countries have policies that allow police to conduct forced testing of different kinds. If that is the case in your country, we recommend that you not resist the police, as that could make matters worse. However, you may want to consider mobilizing with other people who inject drugs (PWID) to document this practice and the ways that it harms people. Such evidence could be used as part of a lawsuit or a broader campaign at the national level aimed at changing the laws.

I am a sex worker. A police officer pretended to be a client when I was working on the street. Can police detain me in this way?

It seems extremely unfair, but of course it is very common for police officers to go undercover as clients to entrap people suspected of breaking laws. Undercover surveillance and deception are part of police practice everywhere, and many police believe that it is fine to lie in order to catch what they consider to be law-breakers.

Unfortunately, there is nothing specifically prohibiting entrapment in international law. However, some legal experts, including the European Court of Human Rights, argue that entrapment can sometimes lead to a violation of the right to a fair trial, a right protected by Article 14 of the ICCPR.

This is an area where international rights experts do not yet agree. In your personal case, we recommend consulting a lawyer, as laws on entrapment and deception by police vary from one country to the next.

Can the police use condoms as evidence in court that I am a sex worker?

International human rights experts see access to condoms and related HIV prevention services as part of the human right to the highest attainable standard of health. The ICESCR obliges state parties to take steps “necessary for...the prevention, treatment, and control of epidemic...diseases,” including HIV/AIDS. The Committee on Economic, Social and Cultural Rights interprets this provision to include access to condoms and complete HIV/AIDS information. Interference with access to life-saving technologies such as condoms can be interpreted as a violation of the right to life.

However, in many countries around the world where sex work is illegal, prosecutors are allowed to introduce condoms as evidence. As always, we recommend that you talk to a lawyer to find out the laws in your country on use of condoms as evidence, as the laws in your country may or may not meet the international standard.

The police stopped my friend on the street and found a small quantity of drugs on him. Because the drug laws in our country are strict, my friend would have gone to jail for a long time. The police hit my friend and told him he had to pay them some money or he would go to jail. Is this a human rights violation?

This is a very clear-cut human rights abuse which violates several international standards—and probably, quite a few of your country's laws, as well. The police never have the right to either beat people or extort bribes from them, nor to force a false confession.

Physical violence of any kind, including beatings, is prohibited under Article 7 of the ICCPR, which states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” Article 1(1) of the Convention Against Torture (CAT) defines torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”

Given widespread impunity by the police in many countries, it can be intimidating, dangerous or useless for your friend to try to hold the abuser accountable, yet not addressing the violation allows it to be repeated. If you are beaten, please get the medical care you need and evaluate your options, if you can, by getting advice from NGOs and lawyers.

My friend is a sex worker who was raped by the police. The police said if my friend resisted them that my friend would be arrested. Is this a human rights abuse?

Yes. Rape, or sexual abuse of any kind, is a very serious crime – and certainly if it is perpetrated by the police or someone else who works for the government.

The Convention Against Torture (CAT) defines torture, in part, as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person” (Article 1). International law experts generally accept that this definition includes rape or sexual violence.

CEDAW has been interpreted to prohibit gender-based violence, which has been defined as violence that is directed against a woman because she is a woman, or because the form of violence tends to affect women more than men. This includes “acts that inflict physical, mental or sexual harm or suffering threats of such acts, coercion and other deprivations of liberty” (CEDAW General Recommendation 19, paragraph 6). Article 2(c) of the United Nations Declaration on the Elimination of Violence against Women specifically condemns physical, sexual and psychological violence perpetrated or condoned by the state.

In the case of your friend, since the perpetrators work for the police—the very people whose job it is to protect her—it may be difficult to obtain justice. In this case, she should certainly get medical care, and consult with a lawyer about her options. She may consider reporting the crime to a different government entity whose job it is to monitor the police, such as an ombudsman, community policing board, or national human rights commission, if there is one in your country.

If the problem is widespread where you live, it is also possible to document the cases where this happens and submit a report to the UN—something we explain in more detail in the third volume of this series, *Change It: Ending Rights Abuses*.

As an adult sex worker, do I have a right to refuse to be “rescued” by police or by an NGO?

You may have the right to refuse, but you should think about whether that is a safe approach.

In some countries, police and NGOs concerned about the problem of trafficking have staged “rescues” of female sex workers. However, in their zeal to address a complex issue, these “rescues” have sometimes caught up adult sex workers as well as or instead of trafficking victims. Some police or NGOs have then detained adult sex workers who were “rescued,” compelling them to undergo rehabilitation, job training and moral reeducation.

International law protects the right of everyone to freedom of opinion, freedom of association, and the freedom to refuse medical and quasi-medical treatment. It also guarantees you the right to a fair trial.

If the criminal laws of your country outlaw sex work, you may be subjected to arrest, trial, and the imposition of criminal penalties. But in that case, you should first be found guilty of a crime in a court of law. You should have the right to have your case and any relevant evidence heard by a judge or tribunal.

Of course, these rights are not always respected, and resisting arrest or so-called “rescue” could be dangerous. We recommend that you take careful notes about exactly what happens to you and report it to an independent authority or to legal aid organizations.

Some sex worker organizations argue that the decriminalization of sex work would allow sex workers to negotiate contracts, challenge unfair and abusive labor practices, and have more choice in the conditions of their workplaces. In most countries, this has yet to be achieved.

CHAPTER FIVE RIGHTS IN PRE-TRIAL DETENTION AND PRISON

How long are the police allowed to detain me?

International human rights experts recommend that detention periods be as short as possible, since the risk of torture or abuse increases when detention is longer.

Two international standards, the ICCPR and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment state that a person in detention should be heard promptly by a judicial or other authority. The person should also be told promptly about the order of detention, and the reasons for her or his detention. ("Promptly" is not defined in specific terms, such as hours or days, but generally means "without delay.")

Each country has its own rules on detention, usually set down in national criminal procedure laws. In China, the law says that if you are taken into criminal detention, the police must have a warrant for your detention, your family must be notified within 24 hours, and the police must question you within 24 hours of your arrival in detention. Under normal circumstances, they must also request a warrant for your formal arrest within 3 days. In Thailand, a person arrested for a drug offense is frequently detained for up to 45 days, though officially the assessment of the accused should take place within 15 days, or a maximum of 30 days where there is "necessary cause."

Because the criminal procedure laws are specific to each country and can sometimes be complicated, it is important to find legal assistance to help you through this process.

What kind of conditions am I supposed to have in detention, under human rights law

There are several international laws and guidelines that specify how you should be treated if you are detained.

First, you have a right to be treated with respect (Article 10, ICCPR), and to be held separately from people who have already been convicted (Principle 8, Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment). Additionally, if you are under the age of eighteen, you have a right to be held separately from adults.

The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment lays out more detailed rules that all governments should follow in the treatment of prisoners. For example, it states that you have the right to request a medical examination, and medical care and treatment should be provided to you free of charge during your stay in the facility (Principle 24). It also states that once detained you should have the right to talk to your lawyer privately, so that the police or wardens cannot hear the discussion (Principle 18). You can find the full text in English here:
<http://www.un.org/documents/ga/res/43/a43r173.htm>.

Additionally, the Standard Minimum Rules for the Treatment of Prisoners lays out conditions for imprisonment, including details on accommodations, light, bedding, clothing, hygiene, food, exercise, medical services, and discipline. You can find the full text in English here:

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

It's also important to be aware that there is a greater risk of becoming HIV-positive in prison, due to lack of access to clean syringes and condoms.

Is the denial of needle and syringe programs (NSP) or opiate substitution therapy (OST) in pre-trial detention or prison a violation of my rights?

Yes. Prisoners and detainees all have the same right to health as people who are not in prison, so if you were able to receive OST outside of prison, you should have it inside also. Transgender people have the right to continue hormone treatments in prison as well.

The ICESCR guarantees the right to health in Article 12, and in CESCR General Comment 14, which states that governments must refrain from “denying or limiting equal access for all persons, including prisoners or detainees.”

While the ICCPR does not explicitly guarantee the right to health, countries are obliged to uphold the right to life (Article 6) and the right to humane treatment (Article 10).

The UN Basic Principles for the Treatment of Prisoners established that prisoners have the right to the same standards of healthcare as available in the community: “Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.” Principle 24 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment says that your detention facility should provide medical care and treatment to you free of charge.

WHO issued guidelines on HIV infection and AIDS in prisons in 1993. The guidelines emphasize that “all prisoners have the right to receive health care, including preventive measures, equivalent to that available in the community without discrimination.” This was more recently re-affirmed in the 2006 framework for an effective national response to HIV/AIDS in prisons, jointly published by the United Nations Office on Drugs and Crime (UNODC), WHO, and UNAIDS. WHO/UNODC/UNAIDS have also recommended that “Prisoners should have easy, confidential access to NSPs, and prisoners and staff should receive information and education about the programs and be involved in their design and implementation,” and that OST offered outside should be provided in prisons “without interruption.” They state, “authorities should also provide a range of other drug dependence treatment options for prisoners with problematic drug use.” (WHO/UNODC/UNAIDS, *Evidence for Action Technical Papers: Effectiveness of Interventions to Address HIV in Prisons*, Geneva, 2007).

I was detained because I am gay. The police asked a TV station to do a report on people like me in prison. Do I have a right to privacy in detention? Can I refuse them?

Like people outside of prison, you have the right to privacy if you are in prison. Article 17 of the International Covenant on Civil and Political Rights: “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation.”

What kinds of conditions am I supposed to have in a compulsory treatment center?

The UN Office on Drugs and Crime (UNODC) has set out best practices for treating drug dependence and for prevention of HIV. These include access to opiate substitution therapy, information on HIV prevention, access to ARV, and treatment for withdrawal symptoms. Denial of access to these therapies and treatments violates your right to the highest attainable standard of health (guaranteed by the ICESCR), and constitutes inhuman and degrading treatment (prohibited by the Convention Against Torture as well as the ICCPR).

In addition, detention in a compulsory treatment center by police, without trial, is also a violation of your human rights. The ICCPR and the Body of Principles for the Protection of All Persons Under Any Form of Detention both state that you have the right to “due process,” or the right to have a court decide whether or not you have been lawfully detained. This applies not only to minor crimes, but also to detention related to immigration control, mental illness, or drug dependence.

If I am in prison or in a compulsory treatment center, do I have to work?

This generally depends on several factors. First, there is the question of whether or not you are being paid for your labor at the treatment center. International law bans the use of unpaid forced labor (Article 8.1, ICCPR), unless a court specifically orders a person to work as part of his or her punishment (Article 8.3, ICCPR).

Another question is what kind of work you are doing at the center. Is it work that has any benefit to you, or is it only creating profit for the treatment center? The United Nations Standard Minimum Rules for the Treatment of Prisoners states that any work should be for the prisoner’s benefit, and not for profit-making (Rule 72.2). If the work you are doing in detention is teaching you a new skill, that is more justifiable than if you are just doing hard labor that doesn’t teach you any useable skill.

Finally, there is the question of whether or not you were sentenced to compulsory treatment after a fair trial. If you never had a trial, then you were never convicted of any crime. In that case, under international law, authorities do not have the right to make you work at all.

(WHO/UNODC/UNAIDS, Evidence for Action Technical Papers: Effectiveness of Interventions to Address HIV in Prisons, Geneva, 2007)

If I am in a compulsory treatment center or in prison, can I refuse to be tested for HIV/AIDS?

Yes. Mandatory testing is unethical and there are many international guidelines on medical testing, and they all require that informed consent be given by the person tested. For example, the International Guidelines on HIV/AIDS and Human Rights states a person should be tested for HIV only when s/he has given specific informed consent.

The only exceptions to voluntary testing are in cases where judges give special authorization, and that only after they consider the impact on the privacy and liberty of the individual in question. For example, in order to enable them to track the spread of an epidemic and understand who is most at risk and where the epidemic is most serious, public health officials are allowed to conduct surveillance testing without consent—but it must be “unlinked testing.” This means that the results are anonymous, and not connected to the names of the people tested.

If you are tested for HIV while in detention, whether or not you gave consent, you always have the right to know the results of your test.

Voluntary Counseling and Testing (VCT) in prison, on the other hand, is recommended by WHO/UNODC/UNAIDS and prison systems should provide easy access upon entry and during imprisonment. VCT should always be confidential, and closely linked to access to care, treatment, and support for those testing positive. VCT should be part of a comprehensive HIV program that includes access to prevention measures, including condoms and clean injecting equipment.

CHAPTER 6

RIGHTS OF PEOPLE WORKING ON HIV/AIDS

All rights are deeply connected to and dependent on one another.

This becomes especially clear when we look at the rights of people working in the HIV/AIDS field. In order to reach marginalized communities, we need to be able to form grassroots NGOs. In order to help our governments to create and implement the best possible HIV/AIDS policies, we need to be able to freely express our views and talk about problems when we see them.

Under the ICCPR, all people have the right to freedom of association—to join with other people to collectively express, pursue and promote shared interests. All people also have the right to freedom of information and to freedom of expression—the right to express our views and to get the information we need to make good decisions.

It is difficult, if not impossible, to effectively fight the AIDS epidemic and guarantee everyone the right to health without these basic civil and political rights.

Do I have a right to have a meeting with other sex workers?

Yes. The right of peaceful assembly is protected by many international legal documents, including Article 21 of the ICCPR. If you are obeying the law and your meeting is not a threat to public order or public health, then you have the right to meet.

If my nonprofit organization is a drug user organization, should we still be allowed to register legally?

Article 22 of the ICCPR guarantees all people the right to freedom of association. This means that among other things, we all have the right to form civil society organizations. Countries are allowed to set up rules to manage registration of organizations, but these must not create unreasonable obstacles to getting registered. Paragraph 139 of the International Guidelines on HIV/AIDS and Human Rights also states that “the freedom of assembly and association with others is essential to the formation of HIV-related advocacy, lobby and self-help groups to represent interests and meet the needs of various groups affected by HIV, including people living with HIV.”

All nonprofit organizations should be subject to the same registration laws, regardless of their membership or which community they serve; so the rules for registration must also be applied equally to all organizations. You can refer to the international principles of non-discrimination and equality: no one should be treated differently because of their race, age, sex, nationality, religion, sexual orientation, gender identity, or other status.

As long as your organization is not breaking the laws of your country (for instance, selling drugs in a country where it is illegal to sell drugs), then even if your organization's members are part of a marginalized community, it should be possible for the organization to register.

I run an MSM website. Our website was shut down because the authorities said it was promoting prostitution, but in fact our website is an important source of HIV/AIDS information.

Under Article 19 of the ICCPR, all people have the right to freedom of information and freedom of expression. That means that you have the right to share information, and the right to express opinions. It is especially important to exercise these rights in the context of fighting the AIDS epidemic.

However, human rights laws do not guarantee individuals' rights to break laws, even if they are laws you believe are unjust. If members of your organization support decriminalization or legalization of sex work, then you have the right to advocate for that through your website or through other peaceful advocacy.

Can I distribute needles/syringes or condoms in my HIV-prevention program?

Because harm reduction, including needle exchange, is a relatively new area of health policy, it is not protected by international rights laws. Most of those laws were written in the 1960s, at a time when drug users and sex workers did not have strong international organizations and were not represented in the committees that created the laws.

The International Guidelines on HIV/AIDS and Human Rights recommends that criminal law should not be an obstacle to government efforts to reduce HIV transmission among and provide care to people who use drugs. The Guidelines also suggest that criminal laws should be revised to promote needle and syringe exchange programs, and the repeal of laws that criminalize the distribution and possession of needles and syringes.

The Guidelines make recommendations for good human rights policy in the context of the fight against HIV/AIDS, so we can use them in our advocacy. However, they are not as strong as international laws, so we need to continue to advocate for rights laws that will protect our right to harm reduction policies.

CHAPTER SEVEN

RIGHTS OF MARGINALIZED COMMUNITIES

Is my sexuality protected by the human rights mechanisms?

Yes. This is a new and evolving field in human rights. Paul Hunt, a former Special Rapporteur on the Right to Health, has said that “Sexual rights include the right of all persons to express their sexual orientation, with due regard for the well-being and rights of others, without fear of persecution, denial of liberty or social interference.”

Sexual rights, like all human rights, are rooted in international norms as articulated in various human rights instruments and mechanisms, such as the right to be free from violence and discrimination, and right of freedom of association and assembly. These rights include the right to bodily integrity; the right to freedom from all forms of discrimination, coercion and torture or ill-treatment; the right to information and comprehensive sexuality education; the right to choose one’s sexual partner; the right to the highest attainable standard of physical and mental health, including access to sexual and reproductive health care services.

Around the world, LGBT people have suffered countless rights violations, including the right to life (death penalty for sodomy), freedom of association (denied by law), the right to equality before the law (failing to protect LGBT people in anti-discrimination laws, constitutional provisions or their enforcement), the right to privacy (the existence of sodomy laws), the right to freedom of movement, freedom from arbitrary arrest (being arrested simply because of one’s identity or perceived identity) and many other violations.

All of these and every other right protected under international law should be applied without discrimination or distinction to LGBT people everywhere. There are numerous non-binding resolutions prohibiting discrimination against and guaranteeing rights for LGBT explicitly, and these can be helpful to refer to in embarrassing your government for not meeting these standards.

If I don’t have the right papers to be in this country, do I still have rights?

Yes. Human rights belong to all human beings, regardless of their national or legal status. Even if you are not a legal resident of a country, that country’s government has a responsibility to protect your human rights. Article 2 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families guarantees rights for anyone who “is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.”

The United Nations Convention Relating to the Status of Refugees also guarantees rights for those who are refugees or asylum seekers. There is also a Convention Relating to the Status of Stateless Persons. All of these international treaties guarantee rights for those who are without papers.

I am a member of a minority group with our own language and cultural traditions. Do we have a human right to HIV/AIDS information in our own language?

The right to the highest attainable standard of health includes the right to services, including information, that are accessible and appropriate. You have a right to information in your own language and to health services that are culturally appropriate for your community. Article 27 of the ICCPR also states that linguistic minorities have the right to use their own language and to enjoy their own cultural traditions.

Do people have the right to use drugs?

Not under international law.

However, there are a number of organizations working against drug prohibition and in favor of drug legalization. In some places, such as the Netherlands, the use of certain drugs (cannabis, heroin assisted treatment for some long-term opiate users) is not criminalized, or has been de-penalized or treated as an administrative and not criminal offense. But in most countries drug use, possession, selling and trafficking are all equally criminalized.

Much of the justification for the criminalization of people who use drugs stems from three UN conventions that have the force of law—the Single Convention on Narcotic Drugs (1961), the Convention of Psychotropic Substances (1971) and the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988). Though many people correctly understand drug dependence as a “chronic, relapsing disease” that should be treated as the health condition that it is, not as a criminal offense, people who use drugs are criminalized and incarcerated.

Harm reduction advocates continue to debate about the advantages and disadvantages of what is called a “weak” rights version of harm reduction (in which people deserve good treatment), and a “strong” rights version in which they have the right to use drugs.

So, while people do not have the right to use drugs, under the ICCPR, they do have a human right to advocate for reform or repeal of laws criminalizing drug use, and the right to join with others to form organizations advocating for decriminalization or legalization of drugs.

Do I have a right to work as a sex worker?

This is a new and emerging area of human rights standards, where sex workers and their supporters have the opportunity to advocate for improved laws. Some international rights standards have strong anti-sex-work provisions, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Article 6 of CEDAW states that states will take all appropriate measures to “suppress all forms of traffic in women and exploitation of prostitution of women.” (Interestingly, it does not mention prostitution of men.)

Some rights groups have argued that the rights standards that guarantee all people the right to work should be applied to men and women who choose to be sex workers. Currently, this struggle is still underway.

Does a migrant worker have the right to antiretroviral therapy in their destination country?

States have an immediate obligation to ensure equal access to health care, including ART for migrants. The right to health is ensured for all without discrimination, and this includes citizenship-based discrimination against migrants living outside of their birth country. In 2008, the World Health Assembly called on member states to promote migrant-sensitive health policies, promote equitable access to disease prevention and care for migrants, document and share information on best practices for meeting migrants' health needs, train health professionals to deal with mobility-related health issues, and cooperate with other countries involved in the migratory process on migrants' health issues. However, few states have explicitly recognized antiretroviral therapy as part of the core minimum of health services to be provided without discrimination as to citizenship for migrants within their borders.

The Human Rights Committee, the ICCPR's monitoring body, stated that civil and political rights be "guaranteed without discrimination between citizens and aliens. Aliens receive the benefit of the general requirement of non-discrimination in respect of the rights guaranteed in the Covenant, as provided for in article 2 thereof. This guarantee applies to aliens and citizens alike. (UNHRC, 1994a, para. 2). While non-citizens are not always protected from non-discrimination under international law, UNHCHR has noted that "[a]ll persons should, by virtue of their essential humanity, enjoy all human rights. Exceptional distinctions, for example between citizens and non-citizens, can be made only if they serve a legitimate State objective and are proportional to the achievement of that objective" (2006, p. 5).

The Committee on Economic, Social and Cultural Rights explicitly forbids discrimination against non-citizens in receiving health care: "States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal immigrants, to preventive, curative and palliative health services" (Paragraph 34, General Comment 14).

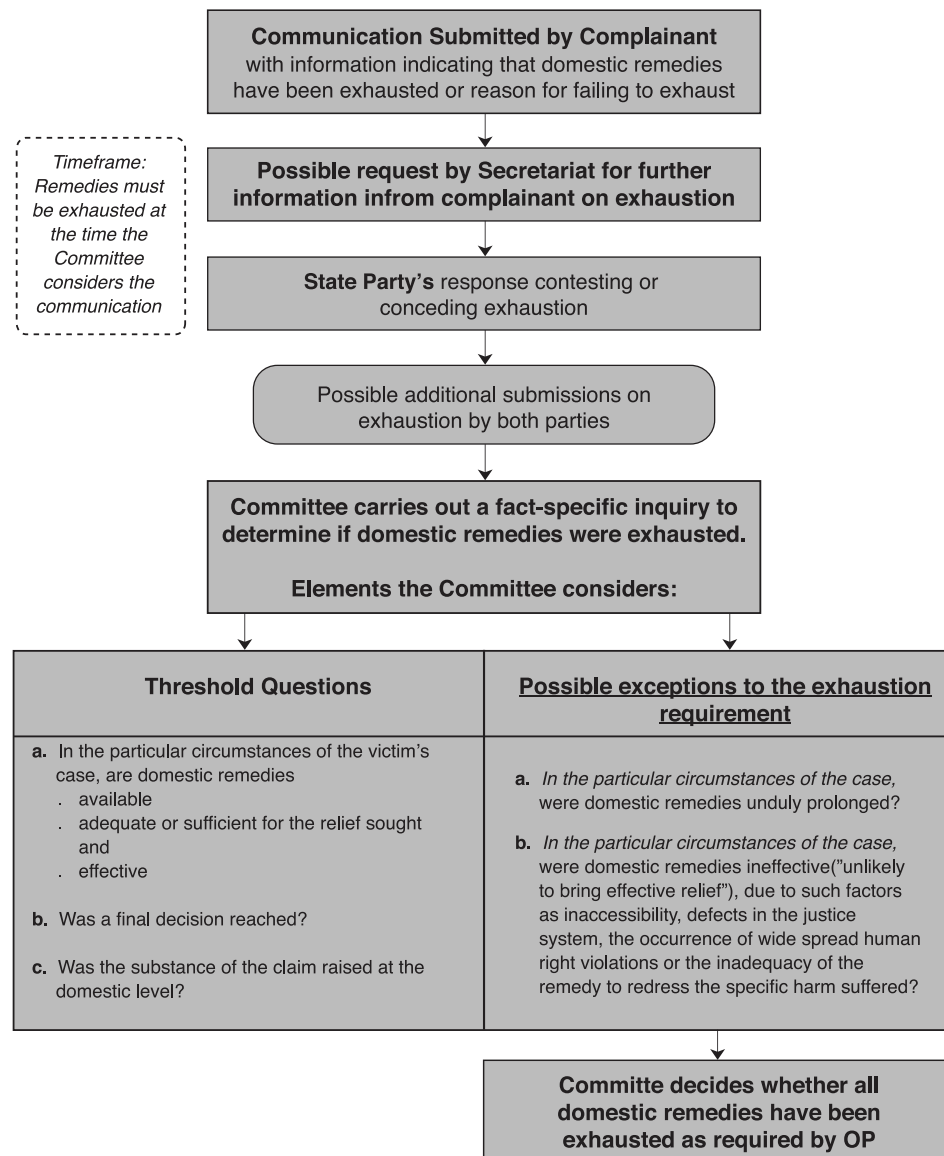
Article 28 of the more recent International Convention on the Rights of Migrant Workers (ICRMW) explicitly guarantees the rights of migrant workers and their families to emergency medical care, providing them with medical care "urgently required for the preservation of their life or the avoidance of irreparable harm to their health" on an equal basis as a state's nationals, without regard to irregularity of status. With respect to additional health services, Article 43 of the Convention guarantees migrant workers equality of treatment with nationals in access to social and health services if requirements for participation in those schemes have been met.

It is urgent to do more advocacy internationally to address the highly-marginalized migrant populations who are in need of ART.

Appendix 1: Guide to Exhaustion Requirement

Taken from Sullivan, D., Overview of the Rule Requiring the Exhaustion of Domestic Remedies Under the optional Protocol to CEDAW, International Women's Rights Action Watch Asia-Pacific (2008), p.30.

Guide to navigating the exhaustion requirement:



Appendix 2: Human Rights Glossary

*taken from UNICEF Human Rights Glossary, <http://www.unicef.org/crc/files/Definitions.pdf>.

Accession: “Accession” is an act by which a State signifies its agreement to be legally bound by the terms of a particular treaty. It has the same legal effect as ratification, but is not preceded by an act of signature. The formal procedure for accession varies according to the national legislative requirements of the State. To accede to a human rights treaty, the appropriate national organ of a State—Parliament, Senate, the Crown, Head of State or Government, or a combination of these—follows its domestic approval procedures and makes a formal decision to be a party to the treaty. Then, the instrument of accession, a formal sealed letter referring to the decision and signed by the State’s responsible authority, is prepared and deposited with the United Nations Secretary-General in New York.

Adoption: “Adoption” is the formal act by which the form and content of a proposed treaty text are established. Treaties negotiated within an international organization like the United Nations are usually adopted by a resolution of a representative organ of the organization whose membership more or less corresponds to the potential participation in the treaty in question (the United Nations General Assembly, for example).

Article: International legal instruments generally include a Preamble (stating the reasons for and underlying understandings of the drafters and adopters of the instrument) and a series of “articles,” which lay out the obligations of those States choosing to be bound by it and procedural matters involving the treaty. The term “provision” is often used as an alternative when referring to the content of particular articles.

Charter: The term “charter” is used for particularly formal and solemn instruments, such as the treaty founding an international organization like the United Nations (‘The Charter of the United Nations’).

Convention: A “convention” is a formal agreement between States. The generic term ‘convention’ is thus synonymous with the generic term “treaty.” Conventions are normally open for participation by the international community as a whole, or by a large number of States.

Usually the instruments negotiated under the auspices of an international organization are entitled conventions (e.g. the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations in 1989).

Declaration: The term “declaration” is used for various international instruments. International human rights declarations are not legally binding; the term is often deliberately chosen to indicate that the parties do not intend to create binding obligations but merely want to declare certain aspirations. However, while the 1948 Universal Declaration of Human Rights for example was not originally intended to have binding force, its provisions have since gained binding character as customary law.

Entry into Force: A treaty does not enter into force when it is adopted. Typically, the provisions of the treaty determine the date on which the treaty enters into force, often at a specified time following its ratification or accession by a fixed number of states. For example, the Convention on the Rights of the Child entered into force on 2 September 1990—the 30th day following the deposit of the 20th State’s instrument of ratification or accession. A treaty enters into force for those states, which gave the required consent.

Optional Protocol: The term “protocol” is used for an additional legal instrument that complements and adds to a treaty. A protocol may be on any topic relevant to the original treaty and is used either to further address something in the original treaty, address a new or emerging concern or add a procedure for the operation and enforcement of the treaty—such as adding an individual complaints procedure. A protocol is ‘optional’ because it is not automatically binding on States that have already ratified the original treaty; States must independently ratify or accede to a protocol. The Optional Protocols to the Convention on the Rights of the Child concern the involvement of children in armed conflict and the sale of children, child prostitution and child pornography.

Ratify/Ratification: “Ratification” is an act by which a State signifies an agreement to be legally bound by the terms of a particular treaty. To ratify a treaty, the State first signs it and then fulfils its own national legislative requirements. Once the appropriate national organ of the country—Parliament, Senate, the Crown, Head of State or Government, or a combination of these—follows domestic constitutional procedures and makes a formal decision to be a party to the treaty. The instrument of ratification, a formal sealed letter referring to the decision and signed by the State’s responsible authority, is then prepared and deposited with the United Nations Secretary-General in New York.

Signature: “Signature” of a treaty is an act by which a State provides a preliminary endorsement of the instrument. Signing does not create a binding legal obligation but does demonstrate the State’s intent to examine the treaty domestically and consider ratifying it. While signing does not commit a State to ratification, it does oblige the State to refrain from acts that would defeat or undermine the treaty’s objective and purpose.

State party: A “state party” to a treaty is a country that has ratified or acceded to that particular treaty, and is therefore legally bound by the provisions in the instrument.

Treaty: A “treaty” is a formally concluded and ratified agreement between States. The term is used generically to refer to instruments binding at international law, concluded between international entities (States or organizations). Under the Vienna Conventions on the Law of Treaties, a treaty must be (1) a binding instrument, which means that the contracting parties intended to create legal rights and duties; (2) concluded by states or international organizations with treaty-making power; (3) governed by international law and (4) in writing.

TRAINER'S SUPPLEMENT

KNOW IT:
THE RIGHTS FRAMEWORK



HOW TO USE THIS SUPPLEMENT

Each volume of the Know It, Prove It, Change It series includes a manual, which can be used by an individual who wants to train him or herself, and a trainer's supplement, which a trainer can use to train other people. We recommend limiting the workshop to 10-20 participants so that each person can get the individualized attention she needs to learn.

This supplement to Know It: The Rights Framework includes three things:

- **Lesson plans**, which explain how to teach a short lesson on a specific skill. We got strong feedback from participants in our workshops that they wanted an opportunity to share what the rights issues are in their communities, so the lessons in Know It focus on this.
- **Worksheets** that you can print out and use for exercises in lesson plans. These can be reprinted for each participant to use during the training workshop, or saved for easy reference in the future.
- **Additional resources** with more information on international rights standards, and about other training materials.

Each lesson plan is made up of the following parts:

Introduction	A brief description of the aims of the lesson.
Concepts	The basic concepts that will be explored.
Time Needed	Our estimate of how long it will take to teach this lesson. If you need to translate into other languages, double this amount of time.
Objectives	The specific skills that workshop participants will acquire.
Resources Needed	Tools or documents you should prepare in advance for the lesson.
Procedure	The sequence of activities the trainer should follow in the lesson, including exercises and what to say to participants. This includes preparation (when necessary), opener, activity, and discussion and evaluation.
Summary	A recap of activities in this lesson.
Evaluation	This section includes elements of the lesson plan to focus on in order to assess whether participants learned what you aimed to teach.

How do you use the supplement? These teaching materials can be used in a variety of situations. You could use all the lesson plans just as they appear in the supplement in one four-day workshop. Or, you could select a few lessons that meet the specific needs of your organization for a one-day workshop.

Why evaluate? We have included some suggestions on ways to evaluate what people have learned. This provides the trainer with an opportunity to identify areas where the trainer may need to review information or to try a different approach.

What is the correct answer? Answers to some of these exercises are provided. However, rights documentation is complex, and there may be more than one right answer.

Preparing to lead workshops with *Know It*. Know It provides an introduction to international human rights standards, but it does not answer every question that will come up in a workshop. To prepare, we strongly recommend that you do four things:

- Become familiar with the rights standards referred to in this manual. You can find many good resources at a human rights organization in your country, or by going to the website of the UN Office of the High Commissioner for Human Rights (www.ohchr.org).
- Consult in advance with a legal expert on HIV/AIDS, or better still, invite one to participate in your workshop.
- Write down questions that come up in your training, and contact us at info@asiacatalyst.org. We will do our best to find an answer—or help you to find someone else who can help.
- Learn by doing. Mastering human rights involves dealing with cases and learning about the issues through that work.

CHAPTER 1

HIV/AIDS: The Rights Framework

Lesson 1.1: What Does It Mean To Be Human?

Adapted from "Human Rights Here and Now: Celebrating the Universal Declaration of Human Rights."
University of Minnesota Human Rights Center.

Introduction	Human rights are linked to our fundamental needs and to our shared human dignity.
Concepts	Humanity, rights, international law, Universal Declaration of Human Rights.
Time Needed	45 minutes.
Objectives	To understand that human rights are linked to the things that make us essentially human.
Resources Needed	<ul style="list-style-type: none"> • Flipchart or whiteboard • Baby picture of someone known to everyone in the workshop—not the trainer, but could be another workshop participant
Summary	This lesson lays the foundation for the rest of the lessons by exploring how our rights are linked to our common humanity.
Evaluation	Brainstormed lists and group discussion.

Opener

1. Write the words "HUMAN" at the top of chart paper or a blackboard. Draw a circle.
2. Begin this lesson by explaining that in order to understand our rights, we need to first understand: What does it mean to be human?

Activity

3. Ask the participants to brainstorm what qualities define a human being and write the words or symbols inside the circle. For example, "intelligence," "emotion," or "relationships."
4. Next, ask participants what human beings need to fully realize their potential, such as "education," "friendship," or "loving family." List the answers outside the circle, and ask participants to explain them.

Discussion

5. Together, discuss what these things mean:

- What does it mean to be fully human? How is that different from just "being alive" or "surviving"?
- What do people need to live in dignity?
- Are all human beings essentially equal? What is the value of human differences?
- Can any of our "essential" human qualities be taken from us? For example, only human beings can communicate with complex language; are you human if you lose the power of speech?

6. Explain that everything inside the circle relates to human dignity, the wholeness of being human. Everything written around the outline represents what is necessary to human dignity. Human rights are based on these necessities.

Summary and Evaluation

7. Show the baby picture to everyone and asks what do we need to create in the world to make sure this baby has everything she or he needs?

8. Explain that international law sets the standard for how humans should treat each other in order to respect everyone's human dignity. *The Universal Declaration of Human Rights states:*

...recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of the freedom, justice, and peace in the world...

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

9. Did most people in the workshop participate in brainstorming the list? Did the discussion indicate that most grasped the connection between common humanity, basic needs, dignity and human rights? If not, it may be necessary to review.

Lesson 1.2: What Are Human Rights?

Adapted from "Human Rights Here and Now: Celebrating the Universal Declaration of Human Rights." University of Minnesota Human Rights Center.

Introduction	Human rights are universal and apply to all people. There are two major groupings of rights: civil and political rights and economic, social and cultural rights.
Concepts	Universality, inalienability, indivisibility, interdependence; difference between civil and political rights vs. economic, social and cultural rights.
Time Needed	45 minutes.
Objectives	Participants will grasp the universality of rights and will understand that there are two major groups of human rights
Resources Needed	<ul style="list-style-type: none"> • Flipchart or whiteboard • Copies of Worksheet: Human Rights Principles
Summary	In this lesson, participants learn key human rights concepts that underlie international standards.
Evaluation	Oral quiz.

Procedure*Opener*

1. Read this phrase from the "Human Rights Principles" worksheet:

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

(Article 1, Universal Declaration of Human Rights)

Explain that we are going to create our own definition of human rights, and then use that definition to get an understanding of basic principles in human rights law.

Activity

2. Split up the group into small groups (or facilitates a discussion as one big group). Each group brainstorms a definition for human rights, and writes these definitions on the board.
3. Based on what the small groups suggest, or based on the large group discussion, the group creates a definition that everyone can agree upon. What are the basic principles that this definition includes? Highlight a few value words in the definition, such as "equal."

4. Hand out the “Human Rights Principles” worksheet. From the worksheet, have a participant read aloud this definition of human rights:

- *Human rights belong to all people regardless of their sex, race, color, language, national origin, age, class, religion, or political beliefs. They are universal, inalienable, indivisible, and interdependent.*
- What is meant by universality? By inalienable? By indivisible? By interdependent? The trainer reads through and discusses the definitions of these terms from the “Human Rights Principles” worksheet.

Universal: Applicable everywhere, to everyone and in all situations.

Inalienable: Not transferable to another or capable of being denied.

Indivisible: United, not capable of being divided.

Interdependent: Two or more things that are dependent upon or related to one another.

5. Explain that these terms, taken together, mean that human rights apply to everyone from birth, and that no one has the right to take them away from anyone. They also mean that all human rights are equally important and that they are deeply interconnected with one another.

6. Create two headings on the dry erase board or large sheet of paper: CIVIL AND POLITICAL RIGHTS and ECONOMIC, SOCIAL AND CULTURAL RIGHTS. Explain that while all rights are equally important, they are generally divided into these two groups.

7. Work with the group to brainstorm a few rights that go under each grouping, such as “right to work” or “freedom of expression.” Add some more rights to each list so that there are four or five on each list. (A sample list follows, but you may want to pick different rights.)

CIVIL AND POLITICAL RIGHTS

Freedom of expression
Freedom of association
Freedom from torture
Equality before courts
Right to privacy
Freedom of thought
Freedom of opinion
Right to vote

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Right to health
Right to water
Right to food
Right to education
Right to form trade unions
Right to work
Right to social security

Discussion

8. Lead the group in a discussion, using some of the following questions:

- Should human rights address only what a human being needs to survive? Why or why not?
- Why are these rights grouped the way they are? What do they have in common?
- Are any of the rights on one list “dependent” (or interdependent) with any of the rights on the other list?
- The principle of “universality” means that everyone has these rights equally. In your experience, does everyone enjoy these rights equally? Why or why not?
- If they don’t, then why does the UDHR say that these rights are “indivisible”?

Summary and Evaluation

9. To sum up, explain that there are some principles that underlie all rights, such as universality. There are also ways in which rights are separated into different groups. However, they are still interdependent. In the next lesson, the group will learn the history behind the development of these principles and the groupings of these rights, as well as the laws that set out these rights.

10. To assess how well the group has learned the content of this lesson, ask everyone to turn over their worksheets so they can’t see what is written on them. Then call out some of the terms learned in this lesson and ask people to call out their definitions. If the definition is not correct, ask others to add on to it. This is a playful evaluation, not a quiz on which participants are graded—it is a way to review what has been learned and get a sense of what people have learned.

WORKSHEET | Lesson 1.2

HUMAN RIGHTS PRINCIPLES

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

—Article 1, *Universal Declaration of Human Rights (UDHR)*

Human rights belong to all people regardless of their sex, race, color, language, national origin, age, class, religion, or political beliefs. They are universal, inalienable, indivisible, and interdependent.

Universal: Applicable everywhere, to everyone and in all situations.

Inalienable: Not transferable to another or capable of being denied.

Indivisible: United, not capable of being divided.

Interdependent: Two or more things that are dependent upon or related to one another.

Human rights apply to everyone. Every person, whether s/he is an adult or a child; straight, gay or transgender; black, brown, yellow or white; has these rights. You have human rights because you are a human being.

Human rights can include civil and political rights, such as the right to a fair trial, or freedom from torture. They also include economic and social rights, such as the right to food and housing, and the right to health. The scope of human rights is broad, and it continues to grow as the human rights movement grows.

Human rights means empowerment. Empowerment is the process through which individuals or communities gain the ability and the power to make choices, uphold principles they believe in, and change their lives. Knowledge of your human rights empowers you to take action to improve your life and your community.

Lesson 1.3: Rights Issues in Our Communities

Introduction	This lesson links participants' experiences of rights abuses with the types of international rights introduced in the previous lesson.
Concepts	Interdependence, fundamental rights, economic and social rights, civil and political rights.
Time Needed	45 minutes.
Objectives	To begin to identify rights issues in participants' own experiences, and to identify underlying principles and the rights that apply.
Resources Needed	<ul style="list-style-type: none"> •News article (one copy for each participant, if possible) •Copies of Worksheet: Types of Rights •Flipchart or whiteboard •Pencils and paper
Summary	<ul style="list-style-type: none"> •Participants brainstorm a list of things they think may be rights abuses. •Trainer facilitates grouping them together based on common themes. •Participants complete a worksheet to fill in examples of ways that other rights may be violated.
Evaluation	Worksheet

Procedure*Preparation*

- 1.Review the ICCPR and ICESCR so that you are familiar with the rights they protect, and review the "Types of Rights" worksheet.
- 2.Find a recent news article that relates to discrimination against people living with HIV/AIDS and photocopy it for participants.

Opener

- 3.Hand out the news article (or just read the first few paragraphs of the article aloud to the group). Ask participants if they believe that this article is describing a human rights abuse. Let one or two people answer, and then tell them that yes, this article is an example of discrimination against people living with HIV/AIDS.
- 4.Tell the group that discrimination is common, but it is a violation of international rights standards. Rights abuses happen all the time, but we can only advocate ending them if we know what rights we have. In this lesson, we are going to start to connect those abuses with international laws.

Activity

5. Ask the group to brainstorm rights abuses that they have experienced or that they have heard about from others. Remind everyone that the conversation is confidential and no one in the workshop will repeat what they hear outside the workshop.
6. As people brainstorm, write the issues up where everyone can see them. Encourage people to be as specific as possible—for instance, if someone says “rights of people who use drugs,” ask them to make it specific, such as “access to methadone.”
7. Once the list is up on the wall, ask if anyone can see any common themes among the abuses. On the list, group abuses together that relate to the same right. Here is an example:

Discrimination against PLWHA by hospitals	
People who use drugs can't get jobs	}
Schools won't accept kids with HIV/AIDS	

Discrimination

You can get other examples of rights from the “Types of Rights” worksheet.

8. Point out that some abuses violate several rights. For instance, if a school refuses to accept a child who is living with HIV/AIDS, that violates the child’s right to education as well as her right to non-discrimination. If a person who uses drugs is detained without trial and is beaten in detention, that violates the right of people who use drugs to a trial and their right to freedom from torture.
9. Ask if anyone remembers the word for the way that rights relate to each other. Bonus points if someone remembers “interdependence”!
10. Hand out the “Types of Rights” worksheet and split the group into pairs or small groups. Ask each pair or small group to fill in a real-life rights abuse next to the “type of right” on the worksheet.
11. When most people are done, ask everyone to come back together as a group. Go through the list of rights together and the examples that people wrote in, picking a different group for each right.

Summary and Evaluation

12. To sum up, point out that some of the examples on the worksheets also apply to several rights. Ask if anyone completed the bonus question on cases that relate to more than one right, and see if the rest of the group agrees.
13. Point out that some cases apply to both civil/political and economic/social/cultural rights. For instance, sometimes a case begins by being about economic, social and cultural rights, but when the person in the case tries to do something about the abuse (complaining, filing a lawsuit, writing about it online), their civil and political rights are also violated.
14. If there is time, ask the last bonus question about whether right to non-discrimination is a civil/political right or a economic/social/cultural right. Answer: The right to non-discrimination appears in all human rights treaties, because it is the basis of all human rights.
15. In some cases, people may have trouble thinking of an example of a rights abuse. We have provided a sample worksheet to use if you have trouble thinking of one, also.
16. Look at each worksheet to evaluate how much the group has learned about how to apply rights standards to individual cases.

WORKSHEET | Lesson 1.3
TYPES OF RIGHTS

Fill in a real-life example for each right listed below. You can use examples from your own life, things you have heard, or from the news. The rights listed below are just a sample – they do not cover all the rights you have.

ECONOMIC, SOCIAL & CULTURAL RIGHTS

Right to health _____

Right to water _____

Right to food _____

Right to education _____

Right to form trade unions _____

Right to social security _____

CIVIL AND POLITICAL RIGHTS

Freedom of expression _____

Freedom of association _____

Freedom from torture _____

Equality before the law _____

Right to privacy _____

Right to vote _____

BONUS QUESTIONS

1. Place a star * next to cases that relate to more than one right.
2. Is the right to non-discrimination a civil/political right, an economic/social/cultural right, or both?

WORKSHEET | Lesson 1.3

TYPES OF RIGHTS [TRAINER'S EDITION]

Fill in a real-life example for each right listed below. You can use examples from your own life, things you have heard, or from the news. The rights listed below are just a sample – they do not cover all the rights you have.

ECONOMIC, SOCIAL & CULTURAL RIGHT

Right to health

- Hospitals refuse to treat people living with HIV/AIDS *
- People who use drugs are denied access to methadone or ARVs while in detention. *

Right to water

- Pollution from a factory makes local water unsafe to use
- Drinking water is so expensive that many impoverished people cannot buy water

Right to food

- Farmers are forced off of land and as a result not enough grain is grown to feed the population
- Government fails to regulate food safety, and as a result unsafe food poisons people who eat it

Right to education

- The high cost of state school fees makes it impossible for poor families to put their children in school
- A country's government schools only educate boys, and no schools are available for girls*

Right to form trade unions

- The government does not allow people to form independent trade unions
- The government allows people to form trade unions, but when companies hire thugs to beat workers who go on strike, police do not help the people

Right to social security

- Government does not have any plan to provide help for the elderly
- The government does not require employers to provide health care to employee

CIVIL AND POLITICAL RIGHTS

Freedom of expression

- A blogger who writes about her political opinion is jailed

Freedom of assembly

- An LGBT pride celebration is shut down by police*

Freedom of association

- NGOs are not allowed to register
- The government does not allow citizens to form independent political parties

Freedom from torture

- A woman is beaten in detention

Equality before the law

- People who are detained are not given a fair trial
- People who are detained on criminal charges are not allowed to get advice from a lawyer
- Ethnic minorities are accused and tried in the language of the majority group, and do not have interpreters in the trial *
- People who are detained are forced to confess

Right to privacy

- A transgender person is publicly ridiculed by public health officials when s/he seeks health information *
- A hospital publicizes the test results of a patient without the patient's consent

Right to vote

- A country does not hold elections for public office
- A government allows men to vote, but not women *

BONUS QUESTIONS

1. Place a star * next to cases that relate to more than one right.

Answer: All of the rights with a * above also relate to non-discrimination – some relate to other rights as well.

2. Is the right to non-discrimination a civil/political right, an economic/social/cultural right, or both?

Answer: It is a right protected by all the major covenants – so the answer is, "both."

Lesson 1.4: Human Rights Squares

Introduction	Rights Squares is a good exercise to use to get participants talking to one another and thinking about what they know about rights.
Concepts	<ul style="list-style-type: none"> •Group participation •Basic rights •Applying international standards to local problems
Time Needed	45 minutes.
Objectives	<ul style="list-style-type: none"> •To understand that everyone has basic rights, and that human rights are enshrined in and protected by international human rights documents
Resources Needed	<ul style="list-style-type: none"> •Copies of Worksheet: Rights Squares •List of possible answers for Rights Squares worksheet (prepared by trainer in advance) •Template: Universal Declaration of Human Rights (simple English) •List of possible answers to Question 6 (prepared by trainer in advance) •Pencils
Summary	<ul style="list-style-type: none"> •Talk and interact with other participants. •Reveal what participants already know about human rights and the issues that are of concern to them. •Stimulate discussion about the Universal Declaration of Human Rights (UDHR) and categories of rights.
Evaluation	Review worksheet with the whole group

Procedure*Opener*

- 1.The trainer explains that everyone knows something about rights, and each of us knows different things. This game will help everyone to start thinking about what they know and what they don't know, and it will help everyone to get to know one another.

Activity

- 2.Trainer hands out the "Rights Squares" worksheet to each participant. Everyone tries to get a different person to fill in each square, and to sign his/her name in the square. Participants have five minutes to do this.

Discussion

- 3.The trainer has prepared a list of possible answers to the Rights Squares in advance. She encourages each group to share answers to each question, and leads a group discussion about the answers.
- 4.The trainer asks a few people to share:
 - Which questions were easiest to answer?
 - Which questions were hardest to answer? Why?

5. The trainer hands out the Universal Declaration of Human Rights (UDHR) and leads the group in matching some of their answers to individual rights listed in the UDHR.

6. The trainer points out that there are some rights that are specific to people at risk of or living with HIV. She has prepared a list of answers to these questions in advance. She asks participants to call out:

- Country that criminalizes HIV transmission
- Country that recently lifted the “HIV travel ban”
- A right commonly denied to children living with HIV/AIDS
- A person who advocates for the rights of people living with HIV/AIDS
- Country where HIV treatment is not provided by the government

The trainer points out that these rights are protected by the Universal Declaration of Human Rights, and by other treaties, such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR).

Summary and Evaluation

7. The trainer concludes by asking for a few people to share things they have learned from this exercise that they did not know before.

WORKSHEET | Lesson 1.4

RIGHTS SQUARES

Adapted from David Shiman. *Teaching Human Rights*. Denver: Center for Teaching International Relations Publications, University of Denver, 1993.

A human right	Country where rights are violated	Document that proclaims human rights	Group that wants to deny rights to others	Country where people are denied rights because of their race and ethnicity
Organization which fights for human rights	Film/video that is about rights	Singer who sings about rights	Right that your parents have/had that you do not	Country where human rights situation has improved recently
Type of rights violation that most disturbs you	Book about rights	Right sometimes denied to women	Right all children should have	Country where people are denied rights because of their religion
Human right not yet achieved by people living with HIV/AIDS	Right that you have that your parents did not have	Human right being achieved around the world	Right of yours that is being respected	Someone who is a defender of rights

Instructions: Using members of the group as sources of information, get an answer for as many squares as you can and write it in the square. Each answer should come from a different person, who must initial that square for you.

Stop when time is called.

Universal Declaration of Human Rights (Simple English version)

[Adapted from Amnesty International, http://www.universalrights.net/main/decl_1.htm]

All people everywhere have the same human rights, which no one can take away. This is the basis of freedom, justice and peace in the world.

This Declaration affirms the dignity and worth of all people, and the equal rights of women and men. The rights described here are the common standard for all people everywhere.

Every person and nation is asked to support the understanding and respect for these rights, and to take steps to make sure that they are recognized and observed everywhere, for all people.

Article 1: You have the same human rights as everyone else in the world, because you are a human being. These rights cannot be taken away from you. Everybody, no matter who they are or where they live, should be treated with dignity.

Article 2: You should not be treated differently, nor have your rights taken away, because of your race, colour, sex, language, religion or political opinions. Your basic rights should be respected no matter what country you are born in or how rich or poor you are.

Article 3: Everyone has the right to life, liberty and security of person.

Article 4: Human beings must not be owned, bought or sold. No one has the right to enslave anyone else. Slavery is a crime.

Article 5: Torture is forbidden at all times and in all circumstances. No one should suffer treatment or punishment that is cruel or makes him or her feel less than human.

Article 6: Everyone has the right to be treated as a person in the eyes of the law.

Article 7: You have the right to be treated by law in the same way as everyone else. You have the same right to be protected by the laws of your country as anyone else.

Article 8: If your rights under the law are violated by someone else, you have the right to see justice done.

Article 9: You may not be arrested or held in a police station without good reason. You may not be kept out of your own country. If you are detained, you have the right to challenge the detention in a court of law.

Article 10: You have the right to a fair and public hearing if you are ever accused of breaking the law, or if you have to go to court for some other reason. The courts must be independent from the government, qualified to understand the law, and free to make their own decisions.

Article 11: If you are accused of a crime, you have the right to be treated as innocent until you are proved guilty, according to the law. You have the right to a fair and public trial where you are allowed to defend yourself. You cannot be tried for doing something, which was not a criminal offence in law at the time it was done.

Article 12: No one has the right to intrude in your private life or to interfere with your home or family without good reason. No one has the right to attack your good name without reason. The law should protect you against such interference.

Article 13: You have the right to move about freely within your country. You also have the right to travel to and from your own country, and to leave any country.

Article 14: If you are forced to flee your home because of human rights abuses, you have the right to seek safety in another country. This right does not apply if you have committed a non-political crime or an act that is not in keeping with the UDHR.

Article 15: You have the right to be treated as a citizen of the country you come from. No one can take away your citizenship, or prevent you from changing your country, without good reason.

Article 16: All adults have the right to marry, regardless of their race, country or religion. Both partners have equal rights in the marriage, and their free and full agreement is needed for the marriage to take place. All families are entitled to protection by the state.

Article 17: You have the right to own goods, land and other property, alone or with other people. No one has the right to take your property away without any good reason.

Article 18: You have the right to hold views on any issue you like without fear of punishment or censure. You also have the right to believe in any religion—or none at all. You have the right to change your religion if you wish, and to practice and teach your religion and beliefs.

Article 19: You have the right to tell people your opinion. You should be able to express your views, however unpopular, without fear of punishment. You have the right to communicate your views within your country and to people in other countries.

Article 20: You have the right to peacefully gather together with other people, in public or private. No one should force you to join any group if you do not wish to.

Article 21: You have the right to take part in the government of your own country directly or by being represented. Everyone has the right to equal access to public service in his or her country. Governments represent the will of the people. Therefore free and fair elections should be held on a regular basis.

Article 22: You have the right to have your basic needs met. Everyone is entitled to live in economic, social and cultural conditions that allow them dignity and let them develop as individuals. All countries should do everything they can to make this happen.

Article 23: You have the right to work in fair and safe conditions and to choose your job. You have the right to be paid enough for a decent standard of living, or to receive supplementary benefits. You also have the right to form or join trade unions to protect your interests.

Article 24: You have the right to time off from work. No one may force you to work unreasonable hours, and you have the right to holidays with pay.

Article 25: Everyone has the right to a decent life, including enough food, clothing, housing, medical care and social services. Society should help those unable to work because they are unemployed, sick, disabled or too old to work. Mothers and children are entitled to special care and assistance.

Article 26: Everyone has the right to an education. In the early years of schooling, it should be free of charge and compulsory. Education at a higher level should be equally available to everyone on the basis of merit. Education should develop the full human being and increase respect for human rights.

Article 27: No one may stop you from participating in the cultural life of your community. You also have the right to share in the benefits scientific discovery may bring, and the right to have any interests from your scientific, literary or artistic work protected.

Article 28: Human beings have the right to live in the kind of world where their rights and freedoms are respected.

Article 29: We all have a responsibility to the people around us, and we can only develop fully as individuals by taking care of each other. All the rights in the UDHR can be limited only by law and then only if necessary to protect other people's rights, meet society's sense of right and wrong, maintain order, and look after the welfare of society as a whole.

Article 30: There is nothing in the UDHR that justifies any person or state doing anything that takes away from the rights to which we are all entitled.

CHAPTER 2

Stigma and Discrimination

Lesson 2.1: The Difference Between Stigma and Discrimination

Introduction	Stigma and discrimination are widely experienced by people living with HIV/AIDS and by marginalized groups. However, under international human rights standards, they are actually slightly different. This lesson uses real-life case studies to explore stigma and discrimination.
Concepts	The meanings of “stigma” and “discrimination” and the differences between them.
Time Needed	60 minutes.
Objectives	<ul style="list-style-type: none"> •To understand the difference between stigma and discrimination •To understand what kinds of discrimination fall under international standards
Resources Needed	<ul style="list-style-type: none"> •Copies of Worksheet: Discrimination •Flipchart or whiteboard
Summary	Trainer and participants review examples of discrimination and stigma and learn to differentiate by reviewing scenarios.
Evaluation	Worksheet

Procedure

Preparation

- 1.Copy the “Discrimination” worksheet for each participant.

Opener

- 2.If you did Lesson 1.3 together, review some of the examples of discrimination from that discussion. If you did not do that lesson together, quickly brainstorm a few examples of discrimination as a group and write them up.
- 3.Explain that some things we think of as discrimination are actually stigma, and in this lesson we are going to learn the differences under international law.

Discussion

- 4.Present the definition of discrimination, which is on the “Discrimination” worksheet.

Discrimination is when a distinction is made in favor of or against a person based on the group, class or category to which that person belongs, instead of based on the person’s individual merits. Discrimination is usually the effect of a law or widespread practice that confers or denies privileges to a group of people because of their race, age, sex, nationality, religion, sexual orientation, gender identity, or health status.

In a case of discrimination, a person is unable to exercise her or his basic rights because she or he belongs to a group or class of people. These can include the individual's right to many basic rights, including:

- Work
- Education
- Housing
- Health care

5. On the "Discrimination" worksheet, read the Discrimination Case Study (about Li Na) together. Discuss the difference between discrimination and stigma.

- a. The hospital is a government agency. They are refusing to treat Li Na because she is a member of a group (PLHIV) – this is discrimination.
- b. The co-workers refuse to eat with Li Na because she is a member of a group (PLHIV). This is very bad and difficult for Li Na to deal with, but it is stigma, not discrimination. It is not violating Li Na's ability to exercise her rights.

6. Review some other examples of discrimination, below:

- A group of friends who are transgender go to a restaurant and order a meal. The restaurant owner sees that they are transgender and refuses to serve them.
- A school refuses to accept a child whose mother is living with HIV, because other families are afraid that their children will contract the virus.
- After an AIDS activist speaks on television, his landlord forces him to move out because "we don't want people like you in the building."

6. Explain that in each of these examples, the person living with HIV has been unable to access his/her basic rights to non-discrimination, get an education for her children, have a place to live, or get medical treatment.

7. Read the definition of stigma on the "Discrimination" worksheet, and then read the stigma examples.

8. Explain that in these examples, individuals are experiencing being socially ostracized because they belong to a group (people living with HIV/AIDS).

9. Why is the difference important?

Stigma and discrimination are closely related. Unfortunately, a judge cannot compel anyone to like anyone else. It is not possible to sue someone because they would rather not eat dinner with another person, or even because their children don't want to play with other children. However, a law court can and should protect every citizen's equal right to live and work, to go to school and obtain other public services, regardless of whether or not that citizen is liked or accepted by others.

Summary Exercise

10. Going back to the examples raised at the beginning of this lesson, discuss with the group whether each one is stigma or discrimination. The question to think about is, in each case, is a person being prevented by a business or a government agency from exercising his or her rights? Or is the person being excluded socially?

Evaluation

11. Pop quiz! Explain that this quiz will not be graded—it is a way to see if we all have the same understanding of stigma and discrimination.
12. Ask everyone to number a piece of paper from one to five. You will give a series of examples and after each number, everyone should write down either “stigma” or “discrimination.”
13. After the quiz, for each question, ask participants to raise their hands if they answered “Stigma” or “discrimination” in each case. Then give the correct answer.

Here is the quiz:

1. A patient checks into a hospital for surgery. The hospital staff think that the patient uses drugs, and test him for HIV without his knowledge or consent, and then refuse to give him treatment. (Answer: discrimination)
2. A woman looking for an HIV testing center asks for directions of two women in the street, and the two women laugh at the woman and walk away as if they are afraid of catching HIV by talking to her. (Answer: Stigma)
3. After a transgender person is interviewed by a newspaper, people in her building make fun of her whenever she goes home, so that she doesn’t want to go home anymore. (Answer: Stigma)
4. Police force people living with HIV/AIDS to sleep in a separate detention cell from the other detainees. (Answer: Discrimination)
5. An employer tells a person who uses drugs that he doesn’t want her to work for him anymore because “you people are all unreliable.” (Answer: Discrimination).

WORKSHEET | Lesson 2.1

DISCRIMINATION

The concept of non-discrimination is key in international human rights law. It is a part of every single international human rights treaty. It is important because it is based on the principle of equality. All the other human rights flow out of this equality. Non-discrimination creates a solid foundation on which other human rights can be built and carried out.

What is discrimination?

Discrimination is when a distinction is made in favor of or against a person based on the group, class or category to which that person belongs, instead of based on the person's individual merits. Discrimination is usually the effect of a law or widespread practice that confers or denies privileges to a group of people because of their race, age, sex, nationality, religion, sexual orientation, gender identity, or health status.

CASE STUDY

"A Chinese hospital refused to treat a migrant worker seriously injured in a wage dispute after doctors found out that the woman was HIV-positive. Li Na, 37, was beaten up and sent to [the] hospital in July when she and fellow workers at a construction site in the Inner Mongolia region asked their company for their unpaid wages, said Wu, a co-worker.

'She was badly hit five to six time and she was spitting blood, but when doctors did some tests and found out she was HIV-positive, they refused to treat her,' he said. 'They didn't give her a room either and our company said they would not pay us if she didn't leave [the hospital], so she eventually had to go.' Wu said doctors told Li's co-workers that she was HIV-positive. 'Now she doesn't want to live because her co-workers don't want to talk to her, they all look down on her now,' he said." (Taken from David Cozac, "Hospital refuses to treat HIV-positive woman (China)," HIV/AIDS Policy & Law Review 15(1) October 2010: 19).

Violations in this case study:

- Hospital refuses to treat a migrant worker because she is HIV-positive: **DISCRIMINATION**
- Hospital told Li's coworkers that she was HIV-positive: **VIOLATION OF PRIVACY**
- Co-workers don't want to eat with Li because she is HIV-positive: **STIGMA**

What is stigma?

Stigma is a social response that involves individuals or groups of people devaluing and socially excluding an individual because of that person's perceived identity.

Here are some examples of stigma:

- A man living with HIV/AIDS goes to the hospital to receive his annual checkup. The hospital staff make unkind comments about him and give him strange looks.
- A child of parents who are living with HIV/AIDS is teased by other children at school.
- A survey conducted by the China HIV/AIDS Media Partnership in 2008 showed that nearly 48 percent of respondents would not want to have dinner with a person living with HIV/AIDS, approximately 41 percent would not want to work with someone who is HIV-positive, and about 30 percent thought that students who are HIV-positive should not study alongside students who are negative. (Wan Yanhai et al, "Discrimination Against People with HIV/AIDS in China," *The Equal Rights Review*, vol. 4, 2009, p. 18.)

CHAPTER 3

The Right to Health

Lesson 3.1: Rights in Health Care Settings

Introduction	This lesson draws on the experiences of workshop participants to identify elements of the right to the highest attainable standard of health. The right to health takes into consideration many different conditions, such as ability of the state to provide depending on economic circumstances.
Concepts	Right to the highest attainable standard of health, right to life, privacy, bodily integrity, healthy environment, progressive realization
Time Needed	45 minutes.
Objectives	Learn to identify rights each person has in a health care setting.
Resources Needed	<ul style="list-style-type: none"> • “Rights Related to Health” worksheet • Flipchart or whiteboard
Summary	Participants share their own experiences with health rights, and match laws and rights to scenarios.
Evaluation	Discussion questions

Procedure

Preparation

1. Print out copies of the worksheet for each participant.
2. Review national laws that apply to the right to health and print out a few copies to use as references. If you have a legal expert available, it would be valuable to have their help with this part of the workshop.

Activity

3. Ask the group to share examples of their own experience with health rights—either abuses or instances where their rights were respected—and writes them on the flip chart.
4. Split the group into pairs or small groups and asks each group to pick one person’s story to discuss. Hand out the worksheet and ask each group to select rights that apply to the story they are discussing.
5. After 15 minutes, ask everyone to stop where they are and come back together as a group. Ask each group or pair to pick one person to speak on behalf of the group and share what they came up with. Encourage other people in the workshop to suggest additional rights or to discuss whether they apply.
6. Ask which national laws apply to the issues they discussed. If participants do not know, provide a few answers (or invite the legal expert to give some answers).

Discussion question

Is it fair to expect all countries to provide the same rights, since countries have different economic conditions?

Under international standards, the right to the highest attainable standard of health is subject to “progressive realization.” This means that no country is expected to immediately be able to give all its citizens access to the right to health. Countries should be making progress towards realizing that right, and this progress should be something we can measure. There should be clear goals and timelines for a country’s progress that can be measured objectively.

What are the benchmarks that your country uses to measure its progress? Do you know? How would you find out? Do you agree with the benchmarks your country uses?

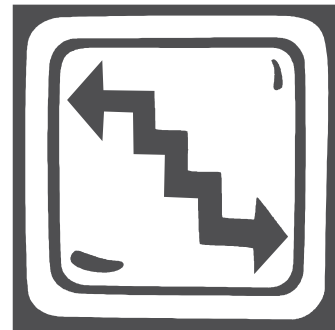
WORKSHEET | Lesson 3.1

THE RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH

- The right to life: If your health is threatened, that may violate your right to life.
- The right to privacy: People cannot access your health records, your body, or home unless you give them permission.
- The right to bodily and psychological integrity: You can make decisions for yourself about your body, and if anyone wants to conduct testing (HIV test, urine test, etc.), they must ask for your permission before they do it.
- The right to a healthy environment: You live in a place that is free from harmful factors such as pollution, disease, or physical dangers that may cause accidents.
- The right to food and water: Food and water are crucial to growth and staying healthy. If you don't have enough to eat, you may get sick more easily. Clean water is important because when water is contaminated with germs, people can get diseases like diarrhea or cholera.
- The right to housing: You have an adequate place to live, which has a sound structure and a good sanitation system.
- The right to equality: This is linked to the right to non-discrimination, which we discussed in the previous chapter. Unfair treatment or exclusion based on status negatively affects the health of vulnerable groups.
- The right to access to information: You can access information about your health and how to stay healthy, such as government and hospital policies, your personal health records, and other related information about what causes disease.

The right to participation: You have a say in the decisions that might affect your health.

Progressive Realization: This means that no country is expected to immediately be able to give all its citizens access to the right to health. Countries should be making progress towards realizing that right, and this progress should be something we can measure. There should be clear goals and timelines for a country's progress that can be measured objectively.



CHAPTER 4***Rights of People Living with HIV/AIDS and Marginalized Groups******Lesson 4.1: Matching Abuses to Standards: People Living with HIV/AIDS***

Introduction	Rights are outlined in many different international laws, but the Universal Declaration of Human Rights, which is customary international law, provides a good summary.
Concepts	Right to health, right to privacy, non-discrimination, freedom to found a family.
Time Needed	45 minutes.
Objectives	Match real-life cases to rights principles and standards
Resources Needed	<ul style="list-style-type: none"> •Copies of Worksheet: Rights of PLWHA •Flipchart or whiteboard
Summary	In this lesson, participants match cases to categories of rights, and then match the rights standards to the cases.
Evaluation	The exercise is the evaluation.

Procedure*Preparation*

1. Print out one of the "Rights of PLWHA" worksheet and cut out the strips. Print out a second copy of the worksheet and keep it for yourself.
2. Take the "Rights Principles" strips and tape them up around the room. Leave plenty of room below each principle.
3. Split up the workshop into pairs or small groups of three or four people. Give each team a small stack of "cases" strips. Ask the group to work together to agree on which "Rights Principle" applies to each case. When they agree, they should tape the "Case" strip under the applicable "Rights Principle."
4. Once this is done, hand out the "International Standards" strips to the small groups. Ask each group to tape the article from the Universal Declaration of Human Rights that applies to the cases under each rights principle.
5. Once this is done, go through each "Rights Principle" and discuss the cases and rights standards that were put under it. In some cases, you may need to make corrections. In other cases, a standard could apply to several different cases.

WORKSHEET | Lesson 4.1

RIGHTS OF PLWHA

RIGHTS PRINCIPLE: Right to Highest Attainable Standard of Health

CASE: Prisons refuse to provide PLWHA with antiretroviral medicines.

CASE: A woman was imprisoned after she was raped and impregnated; while in prison, she tested positive for HIV but was not provided with PMTCT treatment. Her baby was born in prison and also tested positive for HIV.

CASE: A flood disaster interferes with access to treatment and healthcare for many PLWHA. Many people are made homeless because of the floods, and have no income to help them pay their medical bills. The government fails to provide any assistance to them.

CASE: A five-year-old boy living with HIV/AIDS died in great pain from HIV-related complications and severe abdominal pain, because hospitals did not provide any pain medications.

CASE: Hospitals are only located in big cities, but many PLWHA live in small towns. They don't have any way to get to the hospitals.

CASE: A country does not provide free or inexpensive ARVs because the government says they are "too expensive."

INTERNATIONAL STANDARDS (Universal Declaration of Human Rights):

Article 3, UDHR: Everyone has the right to life, liberty and security of person.

Article 5, UDHR: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 25, UDHR: (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.

RIGHTS PRINCIPLE: Non-Discrimination

CASE: A migrant worker was required to test for HIV and when he tested positive he was deported.

CASE: Some teachers openly discriminate against children living with HIV/AIDS, so a child who is on ART is afraid to be seen taking them at her school.

INTERNATIONAL STANDARDS (Universal Declaration of Human Rights):

Article 7, UDHR: All are equal before the law and are entitled without any discrimination to equal protection of the law.

Article 23, UDHR: (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

RIGHTS PRINCIPLE: Right to Privacy

CASE: In a detention facility, an officer asked a woman, "Are you the one that's HIV positive?" in front of other detainees.

CASE: A hospital leaves HIV test results out on the desk of a nurse, where anyone walking by can see them.

CASE: A hospital patient is tested for HIV without his knowledge or consent.

CASE: An employee at a local HIV testing site calls up a man's employer and says "Did you know this guy was HIV-positive?"

INTERNATIONAL STANDARDS (Universal Declaration of Human Rights):

Article 12, UDHR: 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.

Article 9, UDHR: No one shall be subjected to arbitrary arrest, detention or exile.

RIGHTS PRINCIPLE: Right to found a family

CASE: A doctor informs a woman that because she is HIV-positive, she must be sterilized.

INTERNATIONAL STANDARDS (Universal Declaration of Human Rights):

Article 16, UDHR: (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. (2) Marriage shall be entered into only with the free and full consent of the intending spouses. (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Lesson 4.2: Matching Abuses to Standards: People Who Inject Drugs

Introduction	The rights of people who use drugs are protected by many articles in both the International Covenant on Civil and Political Rights as well as the International Covenant on Economic, Social, and Cultural Rights.
Concepts	Right to life, right to privacy, freedom of association, freedom of assembly, right to health, rights of women and children
Time Needed	60-90 minutes
Objectives	•To match real-life cases to rights principles and standards
Resources Needed	•Worksheet: Rights of People Who Inject Drugs (PWID) •Tape
Summary	In this lesson, participants match cases to categories of rights, and then match the rights standards to the cases.
Evaluation	The exercise is the evaluation.

Procedure*Preparation*

6. Print out the "Rights of PWID" worksheet and cut out the strips. Print out a second copy of the worksheet and keep it for yourself.
7. Take the "Rights Principles" strips and tape them up around the room. Leave plenty of room below each principle.
8. Split up the workshop into pairs or small groups of three or four people. Give each team a small stack of "cases" strips. Ask the group to work together to agree on which "Rights Principle" applies to each case. When they agree, they should tape the "Case" strip under the applicable "Rights Principle."
9. Once this is done, hand out the "International laws" strips to the small groups. Ask each group to tape the "international law" that applies to the cases under each rights principle.
10. Once this is done, go through each "Rights Principle" and discuss the cases and rights standards that were put under it. In some cases, you may need to make corrections. In other cases, a standard could apply to several different cases.

WORKSHEET | Lesson 4.2

RIGHTS OF PEOPLE WHO INJECT DRUGS (PWID)

RIGHT PRINCIPLE: The right to life

CASE: Government fails to investigate murder of suspected drug traffickers that take place during a crackdown on drugs.

CASE: An ambulance refuses to respond to a drug overdose because drug use is illegal.

CASE: A government imposes the death penalty for drug-related offenses.

INTERNATIONAL STANDARDS:

Article 6, ICCPR: (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.

RIGHTS PRINCIPLE: Freedom from arbitrary arrest and detention

CASE: People who use drugs are imprisoned on criminal charges without a fair trial.

CASE: People who use drugs are arrested or detained based on planted evidence.

CASE: People who use drugs are committed to forced drug treatment without their consent.

INTERNATIONAL STANDARDS:

Article 9, ICCPR : (1) Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

RIGHTS PRINCIPLE: Right to a fair trial.

CASE: An individual is convicted on a drug offense without trial.

CASE: An individual is kept in pre-trial detention for drug charges for an unreasonable length of time.

INTERNATIONAL STANDARDS:

Article 9, ICCPR: (3) Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release

Article 9, ICCPR: (4) Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

RIGHTS PRINCIPLE: Right to privacy

CASE: Police are authorized to test the urine of anyone suspected of using drugs.

CASE: Doctor discloses a patient's history of drug use or addiction without consent of the patient.

CASE: Clinic shares list of registered people who use drugs with law enforcement.

CASE: Police raid the home of a suspected person who use drugs without evidence or judicial authorization.

INTERNATIONAL STANDARDS:

Article 17, ICCPR: (1) No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

RIGHTS PRINCIPLE: Freedom of expression and information

CASE: People who use drugs are denied information about HIV prevention, harm reduction, and safer drug use.

CASE: Government bans publications about drug use or harm reduction, claiming they represent propaganda for illegal activity.

INTERNATIONAL STANDARDS:

Article 19, ICCPR: (2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

RIGHTS PRINCIPLE: Freedom of assembly and association

CASE: Public authorities refuse to register an association of people who use drugs.

CASE: Police break up a peaceful demonstration against drug laws.

INTERNATIONAL STANDARDS:

Article 21, ICCPR: The right of peaceful assembly shall be recognized.

RIGHTS PRINCIPLE: Right to non-discrimination

CASE: A person is denied work, housing, education, health care, etc. due to actual or suspected drug use.

CASE: Police disproportionately arrest migrants and racial/ethnic minorities for drug offenses.

CASE: People who use drugs are under-represented in HIV treatment programs despite accounting for the majority of people living with HIV.

INTERNATIONAL STANDARDS:

Article 2, ICCPR: (1) Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 26, ICCPR: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

RIGHTS PRINCIPLE: Right to the highest attainable standard of health

CASE: People who use drugs are turned away from hospitals in the health care system.

CASE: Government bans needle exchange or confiscate syringes from people who use drugs, claiming they promote illegal activity.

CASE: Government bans opiate substitution therapy.

INTERNATIONAL STANDARDS:

Article 12, ICESCR: (1) The States Parties to the present Covenant recognize the right to everyone to the enjoyment of the highest attainable standard of physical and mental health.

Article 12, ICESCR: (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.

RIGHTS PRINCIPLE: Rights of women and children

CASE: Women are denied access to harm reduction services on an equal basis with men.

CASE: Pregnant women who use drugs are forced to undergo abortions or sterilization.

CASE: Young people who use drugs are denied factual information and services about safer injection and harm reduction.

INTERNATIONAL STANDARDS:

Article 3, ICCPR: The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 24, ICCPR: (1) 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.

Lesson 4.3: Matching Abuses to Standards: LGBT and Sex Workers

Introduction	The rights of LGBT persons and sex workers are protected by many articles in both the International Covenant on Civil and Political Rights as well as the International Covenant on Economic, Social, and Cultural Rights.
Concepts	Right to privacy, non-discrimination
Time Needed	60-90 minutes
Objectives	To learn about specific human rights related to lesbian, gay, bisexual and transgender people, men who have sex with men, and sex workers.
Resources Needed	<ul style="list-style-type: none"> •Tape •Markers •Copies of Worksheet: Rights of LGBT, MSM and Sex Workers
Summary	Knowing your rights empowers you to stand up for yourself when your rights are being violated.
Evaluation	Group discussion

Procedure*Preparation*

11. Print out one of the "Rights of LGBT, MSM and Sex Workers" worksheet and cut out the strips. Print out a second copy of the worksheet and keep it for yourself.
12. Take the "Rights Principles" strips and tape them up around the room. Leave plenty of room below each principle.
13. Split up the workshop into pairs or small groups of three or four people. Give each team a small stack of "cases" strips. Ask the group to work together to agree on which "Rights Principle" applies to each case. When they agree, they should tape the "Case" strip under the applicable "Rights Principle."
14. Once this is done, hand out the "International laws" strips to the small groups. Ask each group to tape the "international law" that applies to the cases under each rights principle.
15. Once this is done, go through each "Rights Principle" and discuss the cases and rights standards that were put under it. In some cases, you may need to make corrections. In other cases, a standard could apply to several different cases.

WORKSHEET | Lesson 4.3

RIGHTS OF LGBT AND SEX WORKERS

RIGHT PRINCIPLE: The right to life

CASE: A penal code imposes the death penalty for (homosexual or heterosexual) sex outside of marriage.

CASE: Police officers rape or violently assault a homeless transgender person.

CASE: Police fail to investigate murders of people in sex work, whether male, female or trans-identified.

INTERNATIONAL STANDARDS:

Article 6, ICCPR: (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.

RIGHTS PRINCIPLE: Freedom from torture and cruel, inhuman and degrading treatment, including in prisons

CASE: A sex worker is raped by police in detention, with no investigation or remedy.

CASE: A gay man in prison is denied a bed and repeatedly assaulted and raped by cell-mates. Prison guards do not step in to help him.

INTERNATIONAL STANDARDS:

Article 7, ICCPR: No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

RIGHTS PRINCIPLE: Freedom from slavery and servitude

CASE: A child is recruited and taken from his/her home for the purposes of sexual exploitation.

CASE: A man or woman is tricked into forced prostitution by the promise of work abroad.

INTERNATIONAL STANDARDS:

Article 8, ICCPR: (1) No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

Article 8, ICCPR: (2) No one shall be held in servitude.

RIGHTS PRINCIPLE: Freedom from arbitrary arrest and detention.

CASE: Police regularly raid bars where MSM socialize.

CASE: A gay man is arrested without charge by undercover police officers in a "cruising" area.

CASE: A lesbian adolescent is detained without charge after her parents discover her sexual orientation and call the police.

CASE: An NGO stages a "rescue" of sex workers from a brothel with help from police. The sex workers are forcibly detained at the NGO "rehabilitation center" where they are required to undergo religious instruction.

INTERNATIONAL STANDARDS:

Article 9, ICCPR: (1) Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

RIGHTS PRINCIPLE: Right to privacy

CASE: A newspaper publishes an article condemning the sexual orientation of a teacher or journalist.

CASE: Police invite television reporters in to televise a raid on a park where MSM gather. The news program shows the faces of the people who are detained without their consent.

CASE: Health care workers require young people to obtain parental consent as a condition of receiving sexual health services.

INTERNATIONAL STANDARDS:

Article 17, ICCPR: (1) No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

RIGHTS PRINCIPLE: Right to freedom of expression and information

CASE: Young people are denied information about HIV/AIDS, safer sex, and condoms, as well as about sexual behaviors such as homosexuality.

CASE: A transvestite student is forced by school authorities to dress according to his "biological sex."

INTERNATIONAL STANDARDS:

Article 19, ICCPR: (2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

RIGHTS PRINCIPLE: Freedom of assembly and association

CASE: A gay pride parade is banned by city authorities.

CASE: A government prohibits and criminalizes any associations for the promotion of LGBT rights, or refuses to register an LGBT association.

INTERNATIONAL STANDARDS:

Article 21, ICCPR: The right of peaceful assembly shall be recognized.

RIGHTS PRINCIPLE: Right to marry and found a family

CASE: A lesbian woman is denied the right to artificial insemination services.

CASE: A single gay man is denied the right to adopt a child.

CASE: A woman with HIV is forced to terminate her pregnancy.

INTERNATIONAL STANDARDS:

Article 23, ICCPR: (2) The right of men and women of marriageable age to marry and to found a family shall be recognized.

RIGHTS PRINCIPLE: Right to non-discrimination

CASE: A person is denied a job, housing, healthcare, access to a loan fund, or education because of sexual orientation, gender identity or expression, or being a sex worker.

CASE: A young woman is expelled from school because of pregnancy.

CASE: A TV program is prohibited by authorities because it features a same-sex kiss while allowing different-sex kisses to be aired regularly.

INTERNATIONAL STANDARDS:

Article 2, ICCPR: (1) Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, 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, ICCPR: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

RIGHTS PRINCIPLES: Right to the highest attainable standard of health

CASE: Police use condoms as court evidence of illegal activity (sex work).

CASE: A national health system fails to provide anti-retroviral therapy to LGBT people or sex workers, while making it accessible to others.

INTERNATIONAL STANDARDS:

Article 12, ICESCR:(1) The States Parties to the present Covenant recognize the right to everyone to the enjoyment of the highest attainable standard of physical and mental health.

Article 12, ICESCR:(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.

ADDITIONAL RESOURCES

Below are excerpts of some rights discussed in this volume.

Examples of non-discrimination provisions in international human rights treaties:

- UDHR, Article 7: "All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination."
- ICCPR, Article 26: "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."
- CESC, Article 2.2: "The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

On racial discrimination:

- ICERD, Article 1.1: "In this Convention, the term 'racial discrimination' shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

On discrimination against women:

- CEDAW, Article 1.1: "For the purposes of the present Convention, the term 'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

On discrimination and torture:

- CAT, Article 1.1: "For the purposes of this Convention, the term 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

On discrimination against children:

- CRC, Article 2.1: "States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status."

On discrimination and migrants:

- ICPRMW, Article 7: "States Parties undertake, in accordance with the international instruments concerning human rights, to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind such as to sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status."

On discrimination and disability:

- CRPD, Article 5.1-4:
 - 1."States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
 - 2.States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
 - 3.In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
 - 4.Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention."

International Standards on the Right to Health

Universal Declaration of Human Rights (UDHR)

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.

International Covenant on Civil and Political Rights (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.

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

Article 12

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.

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

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: ... (iv) The right to public health, medical care, social security and social services.

Convention on the Elimination of Discrimination against Women (CEDAW)

Article 12.1. States 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.

Convention on the Rights of the Child (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. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - a. To diminish infant and child mortality;
 - b. To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - c. To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
 - d. To ensure appropriate pre-natal and post-natal health care for mothers;
 - e. To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of 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.

- 3.States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
- 4.States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICPRMW)

Article 28: Migrant workers and members of their families shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned. Such emergency medical care shall not be refused them by reason of any irregularity with regard to stay or employment.

Convention on the Rights of Persons with Disabilities (CRPD)

Article 25: States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

- a.Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programs as provided to other persons, including in the area of sexual and reproductive health and population-based public health programs;
- b.Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;
- c.Provide these health services as close as possible to people's own communities, including in rural areas;
- d.Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;
- e.Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;
- f.Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

CESCR General Comment 14*Right to health is not the right to be healthy (Paragraph 8)*

The right to health is not to be understood as a right to be healthy. The right to health contains both freedoms and entitlements. The freedoms include the right to control one's health and body, including sexual and reproductive freedom, and the right to be free from interference, such as the right to be free from torture, non-consensual medical treatment and experimentation. By contrast, the entitlements include the right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health.

A wider definition of health (Paragraph 10)

...A wider definition of health also takes into account such socially-related concerns as violence and armed conflict. Moreover, formerly unknown diseases, such as Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome (HIV/AIDS), and others that have become more widespread, such as cancer, as well as the rapid growth of the world population, have created new obstacles for the realization of the right to health which need to be taken into account when interpreting article 12.

Interrelated and essential elements (Paragraph 12)

- Availability, which means that each country should have enough public health facilities, goods, services, and programs, for everyone who needs them. This includes essential drugs.
- Accessibility, which means that all people should be able to use them, no matter if you are disabled, come from a marginalized group such as persons with HIV/AIDS, or if you are poor.
- Acceptability, which means that all goods and services must be respectful of culture and other forms of difference, and also respect the privacy of all individuals.
- Quality, which means that all services, facilities, and goods must be of good quality. Personnel must be skilled, and medicines must be safe and scientifically approved.

Treatment and control of diseases (Paragraph 16)

"The prevention, treatment and control of epidemic, endemic, occupational and other diseases" (Article 12.2 (c)) requires the establishment of prevention and education programs for behaviour-related health concerns such as sexually transmitted diseases, in particular HIV/AIDS, and those adversely affecting sexual and reproductive health, and the promotion of social determinants of good health, such as environmental safety, education, economic development and gender equity. The right to treatment includes the creation of a system of urgent medical care in cases of accidents, epidemics and similar health hazards, and the provision of disaster relief and humanitarian assistance in emergency situations. The control of diseases refers to States' individual and joint efforts to, inter alia, make available relevant technologies, using and improving epidemiological surveillance and data collection on a disaggregated basis, the implementation or enhancement of immunization programs and other strategies of infectious disease control.

State obligations (Paragraph 19)

With respect to the right to health, equality of access to health care and health services has to be emphasized. States have a special obligation to provide those who do not have sufficient means with the necessary health insurance and health-care facilities, and to prevent any discrimination on internationally prohibited grounds in the provision of health care and health services, especially with respect to the core obligations of the right to health.¹⁶ Inappropriate health resource allocation can lead to discrimination that may not be overt. For example, investments should not disproportionately favour expensive curative health services which are often accessible only to a small, privileged fraction of the population, rather than primary and preventive health care benefiting a far larger part of the population.

Using health to limit rights (Paragraph 28)

Issues of public health are sometimes used by States as grounds for limiting the exercise of other fundamental rights. The Committee wishes to emphasize that the Covenant's limitation clause, article 4, is primarily intended to protect the rights of individuals rather than to permit the imposition of limitations by States. Consequently a State party which, for example, restricts the movement of, or incarcerates, persons with transmissible diseases such as HIV/AIDS, refuses to allow doctors to treat persons believed to be opposed to a government, or fails to provide immunization against the community's major infectious diseases, on grounds such as national security or the preservation of public order, has the burden of justifying such serious measures in relation to each of the elements identified in article 4. Such restrictions must be in accordance with the law, including international human rights standards, compatible with the nature of the rights protected by the Covenant, in the interest of legitimate aims pursued, and strictly necessary for the promotion of the general welfare in a democratic society.

Progressive realization (Paragraph 30-31)

30. While the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes on States parties various obligations which are of immediate effect. States parties have immediate obligations in relation to the right to health, such as the guarantee that the right will be exercised without discrimination of any kind (Article 2.2) and the obligation to take steps (Article 2.1) towards the full realization of article 12. Such steps must be deliberate, concrete and targeted towards the full realization of the right to health.

31. The progressive realization of the right to health over a period of time should not be interpreted as depriving States parties' obligations of all meaningful content. Rather, progressive realization means that States parties have a specific and continuing obligation to move as expeditiously and effectively as possible towards the full realization of Article 12.

Asia Catalyst, Dongjen Center for Human Rights Education and Action, and Thai AIDS Treatment Action Group would like to thank all the Thai and Chinese NGOs who shared their cases and their suggestions for this manual. We also thank Joanne Csete, Andrew Fields, and Andrew Hunter for their advice.

We are grateful to the following donors for their support:

Levi Strauss Foundation

Open Society Institute

US-China Legal Cooperation Fund



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