

Kingdom of Cambodia
Nation-Religion-King



IMPLEMENTING GUIDELINES

OF

THE LAW ON THE PREVENTION AND CONTROL OF HIV / AIDS

**The National AIDS Authority
2005**



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PREFACE

In 2002 the National Assembly of the Kingdom of Cambodia passed the *Law on the Prevention and Control of HIV/AIDS*. The law follows internationally recognized best practice for responding effectively to HIV/AIDS. It regulates a wide range of interventions to prevent the transmission of HIV/AIDS, and to mitigate the personal and social consequences of HIV infection. These include education and information, access to high quality HIV testing facilities, access to health care for people living with HIV/AIDS, and the importance of universal infection control procedures in health care facilities and other places where there is a risk of HIV transmission.

The Royal Government of Cambodia has demonstrated its commitment to a human rights-based approach to responding to HIV/AIDS, and the *Law on the Prevention and Control of HIV/AIDS* prohibits discrimination against people known or suspected of having HIV/AIDS, and their families. It also creates a legal duty to protect the confidentiality of HIV/AIDS-related information, and encourages people living with HIV/AIDS to participate in the response to HIV/AIDS.

The National AIDS Authority is committed to effective implementation of *the HIV/AIDS law*. To this end, The National AIDS Authority has developed these Implementing Guidelines to the *law on the Prevention and Control of HIV/AIDS* in order to explain the law in plain language, to identify the duties and responsibilities which people and institutions have under the law, to explain how these duties and responsibilities will be fulfilled, and generally to increase awareness and understanding of the law.

The Implementing Guidelines were developed through a series of consultations with people from Government and Cambodian non-government organizations, International organizations and UN agencies that are involved in the response to HIV/AIDS in Cambodia. In total over 150 people attended these consultation meetings, and the National AIDS Authority extends its thanks to all those who contributed to the development of the Guidelines.

These Implementing Guidelines will form the basis for ongoing activities by the National AIDS Authority and its partner organizations to promote awareness and implementation of the *Law on the Prevention and Control of HIV/AIDS*. Wide distribution of the Guidelines, and a training program developed by the National AIDS Authority, will be key components of the implementation strategy for enforcement of the *law on the Prevention and Control of HIV/AIDS*.

Recent data has shown that the number of new HIV infections in Cambodia continues to decline, from 3.3% in 1998 to 2.6% in 2003. It is my sincere hope that these Guidelines will contribute to the further success of Cambodia in preventing the transmission of HIV, and will promote respect, care and compassion for people living with and vulnerable to HIV/AIDS.

Dr. Hong Sun Huot
Senior Minister
Chairman of the National AIDS Authority

Acronyms

AIDS	Acquired immunodeficiency syndrome
HIV	Human immunodeficiency virus
IEC	Information, education, and communication
MOEYS	Ministry of Education, Youth and Sport
NAA	National AIDS Authority
NCHADS	National Centre for HIV/AIDS, Dermatology and Sexually Transmitted Infections
NGO	Non-government organization
PWHA	People living with HIV/AIDS
UNGASS	United Nations General Assembly Special Session on HIV/AIDS

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EXECUTIVE SUMMARY

The Purpose of the Implementing Guidelines

The purpose of these Implementing Guidelines is to promote implementation of the *Law on the Prevention and Control of HIV/AIDS* by explaining the provisions of the law in plain language, by identifying the people and institutions with roles and responsibilities under the law, and by explaining how these roles and responsibilities are to be fulfilled.

HIV/AIDS in Cambodia

It is estimated that there are 123 100¹ people in Cambodia living with HIV/AIDS. Cambodia's *Law on the Prevention and Control of HIV/AIDS* is a demonstration of the Government's commitment to fighting the HIV/AIDS epidemic. HIV/AIDS is not just a health issue, but one which concerns all Ministries and Institutions, and all sectors of society. The response to HIV/AIDS must empower individuals and communities to protect their own and others' health. Everyone must combat this epidemic.

Respect for Human Rights

HIV/AIDS-related human rights shall be legally protected under the State's law and all other international treaties that Cambodia has signed.

Penalties for breaching the law

The *Law on the Prevention and Control of HIV/AIDS* allows for penalties of fines and imprisonment. Every effort will be made to inform people about their rights and responsibilities under the law, and to encourage everyone to contribute to effective HIV prevention, treatment, care, and support activities. Legal action should only be considered where other approaches prove unsuccessful.

The National AIDS Authority

The National AIDS Authority is responsible for coordinating Cambodia's response to HIV/AIDS. The NAA consists of representatives of Ministries and Institutions of the Royal Government of Cambodia, together with the Cambodian Red Cross, and representatives of authorities' from 24 provinces and municipalities. The National AIDS Authority will coordinate activities by all levels of government, non-government organizations, religious institutions, communities, individuals, the private sector and donors.

HIV/AIDS Education

Education about HIV/AIDS should empower people to think and act in ways that protect them from HIV infection, that minimize the risk of HIV transmission, and that mitigate the personal and social consequences of HIV infection. All sectors of society have a role to play in educating people about HIV/AIDS, including educational institutions such as schools and universities, health care workers, religious institutions and employers. HIV/AIDS education will be integrated into school curriculum, with a particular focus on life skills education.

¹ - HIV/ AIDS Report of the National Centre for HIV/AIDS, Dermatology, and STIs (NCHADS) 2003

Education activities will pay particular attention to the education of women and girls, who are more vulnerable to HIV infection due to biological and social factors, especially their lower status than men. HIV/AIDS education must also focus on tourists and travelers, and on workers through education in the workplace.

Standards for Education and Prevention Information

All HIV prevention materials such as condoms must be accompanied by information in Khmer and other languages as appropriate, which explains how to use the prevention materials.

All advertisements and information for HIV/AIDS prevention or treatment must conform to standards established by the National AIDS Authority, and must be consistent with the best available medical and scientific evidence.

Infection Control

Infection control for HIV is based on universal precautions and infection control procedures. These require that all blood and body fluids from all people be treated as infectious, as in many cases it is not known whether a person is infected with HIV or other blood-borne infections. Infection control is based on standards set by the Ministry of Health and the World Health Organization.

Blood, Tissue and Organ Donation

All donated blood, human tissue or organs must be tested for HIV by the laboratory, health service, or other institution that collects the blood, tissue or organs. You have the right to require an HIV test of blood, organ or tissue donations that are to be used in a medical procedure involving you or a member of your family.

The Intentional Transmission of HIV is a Criminal Offence

Where a court finds anyone guilty of intentionally transmitting HIV, that person can be sentenced to imprisonment for between 10 and 15 years.

HIV Testing and Counseling

HIV testing must not be used to discriminate against people living with HIV/AIDS. HIV testing must be done:

- Anonymously
- Confidentially
- With pre-test and post-test counseling
- With the informed consent of the person tested
- Only by testing services which are licensed by the Ministry of Health

There are special provisions that apply to HIV testing of minors (people under the age of 18) and to people who are mentally ill and unable to make an informed decision about HIV testing.

HIV test results can only be disclosed to the person tested, except in exceptional circumstances specified by law. It is against the law to require a person to be tested for HIV for the purposes of employment, education, restricting freedom of movement or the right to choose where to live, or access to health care and other services. HIV testing centers must be licensed by the Ministry of Health, and must maintain standards set by the Ministry of Health and the National AIDS Authority.

Health Care and Support

Not only health care services, but all citizens, families, religious organizations, and people living with HIV/AIDS are encouraged to contribute to the care and support of people living with HIV/AIDS. People living with HIV/AIDS are entitled to receive free primary health care in public health facilities.

HIV/AIDS may increase the need for material support of people infected with and affected by HIV/AIDS, and the Royal Government of Cambodia will develop vocational training and income generation schemes for people living with HIV/AIDS, to promote opportunities for self-help. The business community must also contribute to the livelihood of people living with HIV/AIDS and their families. Companies in Cambodia have to establish programs to provide education and support to their workforce on the issue of HIV/AIDS.

Sexually transmitted infections (STIs) can facilitate HIV transmission, and people with STI's are more susceptible to HIV infection. The effective treatment of STIs is therefore an important strategy for HIV prevention. STI clinical services will be provided to standards set by the Ministry of Health.

Monitoring the Epidemic

Monitoring the HIV/AIDS epidemic in Cambodia will be done both at a population level (through, for example, anonymous testing), and at the individual level, through collecting data from individual people on HIV status and risk behaviors. Effective monitoring of Cambodia's response to the epidemic will also involve measuring progress against criteria such as the commitments made in the UNGASS declaration on HIV/AIDS, and measuring the extent to which the *Law on the Prevention and Control of HIV/AIDS* is implemented.

Confidentiality

You are legally required to maintain the confidentiality of information about the HIV/AIDS status of people living with HIV/AIDS. There are very few circumstances in which the requirement of confidentiality does not apply. Confidentiality is very important because disclosing information about a person's HIV/AIDS status can expose them to stigma and discrimination, which undermines the effectiveness of HIV/AIDS prevention, treatment, care and support efforts.

The result of an HIV test result can only be disclosed to the person who was tested. The only exceptions to this rule are very limited, and are set out in the *Law on the Prevention and Control of HIV/AIDS*.

Discrimination

It is against the law to discriminate against a person based on the knowledge or suspicion that the person, or a member of their family, has HIV/AIDS. Discrimination is prohibited in employment, education, the right to seek public office, and by providers of health care services and other services such as credit and insurance. It is also against the law to restrict a person's freedom of movement or place of residence based on the known or suspected HIV/AIDS status of that person or a member of their family.

Where To Go For Further Information or Assistance

At the end of these Implementing Guidelines, on page 42, you will find contact details for organizations involved in HIV/AIDS and human rights activities in Cambodia. These organizations may be able to provide further information or assistance.

CHAPTER 1

THE STATEMENT OF KEY PRINCIPLES

Why the Law on Prevention and Control of HIV/AIDS was needed in the Kingdom of Cambodia

HIV/AIDS is more than just a medical or health problem. It has the potential to impact on the lives of everyone in Cambodia, and on the future economic and social development of the country. AIDS was first diagnosed in Cambodia 1991, and it is now estimated that there are 123 100 people in Cambodia living with HIV/AIDS.

Although Cambodia is the country most affected by the HIV/AIDS epidemic in the region, strong leadership by the Royal Government at the national level, and cooperation between all levels of government and civil society, has seen the impact of the epidemic reduced. Evidence of Cambodia's commitment to fighting the HIV/AIDS epidemic was shown by the National Assembly when it passed the *Law on the Prevention and Control of HIV/AIDS* in 2002. All references in this document to "the law" are references to the *Law on the Prevention and Control of HIV/AIDS* unless stated otherwise. In some places the name of this law has been shortened to "*the HIV/AIDS law*".

HIV/AIDS presents many challenges. Sometimes it is difficult to face these challenges, because they involve dealing with topics we are not used to discussing openly. For example, preventing the spread of HIV may involve discussing sexual relations, or illicit drug use. As in many other countries, there can be strong social taboos in Cambodia against talking openly about these topics. But new challenges require new responses, and in the interests of the lives of everyone in Cambodia, and for future of the country, we must face the challenges of HIV/AIDS openly, and deal with these challenges directly.

The Implementing Guidelines

The purpose of this document is to explain the roles and responsibilities of people and institutions contained established by *the HIV/AIDS law*, and the penalties which can be imposed by courts and government institutions if the law is not followed. The Legal and Policy Working Group of the National AIDS Authority produced these Implementing Guidelines after consultations with over 150 people representing government ministries and institutions and civil society organizations. The Implementing Guidelines will be used to promote implementation of the *Law on the Prevention and Control of HIV/AIDS*.

In addition to explaining *the HIV/AIDS law*, the Implementing Guidelines sets out additional procedures and activities which are necessary to give effect to the law, and the people and institutions responsible.

Cambodia's multisectoral approach to HIV/AIDS

In Cambodia it is recognized that HIV/AIDS is not just a health issue, but one which concerns all sectors of society, and all Government Ministries. It requires a holistic, developmental approach that is gender sensitive and people centered, with a focus on empowering individuals, communities and society. This will involve partnerships between Government institutions, and between Government, non-government organizations, local communities, men and women, adults and youth, the private sector and donor institutions. It also calls for community development and mobilization for HIV/AIDS prevention, treatment, care and support.

There are many Articles in *the HIV/AIDS law* that deal with the importance of a multisectoral approach to HIV/AIDS. Readers can refer to Article 2 of the law, on promoting a multisectoral approach, and Article 3, dealing with the mobilization of communities and organizations, which are important elements of an effective response to the epidemic. Throughout these Implementing Guidelines readers will find references to the relevant Articles of *the HIV/AIDS law*.

The process of empowerment enables individuals, communities, and people involved in the design and implementation of policies and programs to increase control over the determinants of HIV/AIDS, to cope with its impact, and to address various aspects of management, prevention, treatment, care, and support. People and groups should be empowered to protect themselves and others against HIV infection, and people living with HIV/AIDS should be involved in all aspects of the response to the epidemic.

The HIV/AIDS law overrides other laws

The Royal Government of Cambodia has recognized that dealing with HIV/AIDS is so important that *the HIV/AIDS law* takes precedence over other laws. This means that if there are any other laws which contradict *the HIV/AIDS law*, then it is *the HIV/AIDS law* which must be followed. This is stated in Article 53 of *the HIV/AIDS law*.

Everyone must help to combat the HIV/AIDS epidemic

the HIV/AIDS law calls on all people in Cambodia—whether you are an employer, a student, a health care worker, a teacher, a religious leader, a laborer, the head of a family, or a member of your local community—to work together to prevent the spread of HIV/AIDS and to care for people living with or affected by HIV/AIDS. In addition, *the HIV/AIDS law* prohibits the intentional transmission of HIV, and provides for a penalty of up to 15 years imprisonment for any person found guilty of intentionally transmitting HIV. It is the responsibility of each person in Cambodia to know their own HIV status, and to take the necessary steps to protect their own and other people's health in the context of HIV/AIDS.

The Royal Government of Cambodia has created the National AIDS Authority to be responsible for coordinating efforts across government and all sectors of society, and for marshalling resources, both in Cambodia and from the international community, to respond to the epidemic of HIV/AIDS. Further information about the role and structure of the National AIDS Authority appears later in this chapter.

Respecting the human rights of people living with HIV/AIDS

the HIV/AIDS law recognizes both the fundamental human rights, and the duties, of all people in Cambodia regarding the HIV/AIDS epidemic. Article 2 of *the HIV/AIDS law* states that one of the functions of the law is to prohibit all kinds of discrimination against people suspected or known to be infected or affected by HIV/AIDS.

When people with HIV/AIDS are treated badly, then the consequences of HIV infection are made worse, and preventing the spread of HIV becomes more difficult. Human rights are worthy of protection in their own right, and promoting respect for human rights will also improve the effectiveness of Cambodia's response to HIV/AIDS. Article 42 of *the HIV/AIDS law* states that people living with HIV/AIDS (PWHAs) shall have the same rights as other Cambodian citizens, as set out in Chapter 3 of the *Constitution of the Kingdom of Cambodia*. In addition to promoting respect for HIV/AIDS-related human rights, Article 18 of *the HIV/AIDS law* also creates a duty to prevent the spread of HIV, with criminal penalties applying to the intentional transmission of HIV.

Discrimination

Discrimination against people with HIV/AIDS, people suspected of having HIV/AIDS, or their family members, is dealt with in Chapter 8 of the *Law on the Prevention and Control of HIV/AIDS*. “Discrimination” is where a person who is known or suspected to have HIV/AIDS is treated less favorably than someone who is not known or suspected of having HIV/AIDS.

An example of discrimination is where the owner of a factory refuses to employ anyone who is known to be or suspected to be living with HIV/AIDS, or who comes from a family where someone is known to be or suspected to be living with HIV/AIDS. You cannot transmit HIV by casual contact, such as being in the same room or workplace as someone with HIV/AIDS, or using the same kitchen facilities as someone with HIV/AIDS.

Rights of privacy and confidentiality

There is a lot of stigma and discrimination (unfair treatment) associated with HIV infection, and with behaviors that may expose a person to HIV infection. Stigma and discrimination worsen the impact of HIV/AIDS on individuals and on society. It is important that information regarding a person’s HIV status or the fact that they have been tested for HIV is not disclosed without that person’s consent, as to do so might expose the person to stigma and discrimination. Even after a person’s death, this information should not be disclosed without the consent of the deceased person’s partner or family, as the family of someone who has died of AIDS can also face stigma and discrimination. Articles 33-35 of *the HIV/AIDS law* deal with the importance of maintaining the confidentiality of HIV/AIDS-related information, and the limited circumstances in which that confidentiality can be breached.

Articles 19-25 of *the HIV/AIDS law* deal with HIV tests and counseling. They require that all HIV testing be conducted anonymously, and so blood samples and test results will be identified using a coding system, rather than the name or other identifying information of the person whose blood is tested. Where information regarding the results of HIV tests is collected by the national monitoring system maintained by the National Centre for HIV/AIDS, Dermatology, and Sexually Transmitted Diseases, these results will also be reported so that the identity of the person whose blood was tested for HIV is not revealed. There is more information about the right to confidentiality in Chapter 7 of the Implementing Guidelines, and HIV tests and counseling are dealt with in Chapter 4 of the Implementing Guidelines. There are very few circumstances in which information about a person’s HIV/AIDS status or testing for HIV can be disclosed without their permission.

The involvement of people living with HIV/AIDS

People living with HIV/AIDS should be involved in all aspects of responding to the epidemic, including the design, delivery, and evaluation of policies and programs for HIV/AIDS prevention, treatment, care and support. This is known as the “GIPA principle” — the Greater Involvement of People Living with HIV/AIDS. This principle was first articulated in a statement by countries attending the Paris AIDS Summit in 1994. Cambodia was represented at that summit and was a signatory to the document which has become known as “the Paris Declaration”, and this is concrete evidence of Cambodia’s commitment to the involvement of PLWHA in all aspects of the response to HIV/AIDS.

It is important for people living with HIV/AIDS to be involved in all aspects of the response to the epidemic because they are the people most affected by the epidemic, and the life experiences of PLWHA should inform the development of all HIV/AIDS policies and programs. This involvement will help to promote respect for the human rights of people living with HIV/AIDS, and policies and programs will

be more effective because they are informed by the experiences of PLWHA. The important role that people living with HIV/AIDS can play in Cambodia's response to the epidemic is recognized in Article 2 of *the HIV/AIDS law*, which prohibits discrimination against people living with HIV/AIDS, and promotes their involvement in responding to the epidemic.

The Royal Government of Cambodia officially supports the GIPA principle, and projects will be implemented by the Ministry of Health to promote the meaningful involvement of people living with HIV/AIDS in combating the epidemic in Cambodia. However the GIPA principle does not only apply to activities by the Ministry of Health. Cambodia has adopted a comprehensive and multisectoral response to HIV/AIDS. Government ministries, provinces and municipalities, civil society and the private sector will be expected to take steps to implement the GIPA principle in their HIV/AIDS work.

There may be penalties for breaching the law

The Royal Government of Cambodia takes the need to combat the HIV/AIDS epidemic very seriously, and in many cases there is the possibility of fines or imprisonment if *the HIV/AIDS law* is not followed. Chapter 10 of *the HIV/AIDS law* sets out the possible penalties for breaching various sections of the law. More information about the penalties contained in the law can be found throughout these Implementing Guidelines, and a summary of all penalties appears in Chapter 9 of this document.

The National AIDS Authority

The National AIDS Authority has the legal mandate under *the HIV/AIDS law* to play the central role in coordinating Cambodia's national multisectoral response to HIV/AIDS. The National AIDS Authority consists of a Secretariat, representatives from Government Ministries and Institutions, the Cambodia Red Cross, and representatives of authorities from 24 provinces and municipalities. This network includes cooperating projects supported by donors and financial support from the Royal Government of Cambodia through the national budget.

Chapter 9 of *the HIV/AIDS law* sets out the functions of the National AIDS Authority. These include policy development, strengthening relationships with stakeholders and coordinating the multisectoral response to HIV/AIDS, mobilizing resources from national and international institutions and agencies, advocating for legislative support and for research on the socio-economic impact of HIV/AIDS and coordinating the research agenda, and reviewing and approving the HIV/AIDS information, education, and communication programs in all sectors.

The National AIDS Authority works with a Policy Board to ensure that policy development in the specific sectors is consistent with the national policy framework, and to support the enactment and enforcement of appropriate laws and policies related to HIV/AIDS.

The Technical Board will work with the Secretariat to promote strategic planning in all relevant Ministries, as well as collaboration among all NAA members, and eventually expanded partnerships with civil society, NGOs, the private sector and donors.

CHAPTER 2

EDUCATION AND INFORMATION DISSEMINATION

A range of Ministries, government institutions, private sector and civil society organizations will continue to undertake education and information dissemination activities that are now mandated under *the HIV/AIDS law*. Articles 3-13 of the law deal with education and information dissemination. The Implementing Guidelines provides additional information about HIV/AIDS education and information.

HIV education activities should aim to provide timely, accurate, specific and relevant HIV education and information that will empower people to think and act in ways that protect them from HIV infection, that minimize the risk of HIV transmission, and that mitigate the personal and social consequences of HIV infection. While Cambodia has taken many steps to promote awareness of HIV transmission, and prevention, care and support needs, the key to minimizing the spread of HIV and the impact of HIV infection is to empower people so that they have the skills and ability to act on the relevant information, for their own well-being and the well-being of others.

Cambodia's response to HIV/AIDS is built on the guiding principles of empowerment, and the creation of an enabling environment. The process of empowerment enables all those involved in the response to HIV/AIDS, and especially individuals and communities, to increase their ability to control HIV transmission and the impact of HIV infection, and to address the various aspects of HIV/AIDS prevention, treatment, care and support. Empowerment means giving real and practical effect to the principle of the central involvement of people living with HIV/AIDS in all aspects of the response to the epidemic. This is known as the greater involvement of people living with HIV/AIDS or GIPA principle, and was discussed in the first chapter of this document.

An enabling environment is one where laws, policies and programs maximize the effectiveness of our response to HIV/AIDS by minimizing the risk of HIV infection and mitigating the impact of living with HIV/AIDS on the individual and on the community. *the HIV/AIDS law* seeks to create a supportive legal environment that promotes those elements we know go to make up an effective response to the epidemic, including for example: education and information about HIV prevention; voluntary and confidential HIV counseling and testing; non-discrimination; access to health care services; regulation of advertising of HIV prevention and treatment products; and a multisectoral approach..

All sectors of the population must be aware of the means of HIV transmission, the impact of HIV infection, and the treatment, care and support needs of people living with HIV/AIDS. The Implementing Guidelines should be used by HIV/AIDS workers throughout Cambodia, including provincial and municipal AIDS committees, health care workers, as well as police and law enforcement officials and the general population, to promote better understanding of *the HIV/AIDS law* and rights and responsibilities under the law. Article 3 of *the HIV/AIDS law* calls for the mobilization of people in the community, as well as organizations and associations, in the design and implementation of HIV/AIDS education and information programs.

Criteria for education and information materials

The content of education initiatives should be guided by the following criteria:

1. **Accuracy:** biomedical and technical information should be consistent with empirical evidence as established by the World Health Organization, UNAIDS, the National Centre for HIV/AIDS, Dermatology and STDs, or other recognized scientific bodies. Where possible, published research or best practice documents should be cited to establish the accuracy of the information presented.
2. **Clarity:** the target audience should be able to readily understand the content and the messages conveyed. Content should take account of the literacy levels of the target audience.
3. **Culturally appropriate:** the content should take account of cultural values and be suitable for its target audience. To the extent possible, it should recognize and reinforce traditional cultural beliefs and practices that promote health.
4. **Detailed:** Content should be sufficiently explicit to convey the necessary information regarding HIV and sexual health.
5. **Gender-sensitive:** Content should portray positive images of females and males, and be neither anti-women nor anti-homosexual. Develop separate resources for women, and men, including men who have sex with men, where appropriate.
6. **Affirmative:** Content should not be alarmist or designed to arouse fear. Coercive messages, messages that impose a particular moral code on the target audience, or content that condemns the attitudes or behaviors of any individual or population, should be avoided.
7. **Respect for human rights:** all information and education materials should promote respect for the human rights of people living with HIV/AIDS and people who are vulnerable to HIV infection. IEC material should also explain how respect for the human rights of people living with HIV/AIDS, and people who are vulnerable to HIV infection, is essential to successfully combating the HIV/AIDS epidemic.

The Education System

Under Article 3 of *the HIV/AIDS law* the State has an obligation to integrate teaching on HIV/AIDS prevention into education curricula. To be effective, this must be done with curricula in all types of educational institutions, both formal and non-formal, and vocational training schools. HIV/AIDS education should also cover the issues of treatment, care and support for people living with HIV/AIDS.

HIV/AIDS education initiatives must reach upper primary as well as secondary school students. Initiatives targeting school students will be continued and expanded by the Ministry of Education, Youth and Sports (MOEYS) through its School Health Department, and in conjunction with non-government and multilateral partners. An evaluation of the Ministry's HIV/AIDS Prevention Education Program for Secondary School Students has shown that students, their parents, teachers, and school directors all strongly support HIV/AIDS education for secondary school students. Programs will continue to be integrated into hygiene and health messages, and into life skills curriculum in both the formal and non-formal education systems. Article 3 of *the HIV/AIDS law* specifically mandates a focus on life skills.

The evaluation of the HIV/AIDS Prevention Education Program for Secondary School Students found that discussions about sex between parents and their children are very sensitive and usually only take place between parents and their adult married children.

In this cultural context, school-based HIV/AIDS education is vital to protect the health and well-being of young people in Cambodia. School-based HIV/AIDS education programs must take account of the

lower retention rates for girl students in secondary schooling. As well as encouraging higher retention rates amongst girl students, MOEYS will continue efforts to ensure that girls leaving school at a younger age are reached by HIV/AIDS and life skills education.

Local and international non-governmental organizations and United Nations agencies will continue to make an important contribution to HIV/AIDS education for secondary school students. The MOEYS will focus on increasing access to HIV/AIDS education for upper primary and secondary school children, as well as implementing the other recommendations of the evaluation report on this program. Teacher training will play a vital role in ensuring that students receive appropriate HIV/AIDS and life skills education.

As a signatory to the Convention on the Rights of the Child, the Royal Government of Cambodia has a duty to ensure that children have access to HIV/AIDS prevention, care and support information through formal channels such as the education system, as well as informal channels that can reach other children such as children living on the streets or in institutions. Signatories to the convention must ensure that children have the opportunity to acquire the knowledge and skills to protect themselves and others as they begin to express their sexuality. Programs such as those being trialed and implemented by MOEYS will help to fulfill Cambodia's treaty obligations, as well as to equip young Cambodians to protect their own health and the health of others.

Education to health care workers

Article 4 of *the HIV/AIDS law* requires health care workers in both the public and private sectors to integrate HIV/AIDS education into the delivery of health care services. The Ministry of Health, through the National Centre for HIV/AIDS, Dermatology, and STDs (NCHADS), is responsible for developing and delivering training curriculum to health care workers. As well as providing biomedical information, HIV/AIDS education should promote respect for the human rights of people living with HIV/AIDS, and people who are vulnerable to HIV infection.

Where HIV testing is carried out, pre-test and post-test counseling are both vital opportunities for the delivery of HIV/AIDS education and information messages. In order to take advantage of these opportunities, NCHADS will develop and regularly revise something is missing here. Under Article 24 of *the HIV/AIDS law*, the Ministry of Health is responsible for the enforcement of standards in relation to counseling and testing guidelines in both public and private health facilities, and will establish monitoring and supervision systems to ensure that every opportunity is taken during pre-test and post-test counseling to educate clients of testing services about HIV/AIDS prevention and care, and to counter HIV/AIDS-related stigma and discrimination.

Education for women and girls

Everywhere in the world, including in Cambodia, it is recognized that women and girls are at greater risk of HIV infection because of their lower status than men, and also because of biological factors. The United Nations General Assembly has stated that women, young adults and children, in particular girls, are considered the most vulnerable to the HIV epidemic.

The Constitution of Cambodia guarantees the equal rights of women and men in all aspects of life. The Royal Government of Cambodia through the Ministry of Women's Affairs recognizes the need for services and programs that give practical meaning to Constitutional guarantees of equality, and which empower and protect women and girls from HIV/AIDS. Article 6 of *the HIV/AIDS law* requires particular attention to be paid to educational programs for teenage girls and women-headed households, and to addressing the role of women in society and gender issues relevant to the HIV/AIDS epidemic.

Reducing the transmission of HIV to women and girls also requires changes in the sexual behavior of men. It is often through the male clients of sex workers that HIV is transmitted to other sex workers, and to the wives of the male clients of sex workers. The subordination of women and girls, and discrimination and violence against them, contribute to their vulnerability to HIV and sexually transmitted infections. A woman may be unknowingly at risk of HIV infection even though she is faithful to her husband or partner, because her husband or partner has other sexual partners outside their relationship, and does not always use a condom with these partners.

In Cambodia girls are made more vulnerable to HIV infection because their access to education, information and services is limited, and their knowledge of reproductive health and sexual issues, and their understanding of their rights to be protected from exploitation are also limited. Women and girl children bear most of the burden of caring for family members living with HIV/AIDS. By the age of 15, school enrolment rates for girls are 50% lower than for boys, and by the age of 18 school enrolment rates for girls are three times lower than enrolment rates for boys. As well as taking steps to increase the retention rate of girl students, the Royal Government of Cambodia acknowledges the need to ensure that HIV/AIDS, sexual health, and life skills curriculum is taught to girl students before they are lost to the formal education system. In this context, it should be noted there is no evidence that sexual health and life skills education encourages or results in people becoming sexually active at a younger age.

Education for other vulnerable populations

Research indicates that men who have sex with men in Cambodia may have an HIV prevalence rate up to five times as high as the prevalence rate in the general population. Research also indicates that many men who have sex with men also have sex with women, and in this way could form a “bridging group” for the transmission of HIV from a high prevalence population into the general population.

Illicit drug use is another risk factor which has only recently been recognized as having the potential to worsen the HIV/AIDS epidemic in Cambodia. Cambodia is unusual in the region because it does not have a significant history of injecting drug use, and the HIV/AIDS epidemic in this country has not been affected by drug use to the same extent that epidemics in other countries have been affected.

However there are signs that the situation regarding drug use in Cambodia is changing. The past five years has seen a dramatic increase in the amount of drugs trafficked through Cambodia, as well as an increase in the use of amphetamine type drugs, often called “yama” or “yaba”. There is a risk of HIV transmission through drug use, either from people sharing injecting equipment, or from people under the influence of drugs having unprotected sex.

This risk has been recognized at the highest levels of government. At a conference organized by the National Authority for Combating Drugs in May 2003, Samdech Prime Minister Hun Sen stated that everyone had to be aware of the risks of drug use, including the risk of HIV transmission. He also said that drug-addicted people need “counseling, treatment and rehabilitation rather than being taken to court. Drug-addicted people **badly** need health support and support from society, rather than leaving them as the outlawed people from society.”²

Under Article 2 of *the HIV/AIDS law*, the State must appropriately address all determinants that drive the HIV/AIDS epidemic in Cambodia. For this reason, education on HIV prevention, treatment, care, and support must also address all factors relevant to the HIV/AIDS epidemic in Cambodia, including the risk of HIV transmission associated with sex between men, and the risk of HIV transmission from the use of illicit drugs.

²- National Authority for Combating Drugs, 5th and 6th May 2003, National Workshop on Drug Issues in Cambodia, Cambodia

Tourists and travelers

Mobility and migration increase people's vulnerability to HIV infection. People who are traveling or living away from their family and local community may be more likely to have casual sexual encounters, and thus are more vulnerable to HIV infection through sexual transmission. Article 7 of *the HIV/AIDS law* requires the State to develop information, education and communication (IEC) materials on HIV/AIDS for tourists and travelers in both Khmer and in other appropriate languages. Under *the HIV/AIDS law* the Royal Government of Cambodia, through the Ministry of Tourism and the Ministry of the Interior, and in conjunction with partners such as the International Organization for Migration, will produce information and education resources on HIV/AIDS for tourists and travelers for distribution at all points of entry and exit to the Kingdom of Cambodia, and at popular tourist destinations. This may also include showing educational videos on HIV/AIDS awareness at points of transit for mobile populations.

Information and education resources on HIV prevention and health promotion will also be distributed to all Cambodian workers leaving the Kingdom of Cambodia to work in foreign countries, including diplomatic officials and public servants. This is required by Article 8 of the HIV/AIDS law. These information and education resources will be distributed without charge to all Cambodians before they leave Cambodia. Companies involved in exporting Cambodian workers abroad must be involved in the provision of education and information resources on HIV/AIDS and birth spacing to Cambodian workers going abroad. As well as the strong humanitarian reasons for labor-exporting companies to contribute to protecting the health and well-being of Cambodian workers, there is also the fact that these companies have an economic interest in maintaining the health of their workers. In many countries the HIV/AIDS epidemic has decimated the working age population, and this has damaged the economies of these countries, including the economic viability of the business sector, and the material well-being of all citizens of these countries.

In Cambodia, the Ministry of Education, Youth and Sport has set an example of good practice regarding Cambodian students leaving Cambodia to study abroad. The Ministry provides education in life skills needed for living in a foreign country, including information on HIV prevention. This example of good practice should be used by labor exporting companies when developing their own programs for Cambodians going to work abroad.

HIV/AIDS and the workplace

HIV/AIDS is a major threat to the economic productivity of Cambodia. It affects the most productive segment of the labor force, reduces earnings, and imposes costs on all enterprises in all sectors through declining productivity, increased labor costs, and loss of skills and experience.

All work places have a legal duty under Article 9 of *the HIV/AIDS law* to collaborate with the National AIDS Authority and its line Ministries in combating HIV AIDS. Work places will be required to organize education programs on HIV/AIDS in the work place. The National AIDS Authority endorses the International Labor Organization's *Code of Practice on HIV/AIDS and the World of Work*, and will use the Code to promote HIV/AIDS prevention, treatment, and care initiatives in workplaces. The Code will also be used in educational initiatives about the importance of respecting the confidentiality of HIV/AIDS-related information, and respect for the human rights of workers affected by HIV/AIDS.

An example of good practice in HIV/AIDS education in the workplace is the training program that has been begun by the Ministry of Justice. Under this program, the Ministry is training clerks of courts in all provinces in HIV/AIDS awareness, and other Ministries should implement similar programs for their employees.

An important resource in this context is the ILO's *Code of Practice on HIV/AIDS and the World of Work*, which has already been referred to. The Cambodian office of the ILO has published a Khmer version of the Code of Practice, as well as a leaflet covering all of the main messages of the Code. It is for the education of Cambodian workers. Employers must recognize the importance of a workforce that is well educated on the issue of HIV/AIDS, and must also recognize the need to devote resources to HIV/AIDS education. This will include allowing workers to spend time during work hours on HIV/AIDS education. Peer education, which has proven successful in other contexts, must also be considered as a tool in the workplace for increasing HIV/AIDS awareness.

The Garment Manufacturers Association of Cambodia (GMAC) has showed an example of good practice on the part of employers in the private sector. The GMAC collaborated with the Cambodian office of the ILO to produce a Khmer version of the ILO Code of Practice on HIV/AIDS in the workplace, and a short leaflet explaining the main provisions of the Code. All employers could adopt and implement a policy of non-discrimination against workers with HIV/AIDS, as set out in the ILO Code of Practice.

Under Articles 229 and 230 of the *Labour law* employers must ensure safe and hygienic working conditions. In the context of HIV/AIDS, this means ensuring the application of universal infection control precautions where there is a risk of occupational transmission of HIV. This will include provision and maintenance of protective and first aid equipment, as well as education of workers on effective infection control procedures. Universal infection control procedures are covered in more detail in Chapter 3 on **Infection Control**.

Other sections of *the HIV/AIDS law* deal with discrimination in the workplace, and this issue will be covered in more detail in Chapter 8 of the Implementing Guidelines

The role of religious institutions

Religious institutions play a vital role in the response to HIV/AIDS in Cambodia, and this is recognized in Article 9 of *the HIV/AIDS law*, which states that monks and religious groups shall be mobilized to participate in education and information campaigns on HIV/AIDS. Monks play a very important role in spiritual counseling, the provision of care and support for people living with HIV/AIDS, and HIV/AIDS education. A number of pagodas have implemented programs of care and support for people living with HIV/AIDS and for AIDS orphans, as well as working to reduce stigma and discrimination and promote respect for the human rights of people affected by HIV/AIDS. Religions are based on respect for human life and the promotion of human development, and the Royal Government of Cambodia will continue to encourage institutions of Cambodia's national religion, Buddhism, as well as other religious institutions, to contribute to the response to HIV/AIDS in Cambodia. The Ministry of Cults and Religions adopted a *Policy on the Religious Response to the HIV/AIDS Epidemic in Cambodia* in May 2002. In addition to supporting the role of Buddhist leaders and pagodas in combating HIV/AIDS in Cambodia, the Ministry of Cults and Religions has also trained Muslim Imams and Christian leaders to take on this role.

The Supreme Patriarchs of both Buddhist orders have declared their full support for the religious response to HIV/AIDS in Cambodia. Religious activities in pagodas, meditation centers and Buddhist schools all provide opportunities for the delivery of information and education on HIV/AIDS prevention and care, for promoting compassion and reducing stigma and discrimination. Monks, Nuns, Achars, Pagoda and Support Committees, as well as religious resource people from other religious institutions in Cambodia, should play an active role in awareness raising, HIV/AIDS prevention and care, and community mobilization in response to the epidemic. Religious institutions can also provide support to people living with HIV/AIDS and AIDS orphans, so that they can continue living with their families and as full members of the community. *the HIV/AIDS law* provides in Article 27 that monks and religious organizations shall be mobilized to provide care and support to those people who have HIV/AIDS throughout the Kingdom of Cambodia.

Provincial and Municipal Departments of Cults and Religions will continue to collaborate with local authorities, Provincial AIDS Committees, Provincial AIDS Secretariats, District AIDS Committees, the leaders of religious institutions and local and international NGOs to promote the involvement of religious institutions in the response to HIV/AIDS in Cambodia.

Educational and information materials

Article 11 of *the HIV/AIDS law* requires that all HIV prevention materials, such as condoms or sterile injecting equipment, must be accompanied by printed information, in Khmer and other languages as appropriate, which explains the proper method for using the equipment.

The National AIDS Authority's Information, Education and Communication Working Group will establish and enforce standards in relation to this information. The Committee shall be responsible for establishing standards for printed information to accompany all prevention equipment, and no such printed information shall be distributed with prevention equipment unless it has been approved by the Committee.

Advertising of HIV/AIDS prevention or treatment materials

Article 12 of *the HIV/AIDS law* requires that all advertisements or other information regarding HIV/AIDS prevention or treatment must conform with standards established by the National AIDS Authority and the Ministry of Health, and must be consistent with the best available medical and scientific evidence. Where this section of the law is breached, then under Article 48 of the law a court can impose penalties including a fine of between 500,000 (five hundred thousand) Riels and 1,000,000 (one million) Riels, imprisonment for between one month and one year, and revocation of any relevant professional licenses held by the offender. Where there are repeated breaches of the law by an offender, then penalties can be doubled, and where the offender is a civil servant, administrative penalties can also be imposed.

The Information, Education, and Communication Working Group of the National AIDS Authority will cooperate with the Ministry of Information to develop and disseminate standards governing advertisements and other information regarding HIV/AIDS prevention and treatment.

Breaches of standards

Where the National AIDS Authority becomes aware of breaches of standards established for either the advertising of products for HIV/AIDS prevention or treatment, or for educational materials which are attached as evidence, then such breaches will be referred to the NAA's Legal and Policy Working Group. The Legal and Policy Working Group will advise the NAA on appropriate action to be taken in response to breaches of standards. The Legal and Policy Working Group may also seek advice or invite technical input from outside of the working group when formulating its advice to the NAA. The Ministry of Information will also play an important role in monitoring the media to ensure compliance with these Articles of *the HIV/AIDS law*.

CHAPTER 3

INFECTION CONTROL

Infection control for HIV is based on the use of universal infection control procedures (universal precautions). Universal infection control procedures require that all blood and body fluids from all persons should be treated as infectious, as in many cases it is not known whether a person is infected with HIV or other blood-borne pathogens. Article 13 of *the HIV/AIDS law* requires the National AIDS Authority, in consultation with the Ministry of Health, to develop and disseminate guidelines on universal infection control procedures.

Infection control in the community

The risk of HIV transmission through caring for someone with HIV/AIDS is very low. Nevertheless, universal infection control procedures are important in the community just as they are in health care facilities. Many people living with HIV/AIDS will be cared for by their families at home. Article 26 of *the HIV/AIDS law* encourages citizens and families to provide care and support for people living with HIV/AIDS. Everyone involved in providing care and support for people living with HIV/AIDS should understand and use universal infection control procedures to the fullest extent possible. Where care and support is provided in the community, these procedures will include:

- Avoiding contact with body fluids
- The use of bleach to clean equipment or surfaces that may have come into contact with body fluids
- Protecting patients in home-based care from infection by microbes, through practicing good personal and household hygiene.

In accordance with the strong human rights approach of *the HIV/AIDS law*, it is important that care and support be provided to PWHA in a compassionate and non-discriminatory manner. Special measures, including targeted distribution of these Implementing Guidelines, will be necessary to ensure that unregulated areas of activity, such as tattooing and alternative health practitioners, comply with appropriate infection control guidelines. Article 13 of *the HIV/AIDS law* requires that special attention be paid to infection control not only during medical and dental procedures, but also during other practices such as embalming and tattooing. Other countries have developed guidelines for infection control by such practitioners, and these will be considered for adaptation to the Cambodian context.

Infection control in health care facilities

Information on infection control in health care facilities will target not just practitioners, but also students of medicine and other health professions. As mentioned above, *the HIV/AIDS law* requires adherence to the guidelines that are established by the National AIDS Authority and the Ministry of Health.

Where the law is breached, then under Article 49 of *the HIV/AIDS law* a court can impose a fine of between 500 000 (five hundred thousand) Riels and 1 000 000 (one million) Riels, and imprisonment for between six and 12 months. Repeated breaches are liable for double punishment. Offenders may also be liable in civil actions for restitution, and can have any relevant professional license revoked. Where the offender is a civil servant, they can also be subject to civil penalties.

In order to provide clarity regarding situations where prosecution is considered necessary, court officials must be part of a targeted distribution strategy for the Implementing Guidelines, as well as for information regarding established infection control procedures and standards. The National AIDS Authority will cooperate with the Ministry of Health and the Ministry of Justice to ensure that court officials have access to relevant information regarding this and other provisions of *the HIV/AIDS law*.

Education on how to implement effective infection control procedures, together with administrative oversight, will continue to be the primary focus in preventing HIV transmission in health care and other settings, notwithstanding the availability of legal sanctions for breaches of standards. The Ministry of Health has established a committee on infection control, and membership of the committee includes clinical directors, nurses, and health educators. The committee uses standards set by the World Health Organization for effective infection control. Monitoring and enforcement of standards will play an important role in minimizing the possibility of HIV transmission in health care and other settings. *the HIV/AIDS law* covers careless and negligent breaches of infection control guidelines, as well as intentional breaches. The National AIDS Authority, in cooperation with the Ministry of Health, will develop mechanisms for monitoring and enforcement of standards.

Universal infection control procedures will include standards governing:

- Washing hands
- Using gloves, eye glasses, masks and gowns, and other equipment as a barrier to contact with body fluids
- The safe handling and disposal of sharps such as injecting equipment
- Cleaning spills of body fluids
- Effective sterilization of equipment
- As much as possible, the use of single-use syringes will be promoted
- Safe waste disposal
- Safe procedures for the handling of dead bodies—these will be based on the same principles as procedures for dealing with body fluids from a live person.

Guidelines will also include information about the importance of respecting the human rights of PWHA, as required by Article 4 of *the HIV/AIDS law*. In addition, the guidelines will contain information about the prohibitions against discrimination in Articles 36-42, and the provisions protecting confidentiality contained in Articles 33-35 the law.

Some sectors, which are presently unregulated, must be subject to regulation to ensure that the proper standards of infection control are adhered to. Examples are traditional healers and some dentists, who have not received formal training.

Blood, tissue and organ donation

The HIV/AIDS law recognizes the importance of ensuring the safety of the blood supply for medical purposes, as well as the safety of any human tissue or organs that are used in medical procedures. Medical procedures involving donated blood, tissue or organs can otherwise carry a risk of transmitting HIV/AIDS to the recipient patient.

Under Article 14 of *the HIV/AIDS law*, all blood, human tissue, or organs that are donated must be tested for HIV by the laboratory, health service, or other institution that collects the blood, tissue or organs. It is the responsibility of the National Blood Transfusion Centre to ensure that blood is screened for HIV. The National AIDS Authority will work with the Ministry of Health and the National Blood Transfusion Centre to ensure the safety of the blood supply. The World Health Organization estimates that between 5% and 10% of HIV infections worldwide are the result of transfusions of contaminated blood and

blood products. Standards established by the World Health Organization will be adapted for Cambodia to ensure the safety of the Cambodian blood supply.

The essential elements of an integrated strategy for eliminating or reducing HIV transmissions through blood transfusion as established by the World Health Organization are:

- Establishing a blood transfusion service
- Collecting blood only from voluntary donors (people who are not paid to donate blood) and from populations at low risk of HIV infection
- Screen all donated blood for infectious agents including HIV
- Reduce unnecessary blood transfusions through the effective clinical use of blood, and the use of alternatives to transfusion wherever possible.

If an HIV test is not performed, then the laboratory, health service, or other institution that collects the blood, tissue, or organ, may be liable for prosecution in court. Article 49 provides that punishment for breaching this part of *the HIV/AIDS law* can include imprisonment for between six months and one year, and a fine of between 500 000 (five hundred thousand) Riels and 1 000 000 (one million) Riels. Where a government worker is responsible for breaching this part of *the HIV/AIDS law*, they can also be subject to an administrative penalty.

Article 17 of *the HIV/AIDS law* states that where blood, tissue or an organ donation tests positive for HIV, then it must be destroyed immediately, unless it is to be used only for the purposes of research.

You have the right to demand an HIV test of blood, organ or tissue donations

Article 16 of *the HIV/AIDS law* provides that if you are to undergo a medical procedure that involves a blood transfusion or an organ or tissue donation, then you or a member of your family has the right to request that the blood, tissue, or organ which is to be used is re-tested for HIV. In this way you and your family can determine whether the blood, tissue or organ is free of HIV.

The only exception to this right is where emergency medical procedures must be performed, such as where it is necessary to perform surgery on someone who has been involved in a serious motor vehicle accident. Health care workers involved in blood transfusions should always inform the patient that there is a very low risk of infection with HIV, this may occur only if the blood has been donated by a person who was infected with HIV shortly before they donated the blood. In these circumstances, the person who donated the blood may not have had time to develop antibodies to the virus, in which case normal testing procedures will not detect the presence of HIV in that person's blood. If it is not possible to inform the patient of this risk, then where possible a member of the patient's family should be informed. Written informed consent to a blood transfusion, either by a patient or a member of their family, should also be obtained where possible.

The intentional transmission of HIV is a criminal offence

While the Royal Government of Cambodia has taken a strong human rights approach to combating the HIV/AIDS epidemic, it also recognizes that there are obligations on people living with HIV/AIDS. The most important obligation on people living with HIV/AIDS is to ensure that they do not transmit the virus to other people. Under Article 18 of *the HIV/AIDS law*, anyone who intentionally transmits HIV to another person can be charged with a criminal offence. If they are found guilty, then under Article 50 they can be imprisoned for between 10 and 15 years.

The penalty that can be imposed where a person is found guilty of intentionally transmitting HIV is an indication of how seriously such an action will be viewed. However the criminal justice system is not

the primary means by which the transmission of HIV will be prevented, for several reasons. One reason is that the current limited availability of voluntary and confidential testing services in Cambodia means that only around 8%-12% of the estimated 123 100 people infected with HIV in Cambodia are actually aware of their infection. In this environment, the great majority of infections will result not from an intention to transmit the virus, but from ignorance of one's HIV status. Even where a person is aware of their own or their sexual partner's HIV status, social and environmental factors such as poverty and gender inequality can impair a person's ability to take the necessary precautions to prevent HIV transmission.

The most effective way to prevent HIV transmission is through education and empowerment for behavior change. The criminal justice system is inherently backward-looking, assessing events after they have taken place, and deciding on guilt or innocence, and the imposition of appropriate punishment. Education for health promotion, on the other hand, is forward looking, and seeks to prevent HIV infections, and to maintain the health of the population.

There is a risk that over-reliance on the criminal law, and on punitive approaches to HIV transmission, will undermine HIV prevention education initiatives by contributing to stigma and discrimination against people living with HIV/AIDS. In this context, people living with HIV/AIDS may come to be viewed as criminals, ostracized or isolated from their families and communities. It is well established that stigma and discrimination help fuel the HIV/AIDS epidemic, by making people living with or at risk of HIV infection harder to reach with prevention, treatment, care, and support programs. Because of the complex issues associated with criminal prosecutions for HIV transmission, the National AIDS Authority, in partnership with the Ministry of Justice and the Ministry of Interior, will develop guidelines for court officials on the circumstances in which the use of Article 18 of *the HIV/AIDS law* should be considered.

CHAPTER 4

TESTS AND COUNSELLING

HIV testing and counseling are central to an effective response to HIV/AIDS. The results of HIV testing provide important information to people about their health, and important information to health authorities about the HIV/AIDS epidemic in Cambodia. Pre-test and post-test counseling are valuable opportunities to provide education and information about HIV/AIDS prevention and care, promoting respect for confidentiality, and reducing HIV/AIDS-related stigma and discrimination. Training curriculum for health care workers involved in the provision of HIV testing services, including training for pre-test and post-test counseling, must include information about the legal rights and duties contained in *the HIV/AIDS law*. Policies on HIV testing should also incorporate relevant sections of the law, to promote knowledge of and compliance with the requirements contained in the law.

HIV testing should not be used to violate your human rights

HIV testing can also be used to discriminate unfairly against people living with HIV/AIDS. *the HIV/AIDS law* is cognizant of these risks, and prohibits HIV testing in a range of circumstances. Article 20 of the law prohibits HIV testing as a condition of employment, admission to an educational institution, as well as for the exercise of freedom of abode, the right to travel, or the provision of medical or other services.

If you are asked or forced to take an HIV test in these or any other circumstances, then you should report the incident to the Ministry of Health. More information on HIV testing and your rights, particularly regarding situations in which HIV testing is prohibited, is contained in Chapter 8 of these Implementing Guidelines. Chapter 8 deals with Discrimination.

Voluntary and informed consent

Under Article 19 of *the HIV/AIDS law* you cannot be tested for HIV without your voluntary informed consent. Voluntary means that you have freely chosen to take the test, and you are not taking it because you have been forced or coerced into taking it by someone else. To be **Informed** means that you understand both the medical procedure that you will undergo, (blood will be taken and tested for the presence of HIV), and that you understand the meaning of a positive or a negative test result. *the HIV/AIDS law* requires that you give your voluntary and informed consent in writing.

As well as understanding the consequences for your health of a positive or negative HIV test result, you also need to understand the consequences for other people if your test result is positive. This includes understanding the precautions you need to take to ensure that you do not risk infecting other people with HIV.

Mandatory and compulsory testing

Mandatory and compulsory testing involve HIV testing where the person tested does not have the opportunity to give voluntary informed consent to testing. **Mandatory testing** refers to testing which is required in order to access a particular benefit or service (for example a travel visa, or employment, or medical care), but where you have the option of rejecting the service or benefit and thus avoiding HIV testing. Compulsory testing refers to testing that is conducted without any option for refusal.

Except for very limited circumstances, which are described elsewhere in this document, both mandatory and compulsory testing are illegal. If any person or organization tries to impose mandatory or compulsory testing on you, then you should report this fact to the Ministry of Health, and to human rights organizations. Contact details for relevant organizations are listed in the directory of services at the end of this document.

Anonymous testing

Article 19 of *the HIV/AIDS law* requires that all HIV testing must be carried out anonymously. This means that information about your identity is not recorded in connection with information about the fact that you have taken an HIV test, or with the results of that test. Instead of identifying information such as your name and address, a code must be used.

Premarital HIV testing

In some cases, a man and a woman who plan to marry will decide to be tested for HIV prior to the marriage taking place. Premarital HIV testing is not required by law, and the practice raises important issues regarding the confidentiality of HIV test results. There is anecdotal evidence that where one of the partners to the proposed marriage tests HIV positive, then the fact of the positive test result becomes widely known in the person's community. The law does not prohibit the practice of pre-marital HIV testing, however Article 19 of the law still requires that HIV tests be conducted anonymously, and with the voluntary written consent of the person being tested. This means that an HIV test cannot legally be performed if a person is coerced into being tested by their prospective marriage partner, or the partner's family, because in these circumstances consent cannot be said to be voluntary.

Article 35 states that, except in certain circumstances, the results of an HIV test can only be disclosed to the person tested. These circumstances are that: the HIV test result of a minor can be disclosed to their legal guardian; test results can be disclosed as part of the State HIV/AIDS monitoring program referred to in Article 30; or where a court orders the disclosure of a test result. Where a couple decides to undergo premarital HIV testing, it is illegal for the testing centre to disclose either person's test result to anyone but the person whose blood was tested. Article 32 of *the HIV/AIDS law* states that the confidentiality of all persons who have HIV/AIDS shall be maintained. So even where a person discloses their test result to a prospective marriage partner, it is important that the test result is not further disclosed without the permission of the person who was tested.

Before deciding to be tested for HIV in preparation for a proposed marriage, both parties should be aware of their own and their partner's legal rights and obligations regarding the necessity for voluntary consent to HIV testing, and the duty to maintain the confidentiality of HIV test results. Pre-test and post-test counseling will also be very important in these circumstances. Testing procedures, including pre-test and post-test counseling, should include relevant information about *the HIV/AIDS law*.

HIV testing of minors

Article 19 of the law states that in the case of a minor, HIV testing cannot be performed without the written consent of the person's legal guardian. This will usually be a parent, but it may be another relative or carer. Where the written consent of a minor's guardian cannot be obtained, an HIV test can be performed on the minor only if the test is in the best interests of the minor, and the minor provides written informed consent.

Although the age at which a person ceases to be a "minor" varies under different Cambodian laws, the appropriate definition of a minor for the purposes of HIV testing is a person who is under the age of 18 years.

Cambodia is a signatory to the Convention on the Rights of the Child, and the provisions of this Convention will guide the approach to HIV/AIDS issues concerning children and minors. A rights-based approach is the most effective way of responding to HIV/AIDS, and Cambodia has demonstrated its commitment to human rights in the context of HIV/AIDS through *the HIV/AIDS law*.

Article 3 of the Convention on the Rights of the Child states: “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” This principle shall apply to all decisions regarding whether a child or a minor should be tested for HIV. The Convention also establishes that children are entitled to participate in decisions that concern them, in accordance with their evolving capacities.

Testing people who are mentally ill

In the case of people who are mentally ill and lack the capacity to give written voluntary informed consent to HIV testing, Article 19 of *the HIV/AIDS law* provides that the State can give consent to such persons being tested for HIV. HIV testing in these circumstances should only be performed if it is in the best interests of the person. The National AIDS Authority and the Ministry of Health will develop guidelines for use in determining when HIV testing is in the best interests of a person with a mental illness who is unable to give voluntary, informed, written consent themselves.

Standards for HIV testing and counseling

Under Article 23 of *the HIV/AIDS law*, the Ministry of Health through the National Centre on HIV/AIDS, STDS and Dermatology (NCHADS), is responsible for establishing and enforcing standards regarding HIV testing and counseling in both public and private health care facilities.

The Ministry of Health has a legal duty to ensure that health care workers protect the anonymity and confidentiality of people who are tested for HIV. NCHADS has issued a Policy, Strategy, and Guidelines for HIV/AIDS Counseling and Testing, and will regularly review and update the policy and guidelines.

The Ministry of Health, in conjunction with NCHADS and the National AIDS Authority, will also be responsible for establishing criteria governing decisions about whether HIV testing of a minor or a mentally ill person will be considered to be in the best interests of the person. Within one year of the adoption of the Implementing Guidelines, the Ministry of Health and the National AIDS Authority will issue guidelines identifying appropriate decision makers, and containing criteria to be followed by decision makers in reaching a decision.

Compulsory HIV testing is legal in some circumstances

It is legal, in very limited circumstances, for a person to be compulsorily tested for HIV. Article 21 of *the HIV/AIDS law* states that compulsory HIV testing is permitted only where there is an order of a court permitting the test. To promote consistency in decision-making where a court order for compulsory testing is sought, the National AIDS Authority will issue an operational guideline for judges hearing applications for permission to conduct a compulsory HIV test. These guidelines will be developed within one year of the adoption of these Implementing Guidelines, in consultation with NCHADS, the Ministry of Justice, representatives of people living with HIV/AIDS, and representatives of communities who are vulnerable to HIV infection.

The guidelines will include the capacity to order a compulsory HIV test where a person has been accused of a rape or sexual assault, and there is evidence both to support the allegation of the crime, and that there is a risk of HIV transmission associated with the alleged crime. In these circumstances, the victim of the alleged crime should also be offered post-exposure prophylactic treatment with HIV antiretroviral drugs, which needs to be provided within 24-48 hours of the event constituting exposure.

HIV testing centers must be licensed

Under Article 23 of *the HIV/AIDS law*, HIV testing can only be carried out by testing centers which are authorized by the Ministry of Health. Both public and private sector health services that provide HIV testing must be licensed.

Under Article 24, staff of public and private health centers that perform HIV tests must be trained to standards established by the Ministry of Health in collaboration with the National AIDS Authority. These institutions are also responsible for developing training programs for the staff of HIV testing centers (under Article 25), and for monitoring compliance with competency standards (under Article 24).

HIV testing for surveillance purposes

HIV testing is an essential part of monitoring the epidemic in Cambodia. At present there are not enough resources to offer HIV testing with pre-test and post-test counseling to everyone in Cambodia. It is estimated that somewhere between 8%-12% of people in Cambodia who are infected with HIV are aware of their HIV status.

In order to make the best use of resources, one way in which the epidemic is monitored is through a process known as “anonymous testing”. This involves the taking of blood samples from a large number of people in a particular population (for example members of the armed forces), and testing those blood samples for HIV. The identities of the individual people from whom the blood samples are taken are not recorded with the blood samples, and so the results of the HIV tests cannot be given to the people whose blood is tested.

Anonymous testing is an important means of gathering information about the HIV/AIDS epidemic in Cambodia. But because it involves performing medical procedures in circumstances where the individual person will not benefit directly from the medical procedures, then such testing should not be done unless it is of clear benefit to the Cambodian population, and assists in the national response to the HIV/AIDS epidemic. For these reasons, anonymous testing can only be performed where prior approval has been granted by the Ministry of Health, and where the testing program complies with the Ministry of Health’s Ethical Guidelines for HIV/AIDS and STI-Related Research. Article 31 of *the HIV/AIDS law* requires that all information about HIV test results that is collected for the national monitoring program shall use a coding system that protects the anonymity and confidentiality of people who are tested for HIV for the monitoring program.

Where anonymous unlinked HIV testing is carried out, the organization which carries out the testing must explain to the people whose blood is being tested that testing will be done only for HIV surveillance purposes, and not to provide the people tested with information about their own HIV status (**consent is obtained using a form named Anonymous Unlinked Testing**). People who provide blood for testing in these circumstances should also be given information about where they can be tested for HIV with pre-test and post-test counseling, so that they can access these services if they wish to find out about their HIV status (**consent is obtained using a form named Anonymous Linked Testing**).

The HIV/AIDS Coordinating Committee (HACC) has produced a directory of HIV testing services. Information about how to contact HACC appears in the directory at the end of this document.

CHAPTER 5

HEALTH SERVICES AND SUPPORTS

Health care in the community

If people living with HIV/AIDS are to receive adequate health care and support services, then all sectors of society need to contribute to providing these services. It is a part of Cambodian culture to care for families and friends at home and in the community. The Royal Government of Cambodia recognizes the need to encourage all citizens, families, religious organizations, and people living with or vulnerable to HIV infection to contribute to community care and support initiatives, as stated in Article 27 of *the HIV/AIDS law*. Non-government and community-based organizations already play an important role in the provision of care and support in community settings, and in many cases care and support services are provided by people who are themselves living with HIV/AIDS.

There are many NGOs that arrange and provide care and support services in the community, and it is important to coordinate services where there is more than one operating in the same location. Commune councils can play a valuable role in promoting coordination between services so that maximum benefit is gained from them. In accordance with *the HIV/AIDS law*, services must be provided in a non-discriminatory manner.

Traditional birth attendants

The HIV/AIDS epidemic in Cambodia has created a need to strengthen the role and technical expertise of traditional birth attendants. Many women living in rural areas are unable to travel long distances to the nearest available health care services, and they rely on the assistance of traditional birth attendants when giving birth. The Ministry of Health, NGOs, and donor partners will continue to develop and implement programs to increase the HIV/AIDS awareness and skills of traditional birth attendants, so that birth delivery techniques and post partum care minimize the health risks to mothers and new born infants.

Resources for community based care and support

Effective community care and support means showing compassion for people affected by HIV/AIDS, and overcoming stigma and discrimination which reduce the effectiveness of HIV prevention, treatment, care and support efforts. Local AIDS Networks should ensure that printed information on providing community-based care for people living with HIV/AIDS are regularly updated and distributed, and that up-to-date directories of community-based care services are also readily available. Organizations representing people living with HIV/AIDS have an important role to play in helping to develop and distribute such resources.

Primary health care services

Under Article 26 of *the HIV/AIDS law*, people with HIV/AIDS are entitled to receive primary health care services free of charge in all public health facilities. Primary health care is health care that is accessible and affordable to people at the community level, and is based on the “Minimum Package of Activities” developed by the Ministry of Health, together with the Complementary Package of Activities.

The Royal Government of Cambodia is making significant progress in building its capacity to produce and provide low cost generic versions of antiretroviral therapy, and work in this vital area will continue. In relation to the provision of antiretroviral therapy for the prevention of mother-to-child HIV transmission, the Ministry of Health, non-governmental organizations, and donor partners will continue to develop and implement training programs for health care workers providing maternal and child health services, so that patients can derive maximum benefit from antiretroviral therapies and other maternal and child health interventions as they become available.

Payment for health care services

While *the HIV/AIDS law* states that people living with HIV/AIDS are entitled to receive primary health care free of charge in all public health services, in practice, health care facilities continue to recover costs in relation to services provided to people living with HIV/AIDS in the same way that they recover costs from people who are treated for other conditions. In order to avoid the financial disincentives for health services and health care workers which could result from an inability to recover health care costs from people living with HIV/AIDS, the National AIDS Authority, in conjunction with the Ministry of Health and donors, will investigate the possibility of using funding from the Global Fund to Fight AIDS, Tuberculosis and Malaria, and from other sources, to cover the health care costs of people living with HIV/AIDS. HIV/AIDS patients shall also have access to free home based care and treatment from the local health care facilities. People who are at risk of exposure to HIV as a result of rape or health care staff exposed through needle stick or other workplace injuries shall receive free post exposure prophylaxis.

In addition to the health care services provided by public clinics and hospitals, the private sector will be encouraged to provide HIV/AIDS care and support services to people who can afford to pay the cost of private health care, as stated in Article 26 of the law. The private sector is obliged to comply with the same standards that have been set for the public sector regarding HIV testing and counseling, infection control, and respect for the human rights of people living with HIV/AIDS.

Sexual health services are subject to the same legislative provisions regarding free primary health care for people living with HIV/AIDS as other primary health care facilities.

Improving the livelihood and well-being of people with HIV/AIDS

People living with HIV/AIDS will be as self-reliant as other members of the community. However, people living with HIV/AIDS may also develop particular needs for material resources and support that they cannot provide for themselves. Sometimes this is a result of stigma and discrimination, and there are many examples of people whose business income drops dramatically or fails altogether if it is found out or suspected that the business owner or a member of their family is living with HIV/AIDS.

In other cases, a person living with HIV/AIDS may not be able to provide for all of the material needs of themselves or their family due to illness that results in them being unable to work. The Royal Government of Cambodia recognizes that HIV/AIDS may increase the need for material support of people both infected with and affected by HIV/AIDS. Article 28 of *the HIV/AIDS law* requires the State to pay attention to the vocational training and other needs of people living with HIV/AIDS that will promote their livelihood, self-help, and well-being.

The Royal Government of Cambodia is committed to including people living with HIV/AIDS in all aspects of the response to the epidemic. This is the GIPA principle, or “greater involvement of people with HIV/AIDS” which was discussed in Chapter 1 of the Implementing Guidelines, and is expressed in Article 2 of *the HIV/AIDS law*. Improving the livelihood and well-being of people living with HIV/AIDS, and ensuring that their material needs are met, are essential steps in making the GIPA principle a reality.

The most important of all material needs is the need for food, and the World Food Program has played an important role in helping to meet this need.

The Royal Government of Cambodia also recognizes that the need for material support may not cease when a person with HIV/AIDS dies. In addition to the costs associated with providing the appropriate funeral ceremony for the deceased, surviving family members may also struggle due to the loss of a person who was a source of family income. Food and income security programs need to provide for the material needs of the surviving family who have lost a family member due to HIV/AIDS, in addition to developing programs which promote the livelihood and material well-being of people living with HIV/AIDS. In recognition of that fact, the Royal Government of Cambodia will develop programs for the provision of vocational training and income generation schemes for people living with HIV/AIDS, to provide opportunities for self-help and ensure the livelihood of people living with HIV/AIDS. Some public authorities have already implemented affirmative action employment policies for people living with HIV/AIDS and their families, and a number of non-government organizations have developed income generation schemes for people living with HIV/AIDS.

The private sector also has a role to play in providing for the livelihood needs of people living with HIV/AIDS and their families, and several companies currently operating in Cambodia have begun to address these issues. In some countries there are formally constituted “business coalitions” on HIV/AIDS, such as the Asian Business Coalition on AIDS. Representatives of the private sector in Cambodia will be encouraged to look at these models as the basis for contributing to the material well-being of people living with HIV/AIDS and their families.

Preventing sexually transmitted infections

Sexually transmitted infections (STIs) can facilitate HIV transmission, both by making people with HIV more infectious, and by making people with sexually transmitted infections more susceptible to HIV infection. Treatment and care of STIs is therefore an important strategy for HIV prevention. STIs should also be treated because they can cause severe discomfort, pain, and illness, particularly in women, who can also suffer reduced fertility from untreated STIs. Article 29 of the *HIV/AIDS law* requires the State to take measures that will promote the prevention and control of sexually transmitted infections.

The Ministry of Health has adopted guidelines for the implementation of STI services, to assist provincial and municipality authorities to implement the National Policy and Priority Strategies for Sexually Transmitted Disease Prevention and Control. The guidelines adopt various strategies according to target populations. These strategies involve integrating STI care at the primary health care level, as well as special approaches for high risk populations such as sex workers, and patient care and diagnostic support at designated referral hospitals.

Under the Ministry of Health’s guidelines STI services should be gender-sensitive, which includes delivering clinical services in separate consultation rooms for men and women, by staff of the same sex as the client. STI clinical services should be combined with the delivery of information and education such as condom promotion and distribution. STI clinical services will be provided to standards set by the World Health Organization, and will be regularly reviewed by the office the Ministry of Health to determine accreditation standards for STI clinical services.

To prevent HIV transmission through commercial sex work, Cambodia has adopted a “100% Condom Use Program” for commercial sex work. This program mandates consistent condom use during all commercial sex acts, and imposes punishment on brothel owners and operators (for example warnings and closure of brothels) for failure to comply with the requirements of the program. The 100% Condom Use Program requires the registration of all brothel-based sex workers, and requires regular attendance at government STI clinics.

Where NGOs also provide STI clinical services, government and non-government services should co-ordinate their activities to ensure that services are not duplicated. The effective use of resources is vital if Cambodia is to achieve effective treatment of STIs. At present resources for publicly funded sexual health services are limited. Monitoring the standard of STI prevention and care services will involve the use of a standard set of monitoring tools prepared by the National Centre for HIV/AIDS, Dermatology and STDs. As marginalized and stigmatized populations, sex workers and men who have sex with men need access to sexual health services that are respectful of their human rights, and which are delivered in a friendly environment.

Participation in medical and scientific research

Medical and scientific research plays a key role in improving the effectiveness of our response to the HIV/AIDS epidemic. Scientific research has led to the production of treatments for HIV infection and associated conditions, and may at some future time produce a treatment or vaccine that will effectively prevent HIV infection. While such advances in medical science generally rely on people participating in clinical trials, it should always be made clear to potential trial participants that they have the right to refuse to take part in a clinical trial or any kind of research, and can freely choose not to participate. All medical research on human subjects that takes place in Cambodia is subject to approval by the National Ethics Committee.

CHAPTER 6

MONITORING AND EVALUATION

Effective monitoring of trends in the HIV/AIDS epidemic is vital. Articles 30-32 of *the HIV/AIDS law* deal with the requirements for monitoring the epidemic in Cambodia.

Article 30 of the law requires a comprehensive program to be established to monitor HIV vulnerability and patterns of sexual behavior. Monitoring HIV transmission will take place both at a population level (through, for example, anonymous testing), and also at the individual level, through collection of data from individual citizens on HIV status and risk behavior. The National Centre for HIV/AIDS, Dermatology and STDs (NCHADS) conducts annual epidemiological and behavioral research to monitor the impact of the epidemic in Cambodia. Article 31 of *the HIV/AIDS law* requires systems which collect information on HIV infection and vulnerability from HIV/AIDS testing centers to maintain confidentiality in relation to personal medical records. The Ministry of Health has developed guidelines for conducting HIV sentinel surveillance. The collection of data must use coded identifiers that maintain patients' anonymity, and do not disclose the identity of the individual people from whom the data is collected.

Information is collected on HIV prevalence rates through sentinel surveillance among female direct (brothel-based) and indirect (non-brothel based) sex workers, male police and members of the military, pregnant women attending antenatal clinics and tuberculosis patients. There is also a growing body of evidence which indicates that sex between men is a significant dynamic in the HIV/AIDS epidemic in Cambodia, with research showing that HIV prevalence in men who have sex with men is over four times higher than the prevalence of HIV in the general population. Behavioral research indicates that men who have sex with men often also have female sexual partners, and thus could be serving as a "bridging group" from a high risk population to the general population.

There is also evidence that illicit drug use could play an increasing role in the spread of HIV in Cambodia. Commencing in 2005 data will be collected on illicit drug use and HIV risk and transmission. There is evidence that the trafficking of illicit drugs through Cambodia is increasing, along with an increase in the use of illicit drugs in Cambodia. This situation has the potential to worsen the impact of the epidemic, either through the sharing of injecting equipment, or through an increase in unsafe sex while under the influence of drugs.

The National AIDS Authority has also established a Monitoring and Evaluation Working Group to collect information on Cambodia's response to HIV/AIDS, including the policy and programmatic environment, and the effectiveness of the various elements of the response. Information is needed from a variety of sources: the National Centre for HIV/AIDS, Dermatology and Sexually Transmitted Diseases (NCHADS) will continue to provide information on the results of sentinel surveillance of HIV transmission and risk behaviors among various populations. These populations may change as new potential or actual risks for HIV transmission are identified. Anonymous HIV testing, whether linked (that is, with pre-test and post-test counseling, and notification of results to the person tested) or unlinked testing (in which testing is performed for the purposes of epidemiological monitoring only, and individuals are not informed of the results of their tests) will play an important role in measuring the effectiveness of Cambodia's response to HIV/AIDS.

In addition to epidemiological and behavioral monitoring, an effective response to the HIV/AIDS epidemic in Cambodia will also require monitoring progress against policy and program goals, such as those established by the United Nations General Assembly Special Session on HIV/AIDS (UNGASS) in June 2001. The resolution passed unanimously by the UN General Assembly requires that all member countries, including Cambodia, report annually on progress made in achieving the goals agreed upon by the General Assembly. The criteria against which Cambodia's efforts will be measured annually include:

- a demonstrated commitment to national leadership in fighting the epidemic;
- specific targets for reducing HIV transmission rates;
- national strategies for improved access to care, support and treatment services;
- strengthening respect for the human rights and fundamental freedoms of people living with HIV/AIDS and people who are vulnerable to HIV infection;
- empowering women to reduce their vulnerability; and
- supporting and protecting orphans and vulnerable children, and developing strategies to alleviate the socio-economic impact of the epidemic.

Civil society will play an important role in contributing to the UNGASS. A further indicator of the effectiveness of Cambodia's response to HIV/AIDS will be the extent to which the human rights guarantees established by *the HIV/AIDS law* are observed in practice. On this issue, civil society organizations such as the Cambodian Human Rights and HIV/AIDS Network (CHRHAN) can play a valuable role. CHRHAN represents over 45 local non-government organizations working in the areas of HIV/AIDS or human rights. CHRHAN has established a monitoring and documenting system to record, and develop strategies to resolve, HIV/AIDS-related human rights violations where they occur. Other HIV/AIDS and human rights organizations can also play an important role in documenting the extent to which *the HIV/AIDS law* is implemented, and this information can be used by the National AIDS Authority, the Ministry of Health, and other government institutions responsible for implementing the law, to measure progress in implementing the various provisions of the law.

CHAPTER 7

CONFIDENTIALITY

Article 33 of *the HIV/AIDS law* creates a legal duty to maintain the confidentiality of all people who have HIV/AIDS. Although professional ethics require that all medical information remains confidential, *the HIV/AIDS law* requires all people, and not just health care workers, to respect the confidentiality of HIV/AIDS-related information. Confidentiality is especially important in the context of HIV/AIDS because the stigma and discrimination associated with HIV/AIDS mean that people might suffer serious consequences if information about their HIV status is disclosed without their consent.

A definition of confidentiality

Confidentiality in the context of *the HIV/AIDS law* means not disclosing information about a person's HIV/AIDS status, or any behavior they have engaged in that might make them vulnerable to HIV infection, or the fact that they have been tested or considered being tested for HIV, without that person's consent. The same rule also applies to any member of that person's family.

Some examples of discrimination which people have suffered due to people knowing or suspecting that they have HIV/AIDS include losing their job, being shunned and avoided by people their community, or even being forced to leave the community in which they live. Stigma and discrimination also impedes HIV/AIDS prevention, treatment, care, and support efforts. Maintaining confidentiality can help to reduce stigma and discrimination.

Information about a person's health or medical treatment is personal and private, and should not be disclosed without the person's consent. The confidentiality of information about a person's HIV status or vulnerability should also be respected for this reason.

As well as creating a general duty of confidentiality in relation to HIV/AIDS information, Article 33 of *the HIV/AIDS law* lists people and institutions with a particular duty to protect the confidentiality of HIV/AIDS information. These people and institutions are:

- All health professionals
- Workers
- Employers
- Recruitment agencies
- Insurance companies
- Data encoders
- Custodians of medical records
- People who have other relevant duties which involve access to personal HIV/AIDS-related information

If you fail to maintain the confidentiality of HIV/AIDS information, then under Article 51 you could be liable to a fine of between 50 000 (fifty thousand) Riels and 200 000 (two hundred thousand) Riels, and imprisonment for between one and six months. If you are a civil servant and you fail to maintain the confidentiality of HIV/AIDS information, then you may also be liable for an additional administrative punishment.

The International Labor Organization's *Code of Practice on HIV/AIDS and the World of Work* provides a guide for all workplaces on dealing with the impact of HIV/AIDS, including the importance of maintaining the confidentiality of HIV/AIDS-related information. The Code states: "There is no justification for asking job applicants or workers to disclose HIV-related personal information. Nor should co-workers be obliged to reveal such personal information about fellow workers. Access to personal data relating to a worker's HIV status should be bound by rules of confidentiality."

Are there any exceptions to the duty to maintain confidentiality?

Article 34 of *the HIV/AIDS law* allows for disclosure of the fact that a person has HIV/AIDS in certain limited circumstances, and these include where it is necessary to give the information to health care workers involved in providing treatment to the person who has HIV/AIDS. The law also permits the disclosure of information regarding a person's HIV status where a court orders the information to be disclosed. Further information regarding the powers of courts in relation to the disclosure of HIV/AIDS-related information appears below.

Restrictions on the disclosure of HIV test results

Article 35 of *the HIV/AIDS law* restricts the circumstances in which a person's HIV test result can be disclosed. The only circumstances in which it is permitted to disclose a person's HIV test result are:

- To the person who was tested for HIV
- To the legal guardian of a minor who was tested for HIV
- For the purposes of an HIV/AIDS monitoring program which is authorized by *the HIV/AIDS law*
- Where a court orders disclosure of the information.

There is information in Chapter 4 of the Implementing Guidelines dealing with tests and counseling, including the importance of ensuring that the interests of the child or minor are given primary consideration in any decisions regarding HIV testing. Where a court makes an order for the disclosure of information regarding a person's HIV status, then Article 34 of *the HIV/AIDS law* requires that steps be taken to ensure that there is no disclosure of the information except in the circumstances ordered by the court. The custodian of the information, such as the medical records staff at an HIV testing centre, must seal the information and arrange for it to be hand-delivered to the judge who has ordered the production of the information. The judge is the only person with authority to open the sealed document containing the information, and this must be done in the court room.

To promote consistency in decision-making where judges are asked to order the disclosure of information regarding a person's HIV/AIDS status, or other HIV/AIDS-related information, the National AIDS Authority will collaborate with the Ministry of Justice to produce guidelines for judges to use in deciding such requests. These guidelines will be consistent both with the principles and the specific provisions of *the HIV/AIDS law*. In particular, the guidelines will reiterate and reinforce the importance of the relevant principles in Article 2 of *the HIV/AIDS Law*, including prohibiting discrimination, the importance of universal infection control procedures, and encouraging people living with HIV/AIDS to take an active role in all aspects of the response to HIV/AIDS in Cambodia.

CHAPTER 8

DISCRIMINATION

The HIV/AIDS law takes a very strong approach to protecting the human rights of people living with HIV/AIDS. Articles 36-42 of the law deal with discrimination based on a person's HIV/AIDS status. Article 52 of the law imposes punishments including fines of between 100 000 (one hundred thousand) Riels and 1 000 000 (one million) Riels for discrimination against people living with HIV/AIDS, as well as imprisonment for between one and six months, with double punishment for repeated acts of discrimination.

Note that actual knowledge of a person's HIV status is not required to establish discrimination. Article 36 of the law prohibits any discrimination that is based on either the knowledge or the suspicion that a person or a member of their family has HIV/AIDS. As well as a general prohibition against discrimination, *the HIV/AIDS law* prohibits discrimination as follows:

Discrimination in employment

HIV/AIDS-related discrimination in employment is dealt with in Article 36 of the law. It is illegal to discriminate against a person or a member of their family:

- When deciding who to recruit for a job
- When deciding who gets a promotion at work
- When deciding how tasks will be allocated between workers

It is also illegal to dismiss a person from their job due to knowledge or suspicion that they or a member of their family has HIV/AIDS.

The International Labor Organization's *Code of Practice on HIV/AIDS and the World of Work*, which has already been referred to, states: "In the spirit of decent work and respect for the human rights and dignity of persons infected or affected by HIV/AIDS, there should be no discrimination against workers on the basis of real or perceived HIV status. Discrimination and stigmatization of people living with HIV/AIDS inhibits efforts aimed at promoting HIV prevention."

A number of projects in Cambodia have begun to address the issue of HIV/AIDS from a workplace perspective, and these involve government agencies, non-government organizations, private companies, business associations, and multilateral organizations. Some of these are discussed in Chapter 2 (on HIV/AIDS education), in the section on HIV/AIDS education in the workplace.

Discrimination by educational institutions

Article 37 of the law prohibits HIV/AIDS-related discrimination by educational institutions. Discrimination against students by institutions such as schools and universities is illegal, where it is based on the knowledge or suspicion that the student or a member of the student's family has HIV/AIDS.

The HIV/AIDS law also prohibits the following specific forms of HIV/AIDS-related discrimination against students:

- Refusing to accept a student into an educational institution
- Dismissing a student from an educational institution
- Imposing a disciplinary sanction or punishment on a student
- Depriving a student of their right to any benefit or service

The Cambodian Network of People Living with HIV/AIDS (CPN+) reports that it is not uncommon for children to be refused access to education where it is known or suspected that a member of their family is living with HIV/AIDS. In other cases, children will cease attending school in order to avoid the stigma and discrimination they face because of their own or a family member's HIV/AIDS status. Parents have a responsibility to ensure that their children understand the importance of non-discrimination and compassion towards people infected with or affected by HIV/AIDS, and do not discriminate against their fellow students on the grounds of HIV/AIDS.

As discussed in Chapter 2 of the Implementing Guidelines, education is a key to ensuring that young people have the knowledge and life skills necessary to protect themselves and others from the risk of infection with HIV and other sexually transmitted infections. In the broader context of a child's development, education is one of the most valuable resources a society can provide. For these reasons, HIV/AIDS-related stigma and discrimination must not be allowed to prevent anyone, and in particular children and young people, from gaining an education.

Restricting freedom of movement or residence

Article 38 of *the HIV/AIDS law* makes it illegal to place any restrictions on a person's right to freedom of movement, or their right to choose where to live, due to the knowledge or suspicion that the person or a member of their family has HIV/AIDS. It is also illegal to quarantine or isolate a person, or to expel them from any place, due to the knowledge or suspicion that the person or a member of their family has HIV/AIDS.

The right to seek public office

Under Article 39 of *the HIV/AIDS law*, it is illegal to discriminate against any person who is seeking public office, whether to an elected position (such as a Member of the National Assembly) or an appointed position (such as a judge) based on the knowledge or suspicion that the person or a member of their family is living with HIV/AIDS.

Health care services

Article 41 of *the HIV/AIDS law* prohibits hospitals and other health care providers discriminating against a person based on the knowledge or suspicion that the person or a member of their family has HIV/AIDS. Illegal discrimination includes refusing to provide a service or charging a higher fee for a service. Unfortunately there have been a number of examples of discrimination against people living with HIV/AIDS and their families by workers in health care services.

Discrimination can sometimes arise after a patient is tested for HIV without their knowledge or consent, which is a further breach of *the HIV/AIDS law*, as well as a breach of international human rights agreements and of medical ethics. Non-discrimination by health care workers, and a patient's informed voluntary consent to any medical procedures, are important requirements of medical ethics.

These issues are now given additional importance through *the HIV/AIDS law*. Under Article 52 of the law, any person found guilty of HIV/AIDS-related discrimination is liable for punishment including a fine of between 100 000 (one hundred thousand) Riels and 1 000 000 (one million) Riels, and imprisonment for between one month and six months, as well as revocation of any relevant professional licenses. In the case of repeated offences the punishment shall be doubled, and civil servants face the possibility of administrative sanctions in addition to any punishment imposed by a court.

Access to credit and insurance

Article 40 prohibits discrimination against people living with HIV/AIDS who apply for credit or loans, or who apply for various types of insurance such as health, accident, or life insurance, provided the person with HIV/AIDS can meet the same eligibility criteria as other people who do not have HIV/AIDS. There may be some circumstances in which it is legal for an insurer or a credit provider such as a bank to discriminate against a person with HIV/AIDS. An example is that a bank can refuse to lend money to a person with HIV/AIDS who is very ill, and does not have access to antiretroviral drugs, on the grounds that the person may not be able to repay the loan.

However in many cases discrimination against people living with HIV/AIDS by providers of credit, loans, insurance, and other financial products will be illegal. The National AIDS Authority and civil society organizations will monitor the practices of the banking, finance and insurance sector in Cambodia to determine whether further action is needed to regulate the practices in these industries.

HIV/AIDS-related discrimination is almost always illegal

Almost all forms of discrimination based on the knowledge or suspicion that a person or a member of their family has HIV/AIDS are illegal. People responsible for the discrimination can be subject to harsh penalties if the discrimination is proved in court. Where a person or institution discriminates against you, you should always obtain advice about your legal rights. The Constitution of Cambodia guarantees the right of every Cambodian citizen to take legal action where the State or any of its institutions has breached a law. In addition to this fundamental right, legal action may be taken where a law such as *the HIV/AIDS law* has been breached. In order to commence legal proceedings, evidence of a breach of the relevant section of *the HIV/AIDS law* must be presented to a court prosecutor, for decision as to whether legal proceedings against the alleged perpetrator will be commenced.

Where possible, seek advice from a legal or human rights organization, which may be able to assist you in resolving problems with HIV/AIDS-related discrimination. At the end of the Implementing Guidelines is a list of organizations that can provide assistance to people who have suffered discrimination due to HIV/AIDS, together with contact information.

CHAPTER 9

PENALTIES

Articles 43-52 of *the HIV/AIDS law* provides for penalties including fines and imprisonment for breaching many of the provisions of the law. Information about the penalties that apply to particular breaches of the law is set out in the preceding chapters of the Implementing Guidelines. While penalties can be imposed for breaches of the law, every effort will be made to ensure that information about people's rights and responsibilities under *the HIV/AIDS law* is widely distributed and understood, including through these Implementing Guidelines. In this way, people are encouraged to comply with the law, and not just punished for breaching it.

In order to promote respect for, and implementation of *the HIV/AIDS law*, the National AIDS Authority, in conjunction with the Ministry of Justice and civil society partners, will develop a training program for police and court officials to raise awareness and understanding of the roles and responsibilities of the relevant personnel and institutions in the legal system, under *the HIV/AIDS law*.

The following table summarizes the Articles of the law that carry penalties for breach.

Article	Subject	Penalty
12	Advertisements or information on HIV/AIDS treatment or prevention must conform to standards set by the National AIDS Authority, or medical or scientific standards.	<ul style="list-style-type: none"> - Fine of 500 000 (five hundred thousand) Riels to 1 000 000 (one million) Riels; - Imprisonment from 1 month to 1 year; - Revocation of professional license; - Double penalties for repeat offences; - Additional administrative sanctions for civil servants.
13	Universal infection control precautions must be used for surgical, dental, embalming, tattooing and other similar procedures.	<ul style="list-style-type: none"> - Fine of 500 000 (five hundred thousand) Riels to 1 000 000 (one million) Riels; - Imprisonment for 6 months to 1 year; - Double penalties for repeat offences; - Punishment without prejudice to civil liability; - Revocation of relevant professional licenses; - Additional administrative sanctions for civil servants.
14	All blood products, tissues and organs shall be tested for HIV before being used.	<ul style="list-style-type: none"> - Fine of 500 000 (five hundred thousand) Riels to 1 000 000 (one million) Riels; - Imprisonment for 6 months to 1 year; - Double penalties for repeat offences; - Punishment without prejudice to civil liability; - Revocation of relevant professional licenses; - Administrative sanctions for civil servants.

Article	Subject	Penalty
15	No laboratory shall accept or keep donated blood, tissue, or organs, without first testing for HIV	<ul style="list-style-type: none"> - Fine of 500 000 (five hundred thousand) Riels to 1 000 000 (one million) Riels; - Imprisonment for 6 months to 1 year; - Double penalties for repeat offences; - Punishment without prejudice to civil liability; - Revocation of relevant professional licenses; - Additional administrative sanctions for civil servants.
18	The intentional transmission of HIV is strictly prohibited.	Imprisonment for 10 to 15 years.
23	HIV testing centers must seek accreditation from the Ministry of Health which shall, in collaboration with the National AIDS Authority, set and maintain appropriate accreditation standards.	<ul style="list-style-type: none"> - Fine of 50,000 (fifty thousand) Riels to 200 000 (two hundred thousand) Riels; - Imprisonment for 1 to 6 months; - Double penalties for repeat offences; - Additional administrative sanctions for civil servants.
31	All HIV/AIDS testing centers shall adopt measures to maintain the confidentiality of reports, medical records and personal information, and shall use a coding system that protects the anonymity of people who are tested.	<ul style="list-style-type: none"> - Fine of 50 000 (fifty thousand) Riels to 200 000 (two hundred thousand) Riels; - Imprisonment for 1 to 6 months; - Double penalties for repeat offences; - Additional administrative sanctions for civil servants.
33	There is a general duty to maintain the confidentiality of all information relating to a person's HIV/AIDS status. There is a special duty on health professionals, workers, employers, recruitment agencies, insurance companies, data encoders, custodians of medical records, and "those who have relevant duties" to maintain the confidentiality of all information relating to a person's HIV/AIDS status.	<ul style="list-style-type: none"> - Fine of 50 000 (fifty thousand) Riels to 200 000 (two hundred thousand) Riels; - Imprisonment for 1 to 6 months; - Double penalties for repeat offences; - Additional administrative sanctions for civil servants.
36	All forms of discrimination in employment are prohibited, including in hiring, promotion, the assignment of duties, or termination of employment.	<ul style="list-style-type: none"> - Fine of 100 000 (one hundred thousand) to 1 000 000 (one million) Riels; - Imprisonment for 1 to 6 months; - Double penalties for repeat offences; - Additional administrative sanctions for civil servants.

Article	Subject	Penalty
37	No educational institution shall refuse admission, expel, discipline, isolate, or exclude from gaining benefits or receiving services to a student on the basis of the actual, perceived or suspected HIV/AIDS status of that student or his/her family members.	<ul style="list-style-type: none"> - Fine of 100 000 (one hundred thousand) to 1 000 000 (one million) Riels; - Imprisonment for 1 to 6 months; - Double penalties for repeat offences; - Additional administrative sanctions for civil servants.
38	A person with HIV/AIDS shall have full right to the freedom of abode and travel. No person shall be quarantined, placed in isolation or refused abode, accompany or expulsion due to the perceived or suspected HIV/AIDS status of that person or his/her family members.	<ul style="list-style-type: none"> - Fine of 100 000 (one hundred thousand) to 1 000 000 (one million) Riels; - Imprisonment for 1 to 6 months; - Double penalties for repeat offences; - Additional administrative sanctions for civil servants.
39	Discrimination against any person with HIV/AIDS in seeking public position is prohibited. The right to seek elective and appointive public position shall not be refused to a person based on the actual, perceived or suspected HIV/AIDS status of that person or his/her family members.	<ul style="list-style-type: none"> - Fine of 100 000 (one hundred thousand) to 1 000 000 (one million) Riels; - Imprisonment for 1 to 6 months; - Double penalties for repeat offences; - Additional administrative sanctions for civil servants.
40	Discrimination on the ground of HIV/AIDS status is prohibited in relation to access to credit and insurance.	<ul style="list-style-type: none"> - Fine of 100 000 (one hundred thousand) to 1 000 000 (one million) Riels; - Imprisonment for 1 to 6 months; - Double penalties for repeat offences; - Additional administrative sanctions for civil servants.
41	Discrimination on the ground of HIV/AIDS status in hospitals and health care institutions is prohibited. Discrimination includes denial of access, or the charging of a higher fee on the basis of the actual, perceived, or suspected HIV/AIDS status of a person or of a member of his or her family.	<ul style="list-style-type: none"> - Fine of 100 000 (one hundred thousand) to 1 000 000 (one million) Riels; - Imprisonment for 1 to 6 months; - Double penalties for repeat offences; - Additional administrative sanctions for civil servants.

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